

currently available under proprietary trade names such as "Durphynox 17."³

Three Specialty Stainless Steels Typically Used in Certain Industrial Blades and Surgical and Medical Instruments: These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).⁴ This steel is similar to AISI grade 420 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."⁵ 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 100 square microns. 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."

Period of Review

The period of review ("POR") for which we are measuring subsidies is January 1, 2001, through December 31, 2001.

Attribution of Subsidies

Usinor has filed its responses on behalf of its French affiliates involved in the manufacture, production or exportation of the subject merchandise. These affiliates are: Ugine SA, Imphy Ugine Precision, Ugine France Service, Sollac Mediterranee, Usinor Packaging, Sollac Lorraine, Sollac Atlantique, CARLAM, G. Fer, IRSID, and Usinor Stainless (hereafter collectively referred to as "Usinor"). Usinor holds a majority interest in all of these companies.

Therefore, in accordance with 19 CFR 351.525(b)(6)(iii), we have preliminarily attributed subsidies received by these companies to the total sales by Usinor of French-produced merchandise.

Changes in ownership

On February 2, 2000, the U.S. Court of Appeals for the Federal Circuit ("CAFC"), in *Delverde Sri v. United States*, 202 F.3d 1360, 1365 (Fed. Cir. 2000), *reh'g en banc denied*, 2000 U.S. App. LEXIS 15215 (June 20, 2000) ("Delverde III"), rejected the Department's change-in-ownership methodology as explained in the *General Issues Appendix*.⁶

In accordance with the CAFC's finding, the Department developed a new change-in-ownership methodology, which was applied in a redetermination resulting from a remand order by the Court of International Trade ("CIT") in *Allegheny-Ludlum Corp. v. United States*, No. 99-09-00566 (CIT August 15, 2000) ("Allegheny I"). See final *Results of Redetermination Pursuant to Court Remand: Allegheny-Ludlum Corp., et al v. United States* (Dept. of Commerce, December 20, 2000) ("Redetermination I"). In *Allegheny I*, the CIT reviewed the final determination which gave rise to the countervailing duty order covered by this review. In *Redetermination I*, the Department examined the privatization of Usinor and found that the pre-privatization subsidies continued to benefit subject merchandise exported to the United States after Usinor's privatization. Upon review of *Redetermination I*, the CIT again remanded the issue to the Department. See *Allegheny Ludlum Corp. v. United States*, 182 F. Supp. 2d 1357, 1369 (CIT 2002) ("Allegheny II").

On June 3, 2002, the Department issued its second *Results of Redetermination Pursuant to Court Remand: Allegheny Ludlum Corp., et al. v. United States* ("Redetermination II"), which the CIT sustained on September 24, 2002. See *Allegheny Ludlum Corp. v. United States*, No. 99-09-00566, 2002 Ct. Intl. Trade Lexis 114, Slip Op. 2002-114 (September 24, 2002) ("The Allegheny Decision"). The *Allegheny Decision* is currently on appeal at the CAFC. Usinor argues that the *Allegheny Decision* rejects as unlawful the change-in-ownership test applied by the Department in its *Redetermination I*. Pending a decision from the CAFC, however, we have continued to apply the same change-in-ownership

methodology employed in *Redetermination I* in these preliminary results.

The first step under this methodology is to determine whether the legal person (entity) to which the subsidies were given is, in fact, distinct from the legal person that produced the subject merchandise exported to the United States. If we determine the two persons are distinct, we then analyze whether a subsidy has been provided to the purchasing entity as a result of the change-in-ownership transaction. If we find, however, that the original subsidy recipient and the current producer/exporter are the same person, then that person benefits from the original subsidies, and its exports are subject to countervailing duties to offset those subsidies. In other words, we will determine that a "financial contribution" and a "benefit" have been received by the "person" under investigation. Assuming that the original subsidy has not been fully amortized under the Department's normal allocation methodology as of the POI, the Department would then continue to countervail the remaining benefits of that subsidy.

In making the "person" determination, where appropriate and applicable, we analyze factors such as (1) continuity of general business operations, including whether the successor holds itself out as the continuation of the previous enterprise, as may be indicated, for example, by use of the same name, (2) continuity of production facilities, (3) continuity of assets and liabilities, and (4) retention of personnel. No single factor will necessarily provide a dispositive indication of any change in the entity under analysis. Instead, the Department will generally consider the post-sale person to be the same person as the pre-sale person if, based on the totality of the factors considered, we determine the entity in question can be considered a continuous business entity because it was operated in substantially the same manner before and after the change in ownership.

Usinor's Privatization

Up until the time of Usinor's privatization, Usinor was owned (directly or indirectly) by the GOF. Usinor was privatized beginning in July 1995, when the GOF and Clindus offered the vast majority of their shares in the company for sale. Clindus was a subsidiary of Credit Lyonnais, which at that time was controlled by the GOF. After the privatization and, in particular, by the end of calendar year 1997, 82.28 percent of Usinor's shares

³ "Durphynox 17" is a trademark of Imphy, S.A.

⁴ This list of uses is illustrative and provided for descriptive purposes only.

⁵ "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

⁶ Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria, 58 FR 37217, 37225 (July 9, 1993).