

protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return and/or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO are sanctionable violations.

This determination is issued and published pursuant to sections 751(a) and 777(i) of the Tariff Act of 1930, as amended, and section 351.213(d) of the Department's regulations.

Dated: May 13, 2003.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-822]

#### **Certain Corrosion-Resistant Carbon Steel Flat Products from Canada; Amended Final Results of Antidumping Duty Administrative Review in Accordance with North American Free Trade Agreement Binational Panel Decision**

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**SUMMARY:** On September 13, 1999, the North American Free Trade Agreement (NAFTA) Panel affirmed the Department of Commerce's (the Department) second remand determination arising from the administrative review of the antidumping duty order on certain corrosion-resistant carbon steel flat products from Canada. *See North American Free Trade Agreement Article 1904 Binational Panel Review, USA-97-1904-3*, September 13, 1999. As a result of this final and conclusive Binational Panel Review decision, we are amending the final results of review in this matter and will instruct the U.S. Bureau of Customs and Border Protection (BCBP) to liquidate entries subject to these amended final results.

**EFFECTIVE DATE:** May 20, 2003.

**FOR FURTHER INFORMATION CONTACT:**

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482-3148 and (202) 482-0961, respectively.

**SUPPLEMENTARY INFORMATION:**

#### **Background**

On August 18, 1993, the Department issued antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. *See Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada*, 58 FR 44162 (August 19, 1993). On April 15, 1997, the Department issued its final results of the second administrative review of certain corrosion-resistant carbon steel flat products for three exporters, Dofasco, Inc. (Dofasco), Continuous Colour Coat (CCC), and Stelco, Inc. (Stelco), and certain cut-to-length carbon steel plate for two exporters, Algoma Inc. and Stelco, covering the period of August 1, 1994 through July 31, 1995. *See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 18448 (April 15, 1997) (*Final Results*).

At the request of Stelco, a NAFTA Binational Panel (the Panel) was established, and, on June 4, 1998, the Panel remanded the review of the final results on certain corrosion-resistant carbon steel flat products to the Department. The Panel remanded the review for the Department to reconsider, among other issues, its valuation of coating services performed by Stelco's affiliate, Baycoat Partnership (Baycoat). The Panel instructed the Department to reconsider Stelco's costs for coating services under § 773(f)(1)(A) of the Tariff Act of 1930, as amended (the Act), in conjunction with § 351.407(b) of the Department's regulations. At the same time, the Panel ruled that §§ 773(f)(2) and (f)(3) of the Act were inapplicable. *See NAFTA Binational Panel Decision of June 4, 1998 (Panel Decision I)*. The other two companies subject to the second administrative review of certain corrosion-resistant carbon steel flat products from Canada (Dofasco and CCC) were not involved in the *Second Remand Determination*.

On September 3, 1998, in accordance with the Panel's remand order, the Department issued its first remand determination in this matter. *See Final Remand Determination: NAFTA, Article 1904 Binational Panel Review, USA-97-1904-3* (September 3, 1998). Stelco challenged the Department's decision not to adjust the transfer price by its

affiliate's return of profit. On January 29, 1999, the Panel remanded the review to the Department for the second time to reconsider the calculation of transfer price, and to take into account all evidence on the record. *See NAFTA Binational Panel Decision of January 20, 1999 (Panel Decision II)*. To ensure that the record contained all information necessary to make a final determination that would comply with the Panel's instructions, the Department reopened the record and verified the new information submitted by Stelco.

On June 14, 1999, in accordance with the Panel's remand order, the Department issued its second remand determination in this matter. *See Final Remand Determination: NAFTA, Article 1904 Binational Panel Review, USA-97-1904-3* (June 14, 1999) (*Second Remand Determination*). In this *Second Remand Determination*, the Department explained that there is a difference in Stelco's accounting records regarding Baycoat profits recorded and Baycoat profits remitted, as well as Baycoat profits on amounts charged to Stelco. Since profits remitted cannot be tied to any individual invoices, adjustments to transfer price cannot be made by profits remitted on individual sales. Baycoat profits, as recorded in Stelco's financial statements, may include profits on job orders performed for Baycoat's other owner, as well as other parties. Therefore, the Department made adjustments to the transfer price based on an allocated amount of the profits earned by Baycoat on Stelco job orders. The Department reallocated total per unit profit (Stelco's per-unit profit, as derived by Stelco, multiplied by two), by multiplying it by the ratio of the value charged to Stelco by Baycoat (as it appears in Baycoat's records) to the total value produced by Baycoat. We allocated interest and general and administrative expenses (G&A) by class by multiplying the interest and G&A per net ton times two, and then multiplying the product by the ratio of total value of Baycoat sales to Stelco to Baycoat's total sales value. We subtracted allocated interest and G&A expenses from the cost per net ton, since Baycoat's interest and G&A are already included and accounted for in Stelco's overall interest and G&A expense calculation. On September 13, 1999, the Panel upheld the Department's *Second Remand Determination*.

The Department faced a similar issue in the subsequent administrative review of certain corrosion-resistant carbon steel flat products from Canada, covering the period August 1, 1995 through July 31, 1996, which was also remanded to the Department by the