

Administration, dated September 23, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B-099.

In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at <http://www.ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

### Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in "Appendix I" attached to the Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia, 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the Preliminary Scope Rulings, see the memorandum regarding "Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea," dated July 10, 2002, which is on file in the CRU.

### Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations. These changes are noted in various sections of the Decision Memorandum, accessible in B-099 and on the Web at <http://www.ia.ita.doc.gov/frn>.

### Use of Facts Available

In accordance with section 776 of the Act, we have determined that the use of facts available is appropriate for certain portions of our analysis of Usinor. For a discussion of our determination with

respect to these matters, see the Decision Memorandum.

### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, for Usinor, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from France that are entered, or withdrawn from warehouses, for consumption on or after May 29, 2002, the date of publication of the Amended Preliminary Determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension-of-liquidation instruction will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for the period July 1, 2000, through June 30, 2002:

Manufacturer/exporter	Margin (percent)
Usinor Group .....	11.59
All Others .....	11.59

### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

### Appendix I—Issues in Decision Memorandum

1. Downstream Sales to Affiliated Parties
2. Collapsing of Downstream Producers
3. "Exempted" Steel Service Centers that Failed the Arm's-Length Test

4. Constructed Export Price (CEP) Offset
5. CEP Profit
6. Home Market Indirect Selling Expenses
7. Home Market Credit Expense
8. Home Market Credit Expense for Sales by SLPM
9. Home Market Inventory Carrying Cost
10. Home Market Movement Expenses
11. Home Market Warranty Expense
12. Home Market Adjustment to Normal Value
13. Commissions Paid to Affiliated Parties
14. Inland Freight to Warehouse Expense for Sales by SLPM
15. U.S. Indirect Selling Expense
16. USC's Accounts Receivables Securitization Program
17. U.S. Credit Expense Calculation
18. U.S. Movement Expenses
19. U.S. Sales Not Previously Reported
20. U.S. Sales of "Non-Prime" Merchandise
21. Weighted-Average Margin Calculation—Zeroing Negative Margins
22. Unreconcilable Differences
23. By-Product Offset
24. Rail Rental Revenues
25. Major Input Rule—Sales to Affiliated Resellers
26. Major Input Rule—Usinor Purchases from Affiliates
27. Disregarded Transactions
28. Miscellaneous Selling, General and Administrative (SG&A) Related Accruals and Provisions
29. SG&A Expenses—Accelerated Tax Depreciation
30. SG&A Expenses—Foreign Exchange Losses

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-834]

### Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold Rolled Carbon Steel Flat Products From Germany

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

**EFFECTIVE DATE:** October 3, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Anya Naschak, Helen Kramer, or Abdelali Elouaradia at (202) 482-0405, (202) 482-6375, or (202) 482-1374, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

#### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to

the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

### Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Germany are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

### Case History

This investigation was initiated on October 18, 2001.<sup>1</sup> See *Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 54198 (October 26, 2001). We published in the **Federal Register** the preliminary determination in this investigation on May 9, 2002. See *Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Certain Cold Rolled Carbon Steel Flat Products from Germany*, 67 FR 31212 (May 9, 2002) (*Preliminary Determination*). We published in the **Federal Register** the amended preliminary determination in this investigation on May 29, 2002. See *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Germany*, 67 FR 37385 (May 29, 2002) (*Amended Preliminary Determination*).

Since the publication of the Preliminary Determination the following events have occurred.

With respect to scope, in the preliminary LTFV determinations in these cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. See *Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value*:

*Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (see the June 13, 2002, memorandum regarding "Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea" (Preliminary Scope Rulings), which is on file in the Department's Central Records Unit (CRU), room B-099 of the main Department building). We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a "correction" for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the Preliminary Scope Rulings on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the "Scope of Investigation" section below.

On April 26, 2002, we issued additional supplemental questionnaires for sections B through E to the respondent, Thyssen Krupp Stahl AG (Thyssen). Thyssen submitted its response to the supplemental sections B through E questionnaires on May 13, 2002. The Department received requests for a public hearing on May 20, 2002, and June 10, 2002, from petitioners, and from Thyssen on June 5, 2002. All parties withdrew their requests for a public hearing.

The Department verified sections A and B of Thyssen's responses from May 21, 2002, to May 25, 2002, at Thyssen's facilities in Duisburg, Germany; at Thyssen's trading company from May

27, 2002, to May 29, 2002, in Langenfeld, Germany, and at Thyssen's affiliated company on May 31, 2002, in Andernach, Germany. The Department also verified section D of Thyssen's response from May 27, 2002, to May 31, 2002, at Thyssen's facilities. Additionally, the Department verified sections E of Thyssen's responses from June 10, 2002, to June 14, 2002, at Thyssen's affiliated companies in Detroit, Michigan, and verified section C of Thyssen's response from June 17, 2002, to June 21, 2002, at Thyssen's affiliated companies in Detroit, Michigan. See Memorandum to the File: "Sales Verification of Sections A and B Questionnaire Responses Submitted by Thyssen Krupp Stahl AG," July 23, 2002, (Home Market Verification Report); Memorandum to the File: "Sales Verification of Sections A and C Questionnaire Responses Submitted by Thyssen Krupp Stahl AG," July 23, 2002, (U.S. Verification Report); Memorandum to Neal Halper, Director, Office of Accounting: "Verification Report on the Cost of Production and Constructed Value," July 22, 2002, (Cost Verification Report); and Memorandum to Neal Halper, Director, Office of Accounting: "Verification Report on the Further Manufacturing Cost Data," July 31, 2002, (Further Manufacturing Cost Verification Report). Public version of these and all other departmental memoranda referred to herein are on file in the CRU room B-099 of the main Commerce building.

On August 9, 2002, the Department received case briefs from Thyssen and petitioners. On August 14, 2002, the Department received rebuttal briefs from Thyssen and petitioners. On August 26, 2002, the Department met with counsel for Thyssen. See Memorandum to the File regarding Ex-Parte Meeting with Counsel for Respondent, dated August 26, 2002.

### Period of Investigation

The POI is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the filing of the petition in September 2001.

### Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, as well as a complete discussion of all scope exclusion requests submitted in the context of the on-going cold-rolled steel investigations, please see the "Scope Appendix" attached to the *Notice of Correction to Final Determination of*

<sup>1</sup> The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, petitioners).

*Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings*, see the memorandum regarding "Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea," dated July 10, 2002, which is on file in the CRU.

#### Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the *Issues and Decision Memorandum for the Antidumping Investigation of Cold Rolled Carbon Steel Flat Products from Germany; Notice of Final Determination of Sales at Less Than Fair Value* (Decision Memo), which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculation. These changes are noted in various sections of the Decision Memo, accessible in B-099 and on the World Wide Web at <http://www.ia.ita.doc.gov/frn>.

#### Use of Facts Available

In the *Preliminary Determination*, the Department based the dumping margin for Thyssen in part on facts available pursuant to section 776(b) of the Act. The use of facts available was warranted because Thyssen failed to supply the

information the Department requested for downstream home market sales made by its affiliated trading companies/service centers. Moreover, the Department found that Thyssen failed to cooperate by not acting to the best of its ability. As a result, pursuant to section 776(b) of the Act, the Department used an adverse inference in selecting from the facts available. Specifically, for the *Preliminary Determination*, the Department assigned Thyssen (by control number) the highest gross unit price and the lowest or highest adjustments—whichever is adverse—for sales in the home market within two widths corresponding to a portion of the widths sold by Thyssen's affiliated service centers (see Thyssen's March 19, 2002, supplemental section B response), and the revised amounts were used to calculate normal value (NV). For a complete explanation of both the selection and application of these facts available, see e.g. *Preliminary Determination* and Memorandum to the File, regarding the Preliminary Determination Analysis, dated April 26, 2002.

In accordance with section 776 of the Act, we have determined that, due to Thyssen's continued refusal to supply the information requested by the Department on its home market downstream sales by its affiliates despite its ability to do so, and due to Thyssen's continued failure to act to the best of its ability, the use of adverse facts available is appropriate in this final determination. Accordingly, we have applied the highest gross unit price and the lowest or highest adjustments—whichever is adverse—by control number to all sales in the home market. For a discussion of our determination with respect to these matters, see Decision Memo at Comment 1.

#### Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of cold-rolled steel from Germany, that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

We determine that the following weighted-average dumping margin exists for the period July 1, 2000, through June 30, 2001:

Exporter/manufacture	Margin (percent)
Thyssen Krupp Stahl AG .....	12.56
All Others .....	12.56

#### International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

#### Appendix I: Issues in Decision Memorandum

- Comment 1: Use of Adverse Facts Available for Home Market Downstream Sales
- Comment 2: Home Market Discounts
- Comment 3: Inland Freight, Mill to Company Border—Movement Expense
- Comment 4: Home Market Indirect Selling Expenses
- Comment 5: Home Market Credit Expenses
- Comment 6: Date of Sale
- Comment 7: Use of Facts Available for Sales by the Budd Company
- Comment 8: U.S. Sales Clerical Errors
- Comment 9: U.S. Credit and Inventory Carrying Costs
- Comment 10: U.S. Indirect Selling Expense
- Comment 11: Setting Negative Margins to Zero in the Calculation of the Dumping Margin
- Comment 12: Clerical Corrections in the Home Market and U.S. Sales and Cost Verification Reports
- Comment 13: Slabs Supplied by a TKS affiliate
- Comment 14: Unreconciled Difference
- Comment 15: Mill Edge Credit in the U.S. Market
- Comment 16: General and Administrative Expense Ratio
- Comment 17: Financial Expense Ratio
- Comment 18: G&A Further Manufacturer
- Comment 19: Depreciation of Machine Tools

and Spare Parts

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-307-822]

#### Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Venezuela

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

**EFFECTIVE DATE:** October 3, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Catherine Bertrand or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3207 and (202) 482-3434, respectively.

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2002).

#### Final Determination

We determine that certain cold-rolled carbon steel flat products from Venezuela are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margin of dumping is shown in the *Continuation of Suspension of Liquidation* section of this notice.

#### Case History

We published in the **Federal Register** the preliminary determination in this investigation on May 9, 2002. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products from Venezuela*, 67 FR 31273 (May 9, 2002) ("Preliminary Determination"). Since the publication of the *Preliminary Determination*, the following events have occurred.

On May 6, 2002, Siderurgica del Orinoco C.A. ("Sidor") requested that the Department correct a ministerial error found in Sidor's preliminary

determination calculations of the margin. On May 17, 2002, the Department determined that, although there was a certain ministerial error, it did not meet the definition of a significant ministerial error within the meaning of 19 CFR 351.224(g)(1). As a result, at that time we did not make the suggested correction. However, we have made the adjustment for the ministerial error in this final determination. See *Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Venezuela: Analysis of Allegation of Ministerial Error* ("Ministerial Error Memo") dated May 17, 2002.

On May 10, 2002, Sidor submitted a proposed suspension agreement. See *Suspension Agreement Section* below.

On June 17 through June 28, 2002, the Department conducted a verification of Sidor at Puerto Ordaz, Venezuela. On July 31 through August 2, 2002, the Department conducted a verification of Siderca Corporation in Houston, Texas.

On August 21, 2002, Sidor submitted its case brief with respect to the Department's *Preliminary Determination* and verifications. On August 22, 2002, petitioners submitted their case brief with respect to the Department's *Preliminary Determination* and verifications. On August 26, 2002, petitioners and respondent submitted rebuttal briefs.

#### Scope of Investigation

With respect to scope, in the preliminary LTFV determinations in all of the cold-rolled steel investigation cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. See *Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (see the June 13, 2002, memorandum regarding "Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat

Products from Argentina, Brazil, France, and Korea" (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit ("CRU"), room B-099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a "correction" for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the following paragraph.

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in "Appendix I" attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings*, see the memorandum regarding "Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea," dated July 10, 2002, which is on file in the CRU.

#### Period of Investigation

The period of investigation ("POI") is January 1, 2001, through June 30, 2001. This period corresponds to the two most recent fiscal quarters prior to the filing of the petition (*i.e.*, September 2001).

#### Facts Available

Section 776(a)(2) of the Act, provides that: If an interested party or any other