




**UNITED STATES DEPARTMENT OF COMMERCE**  
**International Trade Administration**  
Washington, D.C. 20230

A-533-820  
Administrative Review  
POR: 12/1/13 - 11/30/14  
Public Document  
E&C: AD/CVD Ops: III: GM

September 2, 2015

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** Gary Taverman   
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**RE:** Decision Memorandum for the Preliminary Results of the  
Antidumping Duty Administrative Review: Certain Hot-Rolled  
Carbon Steel Flat Products from India; 2013-2014

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## **I. SUMMARY**

In response to a request from the Petitioner,<sup>1</sup> the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products from India (hot-rolled steel) for the period of review (POR) of December 1, 2013, through November 30, 2014. The Department preliminarily determines that Ispat Industries Ltd. (Ispat), JSW Steel Ltd. (JSW), JSW Ispat Steel Ltd. (JSW Ispat), and Tata Steel Ltd. (Tata) had no entries of subject merchandise during the POR.

We invite interested parties to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act). Once we issue the final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR.

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<sup>1</sup> The Petitioner is Nucor Corporation.



## II. BACKGROUND

On December 3, 2001, the Department published in the *Federal Register* the *AD Order*<sup>2</sup> on hot-rolled steel from India. On December 2, 2014, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on hot-rolled steel from India.<sup>3</sup> Pursuant to a request from the Petitioner, on February 4, 2015, the Department published the *Initiation Notice* in the *Federal Register*, which covers the following four companies: Ispat, JSW, JSW Ispat, and Tata.<sup>4</sup>

## III. SCOPE OF THE ORDER

For purposes of this order, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included in the scope of this order are vacuum-degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high-strength low-alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low-carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

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<sup>2</sup> See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 60194 (December 3, 2001) (*AD Order*).

<sup>3</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 79 FR 71382 (December 2, 2014).

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 6041 (February 4, 2015) (*Initiation Notice*).

1.80 percent of manganese, or  
2.25 percent of silicon, or  
1.00 percent of copper, or  
0.50 percent of aluminum, or  
1.25 percent of chromium, or  
0.30 percent of cobalt, or  
0.40 percent of lead, or  
1.25 percent of nickel, or  
0.30 percent of tungsten, or  
0.10 percent of molybdenum, or  
0.10 percent of niobium, or  
0.15 percent of vanadium, or  
0.15 percent of zirconium

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order:

- Alloy hot-rolled carbon steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- United States Steel (USS) Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this order is currently classifiable in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel covered by this order, including: vacuum-degassed fully stabilized; high-strength low-alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers:

7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise subject to this proceeding is dispositive.

#### **IV. PRELIMINARY DETERMINATION OF NO SHIPMENTS**

On February 4, 2015, the Department released CBP import data with respect to the companies for which the review was requested.<sup>5</sup> In February and March 2015, Ispat, JSW, JSW Ispat, and Tata submitted timely-filed certifications that they had no exports, sales, or entries of subject merchandise during the POR.<sup>6</sup>

On February 9, 2015, the Petitioner submitted comments regarding the CBP data which alleged, based on certain business proprietary information, that importers may be misclassifying imports of Indian hot-rolled steel as non-subject steel products in order to avoid paying duties.<sup>7</sup> The Petitioner referenced U.S. import data titled, "U.S. Consumption Imports of Hot-Rolled Sheet and Strip (including Plate in Coil)" which identifies almost 60,000 metric tons imported into the United States from India in 2014.<sup>8</sup> Based on this data and the certifications of no shipments filed by the companies requested for review, the Petitioner questioned whether the CBP query failed to reveal shipments that are, in fact, subject to the instant review. The Petitioner suggested that certain naming variations in the CBP query may cause differences in the query results (*e.g.*, Limited rather than Ltd.) and requested that the Department again conduct the CBP query using slight variations of such corporate name abbreviations.

The Department ran a second CBP data query using variations of the company names for which a review was requested by the Petitioner. On August 24, 2015, we released the results of the second CBP import data query, which confirmed that there were no entries identified for the companies requested for review for the POR.<sup>9</sup>

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<sup>5</sup> See Memorandum to the File titled, "Customs and Border Protection (CBP) Data Query Results," dated February 4, 2015.

<sup>6</sup> See Letter from JSW titled, "Certain Hot-Rolled Carbon Steel Flat Products from India: No Shipment Certification of JSW Steel Ltd." (February 27, 2015). JSW's letter stated, "{p}lease note that this statement applies as well to the companies listed in the Department's initiation notice as Ispat Industries Ltd. and JSW ISPAT Steel Ltd. Those companies no longer exist as separate entities, but have been merged into JSW Steel." See Letter from Tata titled, "Antidumping Duty Review of Certain Hot-Rolled Carbon Steel Flat Products from India: Tata Steel Limited Certification of No Shipments" (March 10, 2015).

<sup>7</sup> See Letter from the Petitioner titled "Certain Hot-Rolled Carbon Steel Flat Products from India: Comments on Customs Data" (February 9, 2015) at 3 and Attachment 2.

<sup>8</sup> *Id.*, at Attachment 1.

<sup>9</sup> See Memorandum to the File titled, "Customs and Border Protection (CBP) Data Query Results based on Second Data Query," (August 24, 2015).



On July 23, 2015, the Department issued a no shipment inquiry instruction but CBP did not identify any entries of subject merchandise from Ispat, JSW, JSW Ispat, and Tata during the POR within the 10-day period referenced in the aforementioned no shipment instruction.<sup>10</sup>

As noted above, the Petitioner asserts there are potential discrepancies between the U.S. import data summary titled, “U.S. Consumption Imports of Hot-Rolled Sheet and Strip (including Plate in Coil)”<sup>11</sup> and the CBP data query results. However, the aforementioned U.S. import data summary does not identify which HTSUS subheadings are used to derive such data, which may include non-subject merchandise. Due to a lack of information that identifies detailed U.S. entry-specific information for the requested companies, we preliminarily find that the Petitioner has not provided sufficient evidence to demonstrate that Ispat, JSW, JSW Ispat, or Tata had any exports of subject merchandise to the United States during the POR.

Based on our review of the CBP documentation and Ispat, JSW, JSW Ispat, and Tata’s respective certifications of no shipments during the POR, we preliminarily find that the record evidence supports Ispat, JSW, JSW Ispat, and Tata’s claims that these producers/exporters had no shipments of the subject merchandise to the United States, and, therefore, no reviewable transactions, during the POR.

The Department clarified its “automatic assessment” regulation on May 6, 2003.<sup>12</sup> If applicable, this clarification will apply to all entries of subject merchandise during the POR produced or exported by Ispat, JSW, JSW Ispat, and Tata, for which these companies did not know that their merchandise was destined for the United States. Furthermore, this clarification applies to all POR entries entered under the case numbers for Ispat, JSW, JSW Ispat, and Tata if we make a final determination of no shipments of subject merchandise, because these companies and their representatives certified that they made no POR shipments of subject merchandise for which they had knowledge of U.S. destination.

In our May 6, 2003, *Assessment Policy Notice*, we explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all others rate applicable to the proceeding.<sup>13</sup>

In accordance with the Department’s practice with respect to reseller situations as articulated in the *Assessment Policy Notice*, we preliminarily determine that we should instruct CBP to liquidate POR entries of subject merchandise produced by Ispat, JSW, JSW Ispat, and Tata and exported by other parties at the all others rate. In addition, in order to be consistent with the

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<sup>10</sup> See CBP Message Number 5204308, dated July 23, 2015.

<sup>11</sup> See Letter from the Petitioner titled “Certain Hot-Rolled Carbon Steel Flat Products from India: Comments on Customs Data” (February 9, 2015) at Attachment 1.

<sup>12</sup> See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

<sup>13</sup> *Id.*

*Assessment Policy Notice*, the Department's current practice is not to rescind the review in part in these circumstances. Rather, we will complete the review with respect to Ispat, JSW, JSW Ispat, and Tata and issue appropriate instructions to CBP based on the final results of the review.

## V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree   ✓   Disagree           

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

  2 SEPTEMBER 2015    
Date