



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

A-423-808  
Administrative Review  
POR: 5/1/12-4/30/13  
Public Document  
AD/CVD: Office III: JL

October 22, 2014

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

**FROM:** Christian Marsh *CM*  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**RE:** Issues and Decision Memorandum for the Final Results of the  
Antidumping Duty Administrative Review of Stainless Steel Plate  
in Coils from Belgium; 2012-2013

## I. Summary

On June 25, 2014, the Department of Commerce (Department) published the *Preliminary Results* of the antidumping duty administrative review on stainless steel plate in coils (steel plate) from Belgium.<sup>1</sup>

We analyzed the case briefs submitted by the respondent, Aperam Stainless Belgium N.V. (ASB) and Petitioners.<sup>2</sup> As a result of our analysis, we made changes to the *Preliminary Results* in the margin calculation. We recommend that you approve the positions described in the Discussion of Interested Party Comments section, *infra*.

The period of review (POR) is May 1, 2012, through April 30, 2013.

## II. Background

On June 25, 2014, the Department published the *Preliminary Results* in the *Federal Register*. On March 12, 2014, through March 21, 2014, the Department conducted verification of ASB in Genk, Belgium. On March 31, 2014, through April 1, 2014, the Department conducted

<sup>1</sup> See *Stainless Steel Plate in Coils From Belgium: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 36001 (June 25, 2014) (*Preliminary Results*).

<sup>2</sup> The Petitioners in this case are: Allegheny Ludlum Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Armco Independent Organization, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (AFL-CIO/CLC) (collectively, Petitioners).



verification of ASB's affiliate, Aperam Stainless Services and Solutions USA, LLC (Aperam USA) in New Providence, New Jersey.<sup>4</sup> This review covers one producer and/or exporter of the subject merchandise: ASB. On July 25, 2014, the Department received case briefs from ASB and Petitioners.<sup>5</sup> On July 31, 2014, after the July 30, 2014, deadline for filing rebuttal briefs, ASB requested an extension of the deadline to submit its rebuttal brief.<sup>6</sup> Subsequently, on August 4, 2014, ASB submitted a rebuttal brief, which on August 5, 2014, pursuant to 19 CFR 351.104(a)(2)(iii) and 19 CFR 351.302(d), the Department rejected as untimely and removed ASB from record.<sup>8</sup> On August 15, 2014, the Department reiterated its decision to reject ASB's rebuttal brief as an untimely filed document.<sup>9</sup>

Based on our analysis of the timely filed comments, we made changes to the margin calculation for ASB.

### III. Scope of the Order

The product covered by this order is certain stainless steel plate in coils. Stainless steel is 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 plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, *etc.*) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.02, 7219.12.00.05, 7219.12.00.06, 7219.12.00.20, 7219.12.00.21, 7219.12.00.25, 7219.12.00.26, 7219.12.00.50, 7219.12.00.51, 7219.12.00.55, 7219.12.00.56, 7219.12.00.65, 7219.12.00.66, 7219.12.00.70, 7219.12.00.71, 7219.12.00.80, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10,

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<sup>4</sup> See Memorandum to Melissa G. Skinner, Director, AD/CVD Operations, Office III, through Eric B. Greynolds, Program Manager, AD/CVD Operations, Office III, from Jolanta Lawska and Cindy Robinson, International Trade Compliance Analysts regarding "Verification of the Sales Response of Aperam Stainless Belgium N.V. (ASB) in the Administrative Review of Stainless Steel Plate in Coils from Belgium" (May 8, 2014) (Sales Verification Report); see also Memorandum to the File through Eric B. Greynolds, Program Manager, Office III, Antidumping and Countervailing Duty Operations, Regarding "Verification of the Cost of Production Responses of Aperam Stainless Belgium N.V." (May 8, 2014).

<sup>5</sup> See Administrative Review of the Antidumping Duty Order on *Stainless Steel Plate in Coils from Belgium* for the 2012-2013 Review Period – ASB comment on the Department's Preliminary Results (July 25, 2014) and Administrative Review of Stainless Steel Plate in Coils from Belgium - Petitioners' Case Brief (July 25, 2014).

<sup>6</sup> See Request for extension - Administrative Review of the Antidumping Duty Order on *Stainless Steel Plate in Coils from Belgium* for the 2012-2013 Review Period (July 31, 2014).

<sup>8</sup> See the Department's Letter dated August 5, 2014, Re: Antidumping Duty Administrative Review of Stainless Steel Plate in Coils from Belgium.

<sup>9</sup> See the Department's August 15, 2014, Subject: Rejection of Request to Strike Petitioners' Case Brief and to Reconsider Extending the Due Date for Filing Rebuttal Briefs.

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, 7220.90.00.10, 7220.90.00.15, and 7220.90.00.60.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

#### **IV. Discussion of Interested Party Comments**

##### **Comment 1: ASB's Stainless Steel Plate in Coils with an Actual Thickness of 4.75 mm**

###### *Case Brief Arguments of Petitioners*

- ASB failed to explain and document properly at verification how it determined which steel plate it sold in the home and U.S. market during the POR had an actual thickness of 4.75 mm or greater, as opposed to nominal thickness of 4.75 mm greater.<sup>10</sup>
- Properly analyzing the actual thickness of the subject merchandise is important in light of the Federal Circuit's decision in *ArcelorMittal Stainless Belgium N.V. v. United States* to exclude steel plate with nominal thickness of 4.75 mm from the scope of this review.<sup>11</sup>
- ASB did not fully explain how it segregated subject merchandise with an actual thickness of 4.75 mm or greater from non-subject merchandise steel plate in coils with a nominal thickness of 4.75 mm or greater.
- Since the actual thickness of steel plate in coils will not be perfectly and uniformly 4.75 mm when produced, ASB failed to explain what it means by "actual thickness."
- Consequently, ASB failed to demonstrate that it has properly reported all of its sales of subject merchandise in the home and U.S. markets during the POR.

**Department's Position:** We disagree with Petitioners. Based on our findings at verification we confirmed that ASB properly identified and reported subject merchandise sold in the home and U.S. markets during the POR, and that ASB properly differentiated between in-scope merchandise with an actual thickness of 4.75 mm or greater and out-of-scope merchandise with a nominal thickness of 4.75 mm.

At verification, the Department examined ASB's methodology regarding ASB's product and sales selection program and identification of in-scope merchandise as reported in ASB's Sections B and C questionnaire responses.<sup>12</sup> We examined which products are considered within the scope of the review.<sup>13</sup> We reviewed how ASB's enterprise resource planning system (SAP) extracts sales of subject merchandise from its sales data to derive its reported home and U.S. sales databases.<sup>14</sup> We observed the SAS programming to select home and U.S. market sales and found no discrepancies.<sup>15</sup>

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<sup>10</sup> See Petitioners' Letter dated March 6, 2014, Re: Administrative Review of Steel Plate in Coil from Belgium: Petitioners' Pre-Verification at 5-6.

<sup>11</sup> See *ArcelorMittal Stainless Belgium N.V. v. United States*, 694 F. 3d 82 (Fed Cir. 2012).

<sup>12</sup> See ASB's September 9, 2013, Section B questionnaire response (QR) at 4-10 and B-4; see also ASB's September 9, 2014, Section C QR at 2-10 and C-4.

<sup>13</sup> See Sales Verification Report at 13 and SVE-12 at 3-10.

<sup>14</sup> *Id.*, at SVE-13.

<sup>15</sup> *Id.*, at SVE-13 at 13.

Further, we reviewed programming language used to obtain product characteristics from each skid from ASB's production records and we coded, according to the Department's methodology, the production database for the purpose of selecting subject merchandise.<sup>16</sup> We reviewed programming language used for excluding sales of all products with an actual thickness of less than 4.75 mm.<sup>17</sup> We also examined the process of identifying in-scope merchandise with company officials at Aperam USA.<sup>18</sup> We found no discrepancies.

In addition, we reconciled the Q&V reported in ASB's home market sales database dated December 4, 2013, to the Q&V data in ASB's Data Warehouse (DWH) for the extended POR (January 1, 2012 through June 30, 2013).<sup>19</sup> The reconciliation process involved excluding six sales items (*i.e.*, non-Belgium sales, sales with order thicknesses less than 4 mm, sales with ordered widths less than 254 mm, sales of cut to length plate, sales from DWH that do not have nominal and/or actual thicknesses greater than or to 4.75 mm, and internal transfers for further processing), and adding one sales item, skids based on a query of a separate production database. We found that ASB's reported Q&V of home market sales for the extended POR was the same as the Q&V recorded in its DWH.<sup>20</sup>

Further, at verification we examined actual thickness of the subject merchandise for all pre-selected home and U.S. market sales.<sup>21</sup> We found no discrepancies and found that these sales were properly included in the home and U.S. market sales databases.

In summary, based on the Department's findings at verification and review of ASB's questionnaire responses, we find that ASB properly reported its sales of subject merchandise in the home and U.S. markets during the POR.

## **Comment 2: Bundled Pricing**

### *Case Brief Arguments of Petitioners*

- ASB failed to respond to allegations Petitioners raised in their March 6, 2014, pre-verification submission.<sup>22</sup> In their pre-verification comments, Petitioners claim that, for a certain U.S. customer, ASB may have "bundled" its sales of subject merchandise with sales of non-subject merchandise by charging above-market prices for subject merchandise while at the same time charging below-market prices for non-subject merchandise.
- ASB failed to provide detailed analysis of the specific data concerning sales to a certain U.S. customer during the POR at verification.
- In particular, ASB failed to provide evidence that would allow the comparison and documentation of contemporaneous sales of subject and non-subject merchandise to the same customer.

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<sup>16</sup> *Id.*, at SVE-12 at 24-25.

<sup>17</sup> See ASB's Sales Verification Report at CEP-7 at 5.

<sup>18</sup> See Sales Verification Report at CEP 7.

<sup>19</sup> *Id.*, at SVE-14 at 12.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*, at SVE-16, SEV-17, SVE-18, SVE-19, CEP-6, CEP-8, CEP-15, CEP-16, and CEP-17.

<sup>22</sup> See Petitioners' Letter dated March 6, 2014, Re: Administrative Review of Steel Plate in Coil from Belgium: Petitioners' Pre-Verification at 2-4.

- Therefore, ASB failed to provide evidence at verification that it did not engage in “bundling” its sales of subject merchandise during the POR.

**Department’s Position:** The Department finds that there is no record evidence that supports Petitioners’ argument. Based on our review of ASB’s questionnaire responses and the Department’s findings at verification (which included a documentary review of ASB’s pricing policies, purchase orders, invoices, and customer base), we did not find evidence to support Petitioners’ allegations that sales of subject merchandise were priced in bundles with non-subject merchandise during the POR.

During the sales verification in Belgium, ASB responded to Petitioners’ allegation of bundling made in Petitioners’ March 6, 2014, pre-verification comments. ASB explained how some non-subject merchandise can be priced lower to offset the higher prices on the U.S. market.<sup>23</sup> ASB’s pricing system with respect to the home and U.S. markets does not allow for ASB to sell subject or non-subject merchandise at artificially low prices.<sup>24</sup> In both cases, the mill in Genk has to accept the offer.<sup>25</sup> The purchase order will only be accepted if it has a price over the threshold otherwise the mill in Genk will reject it.<sup>26</sup> ASB explained that, during the POR, all prices were based on both base price and the price of extras, including alloy surcharges.<sup>27</sup> The price lists serve as a general guideline only, because prices are also very often subject to revision to reflect changing market conditions and customer requirements.<sup>28</sup> The prices of subject and non-subject merchandise fluctuate based on raw material prices.<sup>29</sup> At verification, we determined that alloy surcharges for the POR fluctuated considerably on a monthly basis.<sup>30</sup> ASB explained that prices vary by product characteristics.<sup>31</sup> Non-subject merchandise could be higher priced depending on the requirements of the customer and that these differences could result in the non-subject merchandise having a higher unit price or lower than the price for subject merchandise.<sup>32</sup> Thus, we found no evidence to suggest that the sales of subject merchandise were priced in bundles with non-subject merchandise during the POR.<sup>33</sup>

Further, the Department reviewed ASB’s questionnaire responses regarding pricing policies used by ASB and its affiliate, Aperam USA, sales patterns, and customer structure, and we found no evidence of bundling practices.<sup>34</sup>

Therefore, we find no evidence that ASB priced the sales of subject merchandise in bundles with non-subject merchandise during the POR. Accordingly, we find Petitioners’ argument regarding bundled pricing without merit.

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<sup>23</sup> See Sales Verification Report at 33.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 33-34.

<sup>34</sup> See ASB’s August 5, 2013, Section A QNR at 12-22.

**Comment 3: Whether the Department Miscalculated Excess Prime Merchandise and Non-Prime Merchandise in its Preliminary Margin Calculations**

*Case Brief Arguments of ASB*

- The Department erred in its preliminary calculations with respect to excess prime merchandise. Namely, in calculating the margin, the Department coded excess prime merchandise as “3” instead of “2.”
- The Department should revise the calculations for the final results and code excess prime merchandise as “2” instead of “3” as reported in ASB’s September 9, 2013, Section B questionnaire response at Appendix B-2.

**Department’s Position:** We reviewed the preliminary calculations and find that, in the *Preliminary Results*, the Department inadvertently coded excess prime merchandise as “3” in our SAS programming instead of “2” as reported by ASB. For these final results, the Department coded excess prime merchandise as “2” in its SAS programming for the purpose of margin calculations. For further discussion, see ASB’s Final Results Calculation Memorandum.

**Comment 4: Whether the Department Erred in Converting INVCARU from Euro to U.S. Dollars in its Preliminary Margin Calculation**

*Case Brief Arguments of ASB*

The Department erred in its preliminary calculations with respect to inventory carrying cost in U.S. market (INVCARU). Namely, the Department failed to convert INVCARU from Euros to U.S. dollars in its preliminary margin calculation.

Consequently in the final results the Department should revise the calculations to account for converted INVCARU from Euros to U.S. dollars.

**Department’s Position:** We agree that we inadvertently erred in our calculations with respect to INVCARU. In the *Preliminary Results*, we inadvertently did not convert INVCARU from Euros to U.S. dollars. Therefore, in the calculations for the final results, we have corrected the inadvertent error by converting INVCARU from Euros to U.S. dollars.

**V. Recommendation**

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results and the final weighted-average dumping margin in the *Federal Register*.

Agree ✓ Disagree                     

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

22 OCTOBER 2014  
(date)