

calculations. As noted by U&A France, the Department has previously included the value of merchandise entered for consumption into the United States, but first sold outside of the United States, in the denominator of the importer specific assessment calculations. *See Mexinox 2002; Mexinox 2003; and Mexinox 2004.* In *Mexinox 2002*, we determined that it is appropriate to include the entered value of merchandise entered for consumption into the United States, but subsequently first sold outside of the United States into the denominator of the Department's importer specific assessment calculation to "facilitate the U.S. Customs Service's collection of antidumping duties on subject merchandise." *See Mexinox 2002 and accompanying Issues and Decision Memorandum*, at comment 15.

Finally, we disagree with the Petitioners' assertion that we are unable to determine who is the importer of record from the record of this case. U&A France specifically states that U&A France is the importer of record for the sales entered for consumption, but subsequently first sold outside of the United States, at Appendix SA-2 of the supplemental questionnaire response dated March 22, 2005. Accordingly, the Department has preliminarily included the entered value of the merchandise which was imported for consumption into the United States, but subsequently first sold outside of the United States in the denominator of the importer specific assessment calculation. A more detailed discussion of this issue and the computer code which implements this decision is included in the Department's analysis memorandum. *See Analysis Memorandum*.

Preliminary Results of Review

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

STAINLESS STEEL SHEET AND STRIP IN COILS FROM FRANCE

Producer/manufacturer/exporter	Weighted-average margin
U&A France	11.11 percent.

Duty Assessment

Upon issuance of the final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to CBP within fifteen days of publication of the final results of review. The final results of this review shall be the basis for the

assessment of antidumping duties on entries of merchandise covered by these results and for future deposits of estimated duties. For duty assessment purposes, we calculated an importer-specific assessment rate by dividing the total dumping margins calculated for the U.S. sales to the importer by the sum of total entered value of these sales plus the entered value of subject merchandise entered for consumption but first sold outside of the United States. If the preliminary results are adopted in the final results of review, this rate will be used for assessment of antidumping duties on all entries of the subject merchandise by that importer during the POR.

Revocation of the Order

On July 12, 2005, the United States International Trade Commission (ITC) informed the Department that the revocation of the antidumping duty orders on stainless steel sheet and strip from France would not likely lead to continuation of recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Accordingly, the Department will be revoking this antidumping duty order effective, July 27, 2004. Therefore, cash deposits of estimated antidumping duties are no longer required.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculation performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties

will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, no later than 120 days after publication of these preliminary results, unless extended. *See* 19 CFR 351.213(h).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under regulation 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.

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

Dated: August 1, 2005.

Joseph A. Spetrini,

Acting 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.

SUMMARY: In response to requests from respondent ThyssenKrupp Mexinox S.A. de C.V. (Mexinox S.A.) and Mexinox USA, Inc. (Mexinox USA) (collectively, Mexinox) and petitioners,¹ 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. This administrative review covers imports of subject

¹ Petitioners are Allegheny Ludlum Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Armco Independent Organization, Inc. and the United Steelworkers of America, AFL-CIO/CLC.

merchandise from Mexinox S.A. during the period July 1, 2003, to June 30, 2004.

We preliminarily determine that sales of S4 in coils from Mexico have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) 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 issues, 2) a brief summary of the argument, and 3) a table of authorities.

EFFECTIVE DATE: August 8, 2005.

FOR FURTHER INFORMATION CONTACT:

Angela Strom, Maryanne Burke or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-2704, (202) 482-5604 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

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; Stainless Steel Sheet and Strip in Coils from Mexico* (64 FR 40560). On July 1, 2004, the Department published the *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, of, *inter alia*, S4 in coils from Mexico for the period July 1, 2003, through June 30, 2004. 69 FR 39903.

In accordance with 19 CFR 351.213(b)(1), Mexinox and petitioners requested that we conduct an administrative review. On August 30, 2004, we published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period July 1, 2003 through June 30, 2004. *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004).

On September 8, 2004, the Department issued an antidumping duty questionnaire to Mexinox. Mexinox submitted its response to section A of the questionnaire on October 8, 2004, and its response to sections B through E of the questionnaire on November 10, 2004. On January 28, 2005, the

Department issued its first supplemental questionnaire for sections A, B, and C, to which Mexinox responded on March 7, 2005. On April 14, 2005, the Department issued a second supplemental questionnaire for sections A through C, as well as for section E pertaining to an affiliated U.S. reseller, Ken-Mac Metals, Inc. (Ken-Mac). Mexinox responded to sections A–C of this supplemental questionnaire on May 16, 2005, and filed its response to section E on May 23, 2005. The Department also issued a supplemental questionnaire for section D on April 18, 2005; Mexinox submitted its response to this questionnaire on May 16, 2005. On May 25, 2005, the Department issued a second supplemental questionnaire for section D and Mexinox filed its response to this on June 8, 2005. Finally, on July 6, 2005, the Department issued a third supplemental questionnaire for sections A through C, to which Mexinox responded on July 14, 2005.

Because it was not practicable to complete this review within the normal time frame, on March 8, 2005, we published in the **Federal Register** our notice of the extension of time limits for this review. *Stainless Steel Sheet and Strip in Coils from Mexico; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 11194 (March 8, 2005). This extension established the deadline for these preliminary results as July 31, 2005.

Period of Review

The period of review (POR) is July 1, 2003, through June 30, 2004.

Scope of the Order

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 currently classifiable 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 this order 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."²

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."³

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."⁴

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).⁵ 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."⁶

Sales Made Through Affiliated Resellers

A. U.S. Market

Mexinox USA, a wholly-owned subsidiary of Mexinox S.A., which is a subsidiary of ThyssenKrupp AG, the lead holding company for steel operations in the ThyssenKrupp Group, sold subject merchandise in the United States during the POR to unaffiliated customers. Mexinox USA also made sales of subject merchandise to affiliated company, Ken-Mac, located in the United States. Ken-Mac is an operating division of ThyssenKrupp Materials Inc., a subsidiary of ThyssenKrupp USA Inc. (TKUSA), which is the primary holding company for ThyssenKrupp AG in the U.S. market. Ken-Mac further manufactured and/or resold the subject merchandise to unaffiliated customers in the United States. *See* Mexinox's October 8, 2004, questionnaire response at A-10, A-18 and A-37 through A-38. For purposes of this review, we have included both Mexinox USA's and Ken-Mac's sales of subject merchandise to unaffiliated customers in the United States in our sales analysis.

B. Home Market

Mexinox Trading, S.A. de C.V. (Mexinox Trading), a wholly-owned subsidiary of Mexinox S.A., resells the foreign like product as well as other

² "Arnokrome III" is a trademark of the Arnold Engineering Company.

³ "Gilphy 36" is a trademark of Imphy, S.A.

⁴ "Durphynox 17" is a trademark of Imphy, S.A.

⁵ This list of uses is illustrative and provided for descriptive purposes only.

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

merchandise in the home market. Mexinox reported its sales to Mexinox Trading during the POR. These sales represented a small portion of Mexinox's total sales of the foreign like product in the home market and were less than five percent of home market sales. *See, e.g.,* Mexinox's October 8, 2004, questionnaire response at A-3 to A-4 and its May 23, 2005, supplemental questionnaire response at Attachment A-28 (quantity and value chart). Because Mexinox Trading's sales of the foreign like product were less than five percent of home market sales of the foreign like product, in accordance with 19 CFR 351.403(d), we did not require Mexinox to report downstream sales by Mexinox Trading to its first unaffiliated customers. This treatment is also consistent with that employed in past administrative reviews of S4 in coils from Mexico. *See, e.g., Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 70 FR 3677 (January 26, 2005) (S4 in Coils from Mexico 2002-2003 Final Results).

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 to 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 of 1930, as amended (the 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. This is consistent with the Department's stated preference for using the invoice date as the date of sale, unless a date other than the date of invoice better reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR 351.401(i). Mexinox indicated the invoice date represented the date when the material terms of sales (*i.e.*, price and quantity) are definitively set, and that up to the date of shipment and invoicing, these terms were subject to change. *See, e.g.,* Mexinox's October 8, 2004, questionnaire response at A-35 and A-41. Mexinox stated that sale orders may include provisional prices and customers may adjust the quantity of an order up to the date of shipment. *See* March 7, 2005, supplemental questionnaire response at 12. We have preliminarily determined the date of invoice is the appropriate date of sale

because evidence on the record indicates that final prices are not fixed until the material is sought to be released for shipment and invoicing. *See* Mexinox's October 8, 2004, questionnaire response at A-35.

Product Comparisons

In accordance with section 771(16) of the Act we considered all products produced by Mexinox S.A. covered by the description in the "Scope of the Order" 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. We relied on nine characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product (listed in order of priority): (1) grade; (2) cold/hot rolled; (3) gauge; (4) surface finish; (5) metallic coating; (6) non-metallic coating; (7) width; (8) temper; and (9) edge trim. 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 September 8, 2004, questionnaire.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we base NV on sales made in the comparison market at the same level of trade (LOT) as the export transaction. There is one LOT in the comparison market, the NV LOT, which is defined as the starting price of the comparison sales in the home market or, when NV is based on constructed value (CV), we use the sales from which selling, general, and administrative (SG&A) expenses and profit are derived. With respect to CEP transactions in the U.S. market, the CEP LOT is defined as the level of the constructed sale from the exporter to the importer. *See* 773(a)(7)(A) of the Act.

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. *See* 19 CFR 351.412(c)(2). 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 an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the

CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See, e.g., Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002); *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997) and *Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 17406 (April 6, 2005). For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. *See Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001). We expect that, if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain-on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000).

We obtained information from Mexinox regarding the marketing stages involved in making the reported foreign market and U.S. sales. Mexinox provided a description of all selling activities performed, along with a flowchart and tables comparing the levels of trade and degrees of intensity among each channel of distribution and type in both markets. *See* Mexinox's October 8, 2004, questionnaire response at A-30 through A-35 and Attachments A-4-A through A-4-C. Mexinox sold S4 in coils to end-users and retailers/distributors in the home market and to end-users and distributors/service centers in the U.S.

With respect to the home market, Mexinox identified two channels of distribution described as follows: 1) direct shipments (*i.e.*, products produced to order) and 2) sales from inventory. *See* Mexinox's October 8, 2004, questionnaire response at A-22 through A-23. We compared the selling functions performed across all home market channels of distribution. In certain activities such as pre-sale technical assistance, process customer orders, sample analysis, prototypes and trial lots, freight and delivery, price negotiation/customer communications, sales calls and visits and warranty services, the level of intensity for direct

shipments and sales through inventory were identical, while only a few functions such as inventory maintenance and just-in-time performance differed. Within its two channels of distribution, Mexinox S.A. made sales to both affiliated and unaffiliated distributors/retailers and end-users, all requiring smaller volume transactions, technical assistance, frequent sales calls and visits and other similar selling services. *See* October 8, 2004, at A-25 and Attachments A-4-B and A-4-C. While we find slight differences in the level of intensity of these selling activities performed for direct shipments and sales through inventory to both end-users and retailers, these differences are minor and do not establish distinct, multiple levels of trade in Mexico. Based on our analysis of all of Mexinox's home market selling functions, we find that all home market sales were made at the same LOT, the NV LOT.

With respect to the U.S. market, Mexinox indicated that it made CEP sales through its U.S. affiliate, Mexinox USA, through the following four channels of distribution: 1) direct shipments to unaffiliated customers; 2) stock sales from the San Luis Potosi (SLP) factory; 3) sales to unaffiliated customers through Mexinox USA's inventory/warehouses; and 4) sales through Ken-Mac. Ken-Mac is an affiliated service center located in the United States which purchases S4 in coils produced by Mexinox and Ken-Mac then resells (after, in some instances, further manufacturing the merchandise) to unaffiliated U.S. customers. We compared the selling activities performed in each channel and found the same selling functions (e.g., price negotiation/customer communications, sales calls, warranty services and freight/delivery arrangements) were performed at the same relative level of intensity in all channels of distribution. *See* October 8, 2004, questionnaire response at Attachment A 4-C. Accordingly, we find all CEP sales constitute one LOT, the CEP LOT, in the U.S. market.

We then compared the CEP LOT to the NV LOT. The CEP LOT is based on the selling activities associated with the transaction between Mexinox and its affiliated importer, Mexinox USA; whereas the NV LOT is based on the selling activities associated with the transactions with unaffiliated customers in the home market. From our analysis, we found that the selling functions performed for home market customers are either performed at a higher degree of intensity or are greater in number than the selling functions performed for

the U.S. customer. For example, in comparing Mexinox's selling activities, we find there are more functions performed in the home market which are not a part of CEP transactions (e.g., technical assistance, sample analysis, prototypes and trial lots, price negotiation/customer communications, inventory maintenance, just-in-time deliveries, sales calls and visits, and warranty services). For selling activities performed in both markets (e.g., process customer orders, freight and delivery), we find that Mexinox performed each of these at a higher level of intensity in the home market than in the U.S. market. We note that CEP sales from Mexinox to Mexinox USA generally occur at the beginning of the distribution chain and more closely resemble that of an ex-factory sale. In contrast, all sales in the home market occur closer to the end of the distribution chain and involve smaller individual transaction volumes, which require more selling functions to be performed. *See* Mexinox's October 8, 2004, questionnaire response at A-30 through A-35 and Attachments A-4-A through A-4-C. *See also* Mexinox's July 14, 2005, supplemental questionnaire response at 3 to 6. From the evidence on the record, we conclude that the NV LOT is at a more advanced stage than the CEP LOT.

Since we found that the home market and U.S. sales were made at different LOTs, we examined whether an LOT adjustment or a CEP offset may be appropriate in this review. As we found only one LOT in the home market, it was not possible to make an LOT adjustment to home market sales, because such an adjustment is dependent on our ability to identify a pattern of consistent price differences between the home market sales on which NV is based and home market sales at the LOT of the export transaction. *See* 19 CFR 351.412(d)(1)(ii). Furthermore, we have no other information that provides an appropriate basis for determining an LOT adjustment. Because the data available do not form an appropriate basis for making an LOT adjustment, and because the NV LOT is at a more advanced stage of distribution than the CEP LOT, we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is 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. Mexinox properly classified all of its U.S. sales of subject merchandise as CEP transactions because such sales were made in the United States by Mexinox's affiliate, Mexinox USA, to unaffiliated purchasers. We based CEP on packed prices to unaffiliated purchasers in the United States. We made adjustments for billing adjustments, discounts and rebates, and commissions, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These expenses included, where appropriate: foreign inland freight, foreign brokerage and handling, inland insurance, ocean freight (for sales to Puerto Rico), U.S. customs duties, U.S. inland freight, U.S. brokerage, and U.S. warehousing expenses. As directed by section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (i.e., credit costs, warranty expenses, and another expense not subject to public disclosure), inventory carrying costs, and other indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act. We used the adjustments as reported by Mexinox, except we recalculated the U.S. indirect selling expense ratio. *See* Analysis of Data Submitted by ThyssenKrupp Mexinox S.A. de C.V. for the Preliminary Results of the Antidumping Duty Administrative Review of S4 in Coils from Mexico (Preliminary Analysis Memorandum) from Angela Strom and Maryanne Burke to the File dated August 1, 2005.

For 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 section 772(d)(2) of the Act. In calculating the cost of further manufacturing for Ken-Mac, we relied upon Ken-Mac's reported cost of further manufacturing materials, labor and overhead, plus amounts for further manufacturing general and administrative expenses (G&A), as reported in the May 23, 2005, supplemental questionnaire response and incorporated the revised financial expense ratio (INTEX). *See* the

Department's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - ThyssenKrupp Mexinox S.A. de C.V. (Cost Calculation Memorandum) from Laurens Van Houten to the File and Preliminary Analysis Memorandum, both dated August 1, 2005.

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 Mexinox's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Because Mexinox'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 May 23, 2005, supplemental questionnaire response at Attachment A-28.

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). Consistent with 19 CFR 351.403(c) and (d) and agency practice, "the Department may calculate NV based on sales to affiliates if satisfied that the transactions were made at arm's length." *See China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003). To test whether the sales to affiliates were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all direct selling expenses, discounts and rebates, movement charges, and packing. Where prices to the affiliated party were, on average, within a range of 98 to 102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002). We found that one affiliated home market customer failed the arm's length test and, in accordance with the Department's practice, we excluded these sales from our analysis. *See* section 773(f)(2) of the Act.

C. Cost of Production Analysis

Because we disregarded sales of certain products made at prices below the cost of production (COP) in the most recently completed review of S4 in coils from Mexico (*See, e.g., Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 69 FR 6259 (February 10, 2004) (*S4 in Coils from Mexico 2001-2002 Final Results*)), we had 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 Act. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Mexinox.

We recalculated Mexinox's G&A and INTEx as described in the Cost Calculation Memorandum and Preliminary Analysis Memorandum. We added material and fabrication costs for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the 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 Act, to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to the home market prices net of billing adjustments, discounts and rebates, and any applicable movement charges.

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 Act, whether, within an extended period of time, such sales were made in substantial quantities; and 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 less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2)

based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our cost test for Mexinox revealed that, for home market sales of certain models, less than 20 percent of the sales of those models were at prices below the COP. We therefore retained all such sales in our analysis and used them as the basis for determining NV. Our cost test also indicated that, for certain models, more than 20 percent of the home market sales of those models were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

D. Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Mexinox's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of Production Analysis" section of this notice. In accordance with section 773(e)(2)(A) of the 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.

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 billing adjustments, discounts, rebates and interest 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 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 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 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 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 Act.

We used Mexinox's adjustments and deductions as reported, except for certain handling expenses and imputed credit expenses. We have recalculated the handling expenses incurred by home market affiliate, Mexinox Trading, and applied the revised ratio to those home market sales whereby Mexinox reported a handling expense. We based imputed credit expense on the short-term borrowing rate associated with the currency of each home market sale transaction at issue. *See Preliminary Analysis Memorandum.* Both methodologies are consistent with past administrative reviews of this case. *See e.g., S4 in Coils from Mexico 2002–2003 Final Results.*

F. Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a home market match of such or similar merchandise. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

Facts Available

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

In our September 8, 2004, 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 home and U.S. markets. In its October 8, 2004, questionnaire response at A–2, Mexinox indicated that its affiliated reseller, Ken–Mac, sold subject merchandise in the United States during the POR. In its November 10, 2004, submission at KMC–2, Mexinox provided data related to Ken–Mac's resales of subject merchandise to unaffiliated customers in the United States, although Mexinox notified the Department that a small subset of sale transactions could not be traced to an original stock item or supplier. In its supplemental questionnaire response dated May 23, 2005, at 2, Mexinox reported those sale transactions (unattributed sales) where the origin of the original stock item could not be determined.

Because of the unknown origin of a certain number of Ken–Mac resales,

Mexinox has not provided all the information necessary to complete our analysis. Pursuant to section 776(a)(1) of the Act, it is appropriate to use the facts otherwise available in calculating a margin on Ken–Mac's unattributed sales. Section 776(a)(1) of the Act provides that the Department will, subject to section 782(d) of the Act, use the facts otherwise available in reaching a determination if "necessary information is not available on the record." For these preliminary results, we have calculated a margin on Ken–Mac's unattributed sales by applying the overall margin calculated on Mexinox's other U.S. sales of subject merchandise to the weighted-average price of Ken–Mac's unattributed sales. This methodology is consistent with that employed in past administrative reviews of S4 in coils from Mexico. *See, e.g., S4 in Coils from Mexico 2002–2003 Final Results.*

Prior to applying the overall margin calculated on other sales/resales of subject merchandise to Ken–Mac's unattributed sales, we calculated the portion of the unattributed sales quantity that could be reasonably allocated to subject stainless steel merchandise purchased from Mexinox. We based our allocation on the relative percentage (by volume) of subject stainless steel merchandise that Ken–Mac had purchased from Mexinox as compared to the total stainless steel merchandise it had purchased from all vendors. *See Mexinox's May 23, 2005, supplemental questionnaire response at Attachment KMC–14.* The Department finds that Mexinox, to the best of its ability, complied with the Department's request for information; thus, we have not used an adverse inference, as provided under section 776(b) of the Act, to calculate a margin on Ken–Mac's unattributed sales.

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 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, 2003 through June 30, 2004:

Manufacturer / Exporter	Weighted Average Margin (percentage)
ThyssenKrupp Mexinox S.A. de C.V.	3.01

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 of these preliminary results. *See* 19 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 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, parties submitting case briefs and/or rebuttal briefs are requested to provide the Department with an additional copy of the public version of any such argument on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such argument or at a hearing, within 120 days of publication of these preliminary results.

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), 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. The total customs value is based on the entered value reported by Mexinox, for all U.S. entries of subject merchandise initially purchased for consumption to the United States made during the POR. *See Preliminary Analysis Memorandum.* In accordance with 19 CFR 356.8(a), the Department will issue appropriate assessment instructions directly to CBP on or after 41 days following the publication of the final results of 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 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 less-than-fair-value (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, or the LTFV investigation 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 Act.

Dated: August 1, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5-4254 Filed 8-5-05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-825]

Stainless Steel Sheet and Strip in Coils 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 Allegheny Ludlum, North American Stainless, Local 3303 United Auto Workers, United Steelworkers of America, AFL-CIO/CLC, and Zanesville Armco Independent Organization (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) from Germany. The review covers exports of the subject merchandise to the United States of the collapsed parties, ThyssenKrupp Nirosta GmbH (ThyssenKrupp Nirosta), ThyssenKrupp VDM GmbH (TKVDM), and ThyssenKrupp Nirosta Prazisionsband GmbH (TKNP) (collectively, TKN). The period of review (POR) is July 1, 2003, through June 30, 2004.

We preliminarily find that TKN made sales at less than normal value during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (Customs) to assess antidumping duties based on the difference between the United States Price (USP) and normal value (NV). Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the arguments: (1) a statement of the issues, (2) a brief summary of the arguments (no longer than five pages, including footnotes) and (3) a table of authorities.

EFFECTIVE DATE: August 8, 2005.

FOR FURTHER INFORMATION CONTACT:

Deborah Scott, Tyler Weinhold, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-2657, (202) 482-1121 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published an antidumping duty order on S4 from Germany on July 27, 1999. *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Germany*, 64 FR 40557 (July 27, 1999) (Antidumping Duty Order). On July 1, 2004, the Department published the "Notice of Opportunity to Request Administrative Review" of S4 from Germany for the period July 1, 2003, through June 30, 2004. *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 69 FR 39903 (July 1, 2004).

On July 30, 2004, petitioners requested an administrative review of TKN's sales for the period July 1, 2003, through June 30, 2004. On August 30, 2004, we published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004).

On September 8, 2004, the Department issued an antidumping duty questionnaire to TKN. TKN submitted its response to section A of the questionnaire on September 29, 2004, and its response to sections B through D of the questionnaire on November 9, 2004.¹ On March 3, 2005, the Department issued a supplemental questionnaire requesting that TKN provide downstream sales data for certain affiliated parties in the home market. On March 7, 2005, TKN filed a letter asking that it be required to report downstream sales information for only two of the affiliated parties identified in the Department's March 3, 2005, letter, ThyssenKrupp Schulte GmbH (TS) and EBOR Edelstahl GmbH (EBOR). The Department granted TKN's request and on March 28, 2005, TKN submitted home market sales information for TS and EBOR. On April 14, 2005, the Department issued a supplemental questionnaire for sections A, B, and C,

¹ Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under review. Section E requests information on further manufacturing.