

**EFFECTIVE DATE:** July 13, 1995.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

**Background**

On July 9, 1993, the Department published in the **Federal Register** (58 FR 37136) the final affirmative antidumping duty determination on certain cut-to-length carbon steel plate from Germany, for which we published an antidumping duty order on August 19, 1993 (58 FR 44170). On August 3, 1994, the Department published the notice of "Opportunity to Request an Administrative Review" of this order for the period February 4, 1993, through July 31, 1994 (59 FR 39543). The respondent, AG der Dillinger Hüttenwerke (Dillinger), requested an administrative review. We initiated the review on September 8, 1994 (59 FR 46391). The Department is conducting this review, in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

**Scope of the Review**

The products covered by this administrative review constitute one "class or kind" of merchandise: certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters

and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been—"worked after rolling")—for example, products which have been bevelled or rounded at the edges. Excluded is grade X-70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The POR is February 4, 1993, through July 31, 1994. This review covers sales of certain cut-to-length plate by Dillinger.

**United States Price**

All of Dillinger's U.S. sales were based on the price to the first unrelated purchaser in the United States. The Department determined that purchase price, as defined in section 772 of the Tariff Act, was the appropriate basis for calculating USP. All sales were made through Francosteel, a related sales agent in the United States, to unrelated purchasers. Whenever sales are made prior to the date of importation through a related sales agent in the United States, we typically determine that purchase price is the most appropriate determinant of the USP based upon the following factors: (1) The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related shipping agent; (2) direct shipment from the manufacturer to the unrelated buyers was the customary commercial channel for sales of this merchandise between the parties involved; and (3) the related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers. See Certain Stainless Steel Wire Rods from France: Final Determination of Sales at Less than Fair Value, 58 FR 68865, 68868 (December 29, 1993); Granular Polytetrafluoroethylene Resin from Japan: Final Results of Antidumping Duty Administrative Review, 58 FR 50343, 50344 (September 27, 1993). In the present review, we found that: the essential terms of sale were set prior to

importation; the merchandise was shipped immediately to the customer upon importation into the United States, without being introduced into the inventory of the related shipping agent; direct shipment from the manufacturer to the unrelated buyers was the customary commercial channel for sales of this merchandise; the merchandise was not warehoused by Francosteel during the normal course of business; and the related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers. We made adjustments to purchase price, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. and foreign brokerage and handling, U.S. duty, and U.S. inland freight.

We also adjusted USP for taxes in accordance with our practice as outlined in various determinations, including Silicomanganese from Venezuela; Final Determination of Sales at Less Than Fair Value, 59 FR 55435, 55439 (November 7, 1994). No other adjustments were claimed or allowed.

**Foreign Market Value**

Based on a comparison of the volume of home market and third country sales, we determined that the home market was viable. Therefore, in accordance with section 773(a)(1)(A) of the Tariff Act, we based FMV on the packed, delivered price to unrelated purchasers in the home market, using date of shipment as date of sale (see Analysis Memorandum to the File, May 25, 1995).

Based on a review of Dillinger's submissions, the Department determined that only a small percentage of Dillinger's U.S. sales were the same grades of steel as the home market sales made by Dillinger's related parties to the first unrelated party (downstream sales). Accordingly, the Department determined that Dillinger need not report its home market downstream sales because they could provide potential matches to only a very small portion of the company's reported U.S. sales.

Based on the Department's previous determination of sales made at below the cost of production (COP) in the original less-than-fair-value (LTFV) investigation, in accordance with section 773(b) of the Tariff Act, we determined that there were reasonable grounds to believe or suspect that, for this review period, Dillinger made sales of subject merchandise in the home market at prices less than the COP. As a result, we investigated whether Dillinger sold such or similar