

*Corus Staal BV v. United States*  
Court No. 02-00003, Slip Op. 03-101 (August 12, 2003)

Final Results of Redetermination Pursuant to Second Court Remand  
Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands

**SUMMARY**

The Department of Commerce (“Commerce” or “the Department”) has prepared this final redetermination pursuant to the second remand order of the U.S. Court of International Trade (“the Court”) in *Corus Staal BV, et al. v. United States and National Steel Corporation, et al.*, Slip Op. 03-101 (August 12, 2003) (“*Corus*”). This remand pertains to a single aspect of the final determination by Commerce in *Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands*, 66 Fed. Reg. 50408 (October 3, 2001) and accompanying Issues and Decision Memorandum, *amended by* 66 Fed. Reg. 55637 (November 2, 2001). Specifically, it relates to the end date for the time between when provisional measures should not have been collected in this case, and when definitive duties are to resume, *i.e.*, the “gap period.” In its order, the Court found that Commerce had not established clear error in its *Remand Determination* to raise the end date of the gap period issue. Therefore, the Court remanded the issue to Commerce to revise its *Remand Determination*, and replace the gap period end date from the date of publication of the International Trade Commission’s (“the Commission’s”) final affirmative injury determination, November 15, 2001, to the date of publication of the order, November 29, 2001.

If the Court approves this redetermination on remand, the Department will amend its antidumping duty order to reflect that the date to resume collection of cash deposits is November 29, 2001 the date of publication of the antidumping duty order.

**BACKGROUND**

In its remand order of March 7, 2003, the Court granted the Department’s request for remand to revise its antidumping order for the above referenced case to preclude collection of provisional measures beyond six months from publication of its preliminary determination pursuant to section 733(d) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (“the Act”). The Court also ordered Commerce to explain its practice concerning the interpretation of the term “six months” in section 733(d) of the Act. The Department submitted its *Remand Determination* to the Court on April 7, 2003. On August 12, 2003 the Court accepted the Department’s interpretation of six months to be 180 days. *Corus*, Slip Op. 03-101 at 7 (August 12, 2003).

In the *Remand Determination*, the Department also clarified that the date the gap period ends, *i.e.*, the appropriate date on which to resume collection of cash deposits, is the date the Commission publishes its final affirmative injury determination as opposed to the date of publication of the final

order. The Commission published its final injury determination in the Federal Register on November 15, 2001. See *Hot Rolled Steel Products From China, India, Indonesia, Kazakhstan, The Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine*, 66 Fed. Reg. 57482. The Department published the order in the *Federal Register* on November 29, 2001. See *Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands*, 66 Fed. Reg. 59565.

## **DISCUSSION**

In the Department's brief to the Court, it agreed with the respondent in the underlying investigation, Corus Staal BV and Corus Steel USA Inc. (collectively "Corus"), that provisional measures should not have been collected more than six months from the preliminary determination, but in explaining this the Department included language which imprecisely indicated that the provisional measures time period extended to the date of the publication of the order. See *Remand Determination* at 7. In the *Remand Determination*, Commerce explained that a correction was required because according to section 737 of the Act, the date the provisional measures time period ends is, rather, the date of publication of the Commission's final affirmative determination. See *Remand Determination* at 4-5. However, the Court found that the Department did not show that it committed clear error in acquiescing to Corus's position that the end of the gap period should be the date of publication of the order because the Department did not establish that collecting cash deposits upon publication of the final order is clearly contrary to the statute. Therefore, pursuant to the mandate rule, the Court found that Commerce could not raise the issue on remand. See *Corus*, Slip Op. 03-101 at 8 (August 12, 2003) (citing *United States v. Bell*, 5 F.3d 64, 67 (4<sup>th</sup> Cir 1993) quoting *United States v. Bell*, 988 F.2d 247, 251 (1<sup>st</sup> Cir. 1993)). The Court did not rule on whether the gap period should end on the publication date of the Commission's injury determination or the publication date of the final antidumping duty order. *Id.* at 11. The Court ordered Commerce to reverse the *Remand Determination* so that the end date for the gap period is November 29, 2001.

## **RESULTS OF REDETERMINATION**

In accordance with the Court's remand order the Department, with this revised redetermination, amends its *Remand Determination* so that the end date of the gap period in this case is the date of publication of its antidumping order, November 29, 2001. Upon issuance of a final and conclusive Court decision the Department will publish an amended order and issue instructions to the Bureau of Customs and Border Protection to resume collection of duty deposits effective November 29, 2001.

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James J. Jochum  
Assistant Secretary  
for Import Administration

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Date