

Therefore, pursuant to 776(b) of the Tariff Act, an adverse inference is warranted. We have preliminarily determined that, pursuant to section 776(b) of the Tariff Act, it is appropriate to use partial adverse facts available in calculating a margin on these sales. In each instance where KTN failed to provide one or more necessary model match characteristics, we matched this product to the lowest-priced product of the same grade sold in the United States by assigning the home market transaction the corresponding U.S. control number. For any home market sales of grades not sold in the United States which had missing characteristics, we assigned this product the home market control number of the highest-priced product of the same grade in the home market.

### Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average dumping margin exists for the period July 1, 2000 through June 30, 2001:

| Manufacturer / Exporter | Weighted Average Margin (percent-age) |
|-------------------------|---------------------------------------|
| KTN .....               | 5.34                                  |

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication. *See* CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a

hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries that particular importer made during the POR. The Department will issue appropriate appraisal instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of S4 in coils from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act:

1) The cash deposit rate for KTN will be the rate established in the final results of review;

2) If the exporter is not a firm covered in this review or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

3) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 13.48 percent (*see Notice of Amended Final Determination of Antidumping Duty Investigation: Stainless Steel Sheet and Strip in Coils from Germany*, 67 FR 15178 (March 29, 2002)).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: July 31, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-822]

### Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to requests from respondent ThyssenKrupp Mexinox S.A. de C.V. (Mexinox) and ThyssenKrupp Mexinox USA, Inc. (Mexinox USA) (collectively, Mexinox)<sup>1</sup>, and Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), J&L Specialty Steel, Inc., North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL-CIO/CLC (collectively, petitioners), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (S4 in coils) from Mexico (A-201-822). This review covers one manufacturer/exporter (Mexinox) of the subject merchandise to the United States during the period July 1, 2000 to June 30, 2001.

We preliminarily determine that sales of S4 in coils from Mexico have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the constructed export price (CEP) and NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument: (1) a statement of the

<sup>1</sup> On July 26, 2002, we published in the **Federal Register** the final results of our determination that ThyssenKrupp Mexinox S.A. de C.V. is the successor-in-interest to Mexinox S.A. de C.V. for purposes of determining antidumping duty liability. *See Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 67 FR 48878 (July 26, 2002).

issues and (2) a brief summary of the argument.

**EFFECTIVE DATE:** August 7, 2002.

**FOR FURTHER INFORMATION CONTACT:** Deborah Scott or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482-2657 or (202) 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:**

**Applicable Statute And Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2001).

**Background**

On July 27, 1999, the Department published in the **Federal Register** the *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order* on stainless steel sheet and strip in coils from Mexico (64 FR 40560). On July 2, 2001, the Department published the *Notice of Opportunity to Request Administrative Review* of, *inter alia*, stainless steel sheet and strip in coils from Mexico for the period July 1, 2000 through June 30, 2001 (66 FR 34910).

In accordance with 19 CFR 351.213 (b)(1), Mexinox and the petitioners requested that we conduct an administrative review of Mexinox. On August 20, 2001, we published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period July 1, 2000 through June 30, 2001 (66 FR 43570).

Because it was not practicable to complete this review within the normal time frame, on March 6, 2002, we published in the **Federal Register** our notice of the extension of time limits for this review (67 FR 10133). This extension established the deadline for these preliminary results as July 31, 2002.

**Scope of the Review**

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in

coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See*

Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties, the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves for compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."<sup>2</sup>

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."<sup>3</sup>

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."<sup>4</sup>

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).<sup>5</sup> This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6."<sup>6</sup>

#### **Sales Made Through Affiliated Resellers**

##### *A. U.S. Market*

As noted in Mexinox's October 12, 2001 questionnaire response at 10, Ken-Mac Metals Inc. (Ken-Mac) is an affiliated reseller that sold subject merchandise in the United States during the POR. Thus, we have included in our preliminary margin calculation resales of Mexinox subject merchandise made through Ken-Mac.

##### *B. Home Market*

Mexinox Trading, S.A. de C.V. (Mexinox Trading), a wholly-owned subsidiary of Mexinox, sells both subject and non-subject merchandise in the home market. In its October 12, 2001 questionnaire response, Mexinox

reported that sales through Mexinox Trading represented less than five percent of Mexinox's total sales of subject merchandise in the home market. Because Mexinox Trading's sales of subject merchandise were less than five percent of home market subject merchandise sales, and because Mexinox certified these sales passed the Department's arm's-length test, pursuant to section 351.403 (c) and (d) of the Department's regulations, we permitted Mexinox to report its sales to Mexinox Trading rather than require it to report downstream sales by Mexinox Trading to the first unaffiliated customer.

#### **Fair Value Comparisons**

To determine whether sales of S4 in coils from Mexico to the United States were made at less than fair value, we compared the CEP<sup>7</sup> to the NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Tariff Act, we compared individual CEPs to monthly weighted-average NVs.

#### **Transactions Reviewed**

For its home market and U.S. sales Mexinox reported the date of invoice as the date of sale, in keeping with the Department's stated preference for using the invoice date as the date of sale (19 CFR 351.401(i)). Mexinox stated the invoice date represented the date when the essential terms of sales, *i.e.*, price and quantity, are definitively set, and that up to the time of shipment and invoicing, these terms were subject to change. Because petitioners alleged that Mexinox did not provide adequate support for its claim that price and quantity may change at any time between the final order acceptance date (confirmation date) and the final invoice date, the Department requested that Mexinox provide additional information concerning the nature and frequency of price and quantity changes occurring between the date of order and date of invoice. We also requested that Mexinox report the order date for each transaction. Mexinox responded to our request on May 8, 2002. Based on our analysis of the information submitted by Mexinox, we have preliminarily determined the date of invoice is the appropriate date of sale because record evidence indicates that in a number of instances the price and quantity changed between the date of the order

<sup>2</sup> "Arnokrome III" is a trademark of the Arnold Engineering Company.

<sup>3</sup> "Gilphy 36" is a trademark of Imphy, S.A.

<sup>4</sup> "Durphynox 17" is a trademark of Imphy, S.A.

<sup>5</sup> This list of uses is illustrative and provided for descriptive purposes only.

<sup>6</sup> "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

<sup>7</sup> Mexinox categorized some of its U.S. sales as CEP sales and some as export price (EP) sales. However, as discussed below in the "Level of Trade" section, we have determined that all of Mexinox's U.S. sales are properly classified as CEP sales for these preliminary results.

acceptance and the date of invoice. Therefore, we find Mexinox's claim that price and quantity terms are subject to negotiation until the date of invoice is substantiated.

### Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by the respondent covered by the description in the "Scope of the Review" section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

### Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the CEP transaction. The NV LOT is that of the starting price of the comparison sales in the home market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. For CEP it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Tariff Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affect price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision).

In our September 6, 2001 questionnaire, we asked Mexinox to identify the specific differences and similarities in selling functions and support services between all phases of marketing in the home market and the

United States. Mexinox identified two channels of distribution in the home market: (1) retailers, and (2) end-users. For both channels, Mexinox performs similar selling functions such as pre-sale technical assistance and after-sales warranty services. *See, e.g.,* Attachment A-21 of Mexinox's May 8, 2002 submission. Because channels of distribution do not qualify as separate LOTs when the selling functions performed for each customer class are sufficiently similar, we determined one LOT exists for Mexinox's home market sales. *See Certain Stainless Steel Wire Rods from France: Final Results of Antidumping Duty Administrative Review*, 63 FR 30185, 30190 (June 3, 1998).

For the U.S. market Mexinox reported two LOTs: (1) sales designated as EP transactions, which consisted, in some cases, of sales made directly to unaffiliated U.S. customers ("direct shipments"), and in other cases of sales made from the stock of finished goods held at the Mexican factory in San Luis Potosi to unaffiliated U.S. customers ("SLP stock sales"); and (2) CEP sales made through Mexinox USA's Brownsville warehouse to service centers and end users. For both direct shipments and SLP stock sales (*i.e.*, those considered by Mexinox to be EP sales), Mexinox USA acted as the importer of record, collected purchase orders, invoiced the customer and collected payment. *See, e.g.,* Mexinox's October 12, 2001 questionnaire response at A-35 and 36 and Mexinox's November 7, 2001 questionnaire response at C-51. Thus, following the criteria set forth by the U.S. Court of Appeals for the Federal Circuit (the Federal Circuit) in *AK Steel Corp. v. United States*, 226 F.3d 1361 (Fed. Cir. 2000) (*AK Steel*), we determine Mexinox's direct shipments and SLP stock sales constitute a sale between Mexinox USA and its U.S. customer. In *AK Steel* the Federal Circuit, noting that CEP is defined as the price at which subject merchandise is first sold in the United States and EP as the price at which subject merchandise is first sold outside the United States, stated, "the location of the sale appears to be critical to the distinction between the two categories." *See AK Steel* at 1369. Because Mexinox's sales of merchandise to its U.S. customers took place within the United States, we have classified Mexinox's direct shipments and SLP stock sales as CEP sales for these preliminary results.

When we compared CEP sales (after deductions made pursuant to section 772(d) of the Tariff Act) to home market sales, we determined that for CEP sales

Mexinox performed fewer customer sales contacts, technical services, inventory maintenance, and warranty services. *See, e.g.,* Mexinox's October 12, 2001 original questionnaire response at A-31 and Attachment A-21 of Mexinox's May 8, 2002 supplemental questionnaire response. In addition, the differences in selling functions performed for home market and CEP transactions indicate home market sales involved a more advanced stage of distribution than CEP sales. In the home market Mexinox provides marketing further down the chain of distribution by providing certain downstream selling functions that are normally performed by service centers in the U.S. market (*e.g.*, technical advice, credit and collection, *etc.*).

Based on our analysis, we determined that CEP and the starting price of home market sales represent different stages in the marketing process, and are thus at different LOTs. Therefore, when we compared CEP sales to home market sales, we examined whether a level-of-trade adjustment may be appropriate. In this case, Mexinox sold at one LOT in the home market; therefore, there is no basis upon which to determine whether there is a pattern of consistent price differences between levels of trade. Further, we do not have the information which would allow us to examine pricing patterns of Mexinox's sales of other similar products, and there are no other respondents or other record evidence on which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a LOT adjustment and the level of trade in Mexico for Mexinox is at a more advanced stage than the level of trade of the CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Tariff Act, as claimed by Mexinox. We based the amount of the CEP offset on the amount of home market indirect selling expenses, and limited the deduction for home market indirect selling expenses to the amount of indirect selling expenses deducted from CEP in accordance with section 772(d)(1)(D) of the Tariff Act. We applied the CEP offset to NV, whether based on home market prices or CV.

In addition to the three U.S. channels of distribution discussed above (direct sales, SLP stock sales, and sales through Mexinox's affiliate, Mexinox USA), Mexinox reported U.S. sales through one other channel of distribution: CEP sales through its affiliated reseller Ken-Mac (*see* the section on "Affiliation" above). For purposes of this preliminary determination, we treated this channel

of distribution as equivalent to the level of trade of other CEP sales.

### Constructed Export Price

We calculated CEP in accordance with section 772(b) of the Tariff Act for those sales to the first unaffiliated purchaser that took place after importation into the United States. We based CEP on packed prices to unaffiliated purchasers in the United States. We made adjustments for discounts, rebates, and debit/credit notes where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight, foreign inland insurance, foreign brokerage and handling, U.S. customs duties, U.S. inland freight, U.S. brokerage, and U.S. warehousing expenses. As further directed by section 772(d)(1) of the Tariff Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs and warranty expenses), inventory carrying costs, and other indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Tariff Act, and added duty drawback to the starting price in accordance with section 772(c)(1)(B) of the Tariff Act. For those sales in which the material was sent to an unaffiliated U.S. processor to be further processed, we made an adjustment based on the transaction-specific further-processing amounts reported by Mexinox. In addition, the U.S. affiliated reseller Ken-Mac performed some further manufacturing of some of Mexinox's U.S. sales. For these sales, we deducted the cost of further processing in accordance with 772(d)(2) of the Tariff Act. In calculating the cost of further manufacturing for Ken-Mac, we relied upon the further manufacturing information provided by Mexinox.

### Facts Available

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

In our September 6, 2001 questionnaire at G-6, we requested that Mexinox provide sales and cost data for all affiliates involved with the production or sale of the merchandise under review during the POR in both the home and U.S. markets. In its October 12, 2001 questionnaire response at 10, Mexinox indicated its affiliated

reseller, Ken-Mac, sold subject merchandise in the United States during the POR. In its November 7, 2001 submission, Mexinox provided data related to Ken-Mac's resales of subject merchandise to unaffiliated customers in the United States. At page S1-2 of its May 8, 2002 supplemental questionnaire response, Mexinox indicated that Ken-Mac was unable to confirm the origin of some of the stainless steel material it sold during the POR. Therefore, Mexinox reported data on these particular resales through Ken-Mac in a separate database, indicating the quantity of each transaction that could be allocated reasonably to Mexinox. To designate a portion of these "unattributable" sales as resales of subject merchandise by Ken-Mac, Mexinox first calculated the relative percentage, by volume, of stainless steel merchandise that Ken-Mac purchased during the POR from Mexinox and other vendors. Then, of Ken-Mac's purchases of stainless steel merchandise from Mexinox, Mexinox determined the relative percentage, by volume, of subject stainless steel merchandise and non-subject stainless steel merchandise. See Attachment KMC-25 of Mexinox's June 3, 2002 submission. Thus, because of the unknown origin of certain of Ken-Mac's resales of subject merchandise, Mexinox has, in effect, not provided all the information necessary to complete our analysis.

Since Mexinox has not provided all of the information necessary to perform our analysis, we have preliminarily determined that, pursuant to section 776(a)(1) of the Tariff Act, it is appropriate to use the facts otherwise available in calculating a margin on Ken-Mac's "unattributable" sales. Section 776(a)(1) of the Tariff Act provides that the Department will, subject to section 782(d), use the facts otherwise available in reaching a determination if "necessary information is not available on the record." Hence, for these preliminary results, we have calculated a margin on Ken-Mac's "unattributable" resales by applying the overall margin calculated on all other sales/resales of subject merchandise to the weighted-average price of these sales reported in Ken-Mac's "unattributable" sales database. See also *Stainless Steel Sheet and Strip in Coils From Mexico; Final Results of Antidumping Duty Administrative Review*, 67 FR 6490 (February 12, 2002). We note that for these preliminary results we have not used an adverse inference, as provided under section 776(b) of the Tariff Act, to calculate a margin on Ken-Mac's "unattributable" sales.

### Normal Value

#### A. Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Tariff Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined the home market was viable. See, *e.g.*, Mexinox's June 3, 2002 supplemental questionnaire response at Attachments A-35 (quantity and value chart), B-46 (home market sales listing), and C-43 (U.S. market sales listing).

#### B. Affiliated-Party Transactions and Arm's-Length Test

Sales to affiliated customers in the home market not made at arm's-length prices are excluded from our analysis because we consider them to be outside the ordinary course of trade. See 19 CFR 351.102(b). To test whether sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers minus all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c). In instances where no price ratio could be calculated for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine whether these sales were made at arm's-length prices and, therefore, excluded them from our margin calculation. See, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Brazil*, 63 FR 59509 (Nov. 8, 1998), citing to *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most

similar model. For these preliminary results, we found that none of Mexinox's affiliated home market customers failed our arm's-length test.

#### C. Cost of Production Analysis

Because we disregarded sales of certain products made at prices below the cost of production (COP) in the investigation of S4 in coils from Mexico (*see Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Mexico*, 64 FR 30790 (June 8, 1999)),<sup>8</sup> we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review for Mexinox may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Tariff Act. Therefore, pursuant to section 773(b)(1) of the Tariff Act, we initiated a COP investigation of sales by Mexinox.

To calculate COP, in accordance with section 773(f)(3) of the Tariff Act, we revised Mexinox's reported material costs to reflect the highest of cost of production, transfer price, or market price for those materials obtained from affiliated parties. We added the revised material costs to the respondent's reported cost of fabrication for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the Tariff Act. We then computed weighted-average COPs during the POR, and compared the weighted-average COP figures to home market sales prices of the foreign like product as required under section 773(b) of the Tariff Act, in order to determine whether these sales had been made at prices below COP. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and discounts.

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Tariff Act: (1) whether within an extended period of time, such sales were made in substantial quantities; and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade.

Where twenty percent or more of the respondent's sales of a given product were at prices below the COP, we found sales of that model were made in "substantial quantities" within an extended period of time, in accordance with sections 773(b)(2) (B) and (C) of the Tariff Act. Based on our comparison of prices to the weighted-average per-unit cost of production for the POR, we determined whether the below-cost prices were such as to provide for recovery of costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act.

Our cost test for Mexinox revealed that fewer than twenty percent of Mexinox's home market sales of certain products were at prices below Mexinox's COP. We therefore concluded that for such products, Mexinox had not made below-cost sales in substantial quantities. *See* section 773 (b)(2)(C)(i) of the Tariff Act. We therefore retained all such sales in our analysis. For other products, more than twenty percent of Mexinox's sales were at below-cost prices. In such cases we disregarded the below-cost sales, while retaining the above-cost sales for our analysis.

#### D. Constructed Value

In accordance with section 773(e) of the Tariff Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, SG&A expenses, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. We deducted from CV the weighted-average home market direct selling expenses incurred on sales made in the ordinary course of trade.

#### E. Price-to-Price Comparisons

We calculated NV based on prices to unaffiliated customers or prices to affiliated customers we determined to be at arm's length. We made adjustments for debit or credit notes, discounts, rebates, interest revenue, and insurance revenue, where appropriate. We made deductions, where appropriate, for foreign inland freight, insurance, handling, and warehousing, pursuant to section 773(a)(6)(B) of the Tariff Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411, as well as for differences in circumstances

of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses and warranty expenses. As noted in the "Level of Trade" section of this notice, we also made an adjustment for the CEP offset in accordance with section 773(a)(7)(B) of the Tariff Act. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act.

#### F. Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV if we were unable to find a home market match of such or similar merchandise. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. Where we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses.

#### Currency Conversion

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

#### Preliminary Results of Review

As a result of our review we preliminarily determine the following weighted-average dumping margin exists for the period July 1, 2000 through June 30, 2001:

| Manufacturer / Exporter | Weighted Average Margin (percent-age) |
|-------------------------|---------------------------------------|
| Mexinox .....           | 6.01                                  |

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication. *See* CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument: 1) a statement of the

<sup>8</sup> Since initiating the instant review, we completed our first administrative review of S4 in coils from Mexico, in which we also found home market sales below COP. *See Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 67 FR 6490 (February 12, 2002), as amended, *Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Mexico*, 67 FR 15542 (April 2, 2002)).

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

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appropriate appraisal instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of S4 in coils from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act:

1) The cash deposit rate for Mexinox will be the rate established in the final results of review;

2) If the exporter is not a firm covered in this review or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

3) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the all others rate from the investigation (30.85 percent; *see Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Mexico*, 64 FR 40560, 40562 (July 27, 1999)).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review

period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: July 31, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-19988 Filed 8-6-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-427-814]

#### Preliminary Results of Antidumping Administrative Review: Stainless Steel Sheet and Strip in Coils From France

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

**ACTION:** Notice of preliminary results in the antidumping duty administrative review of stainless steel sheet and strip in coils from France.

**SUMMARY:** In response to requests from Ugine S.A. ("Ugine"), and Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Organization Inc., and the United Steelworkers of America, AFL-CIO/CLC, collectively, ("the Petitioners"), the U.S. Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip ("SSSS") from France for the period July 1, 2000 through June 30, 2001. The Department preliminarily determines that a dumping margin exists for Ugine's sales of SSSS in the United States. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries of Ugine's merchandise during the period of review. The preliminary results are listed in the section titled "Preliminary Results of Review," *infra*.

**EFFECTIVE DATE:** August 7, 2002.

**FOR FURTHER INFORMATION CONTACT:** Alex Villanueva, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution

Avenue, NW., Washington, DC 20230; telephone: 202-482-3208.

### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("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 (2001).

### Background

On July 27, 1999, the Department published in the **Federal Register** the amended final determination and antidumping duty order on SSSS from France. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from France*, 64 FR 40562 (July 27, 1999) ("Antidumping Duty Order"). On March 19, 2002, the Department published in the **Federal Register** the amended final results of the first antidumping duty administrative review of SSSS from France. *See Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 67 FR 12522 (March 19, 2002). On July 2, 2001, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on stainless steel sheet and strip in coils from France for the period July 1, 2000, through June 30, 2001. *See Notice of Opportunity to Request Administrative Review of Antidumping Duty or Countervailing Duty Order, Finding, or Suspended Investigation* 66 FR 34910 (July 2, 2001).

On July 31, 2001, Ugine, a French producer and exporter of subject merchandise, and the Petitioners requested that the Department conduct a review of sales or entries of merchandise subject to the Department's antidumping duty order on SSSS from France. On October 1, 2001, in accordance with section 751(a) of the Act, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review for the period July 1, 2000 through June 30, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 49924 (October 1, 2001).

On November 16, 2001, Ugine reported that it made sales of subject merchandise to the United States during