

DOC Inv. Nos. A-122-869, A-570-150,
A-428-851, A-421-816, A-580-915,
A-583-870, A-489-848, A-412-827,
and C-570-151

USITC Inv. Nos. 731-TA-_____
Total Pages: 744

PUBLIC VERSION
Business Proprietary Information
Removed From Exhibits IV-4, IV-9, and IV-13.

**BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE
AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION**

In the Matter of:)
)
CERTAIN TIN MILL PRODUCTS)
FROM CANADA, CHINA, GERMANY,)
NETHERLANDS, SOUTH KOREA,)
TAIWAN, TURKEY, AND THE)
UNITED KINGDOM)
_____)

**PETITIONS FOR THE IMPOSITION
OF ANTIDUMPING AND
COUNTERVAILING DUTIES**

VOLUME IV: GERMANY
ANTIDUMPING

**Petitioners:
Cleveland-Cliffs Inc. and the United Steel, Paper and Forestry, Rubber, Manufacturing,
Energy, Allied Industrial and Service Workers International Union**

**Stephen P. Vaughn
Jamieson L. Greer
Neal J. Reynolds
Daniel L. Schneiderman
Barbara Medrado
Bonnie B. Byers, Consultant
Edmond A. O'Neill, Consultant**

**King & Spalding LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 737-0500**

January 18, 2023

TABLE OF CONTENTS

LIST OF EXHIBITS.....ii

I. ALLEGATION OF SALES AT LESS THAN FAIR VALUE1

II. GERMAN PRODUCERS AND EXPORTERS OF TMP1

 A. Description Of The German Industry1

 B. Production Processes Of ThyssenKrupp.....1

 C. Known Importers Of German TMP1

III. DUMPING MARGIN METHODOLOGY.....2

 A. Export Price2

 B. Normal Value.....2

 1. Third country price3

 2. Constructed value.....3

 C. Dumping Margin.....6

IV. MATERIAL INJURY AND THREAT OF MATERIAL INJURY TO THE
DOMESTIC INDUSTRY6

V. CONCLUSION AND REQUEST FOR INVESTIGATION6

LIST OF EXHIBITS

EXHIBIT IV-1	Thyssenkrupp Rasselstein Webpage (Public)
EXHIBIT IV-2	Thyssenkrupp Rasselstein Brochure (Public)
EXHIBIT IV-3	Thyssenkrupp 2021-2022 Annual Report (Public)
EXHIBIT IV-4	Iron & Steel Works of the World (Conf.)
EXHIBIT IV-5	Thyssenkrupp Rasselstein Process Routes (Public)
EXHIBIT IV-6	U.S. Import Data & HTS Schedule (Public)
EXHIBIT IV-7	Brokerage & Handling and Inland Freight (Public)
EXHIBIT IV-8	Calculation of Export Price (Public)
EXHIBIT IV-9	Declaration of Market Researcher (Conf.)
EXHIBIT IV-10	German Exports of Tin Mill Products (Public)
EXHIBIT IV-11	Third Country Price (Public)
EXHIBIT IV-12	Third Country Sales Below Cost Comparison (Public)
EXHIBIT IV-13	Cost Model and Declaration (Conf.)
EXHIBIT IV-14	Eurostat Import Data (Public)
EXHIBIT IV-15	Exchange Rates (Public)
EXHIBIT IV-16	Labor Rates (Public)
EXHIBIT IV-17	Electricity Rates (Public)
EXHIBIT IV-18	Natural Gas Rates (Public)
EXHIBIT IV-19	Steam Conversion (public)
EXHIBIT IV-20	Hydrogen Conversions (Public)
EXHIBIT IV-21	Financial Ratio Calculations (Public)
EXHIBIT IV-22	Dumping Margin Calculations (Public)

I. ALLEGATION OF SALES AT LESS THAN FAIR VALUE

This petition seeks the imposition of antidumping duties on imports of certain tin mill products (“TMP”) from Germany. As discussed below, German producers and exporters have sold, or offered for sale, TMP in the United States for less than fair value. Accordingly, Petitioners request that the Department initiate an investigation into whether sales are made in the United States at less than fair value. The general information required by Section 351.202 of the Department’s regulations is provided in Volume I of this petition.

II. GERMAN PRODUCERS AND EXPORTERS OF TMP

A. Description Of The German Industry

TMP is manufactured in Germany by ThyssenKrupp Rasselstein GmbH (“Rasselstein”), *see* **Exhibit IV-1** (webpage) and **Exhibit IV-2** (brochure), which is a subsidiary of ThyssenKrupp AG (collectively, “ThyssenKrupp”). *See* **Exhibit IV-3** (financial statement at page 266). Contact information for the company is listed in Volume I: General Issues And Injury at **Exhibit I-21**. ThyssenKrupp is the only German producer of TMP, and thus it accounted for all U.S. imports of TMP from Germany during the presumptive period of investigation (“POI”) of January 1, 2022, through December 31, 2022. *See* **Exhibit IV-4**.

B. Production Processes Of ThyssenKrupp

According to information from ThyssenKrupp’s website, Rasselstein’s manufacturing process for TMP begins with hot-rolled steel. *See* **Exhibit VI-5**, pages 8-9. The company performs cold-rolling, annealing, pickling, and coating (tin plating) at its production facilities. *See id.* at 8-28. *See also* **Exhibit IV-4** at page 183.

C. Known Importers Of German TMP

A complete list of known U.S. importers of TMP, including German-manufactured TMP, is contained in Volume I: General Issues And Injury at **Exhibit I-22**.

III. DUMPING MARGIN METHODOLOGY

A. Export Price

Although the scope of these investigations encompasses TMP with a variety of coatings (*i.e.*, tin, chromium, chromium oxides), substrates (*i.e.*, carbon steel, alloy steel), and dimensions falling within nine different harmonized tariff subheadings, the import data show that the vast majority of TMP from Germany enters under a single HTS code, *i.e.*, 7210.12.00.00, which reflects tin-plated nonalloy steel with a width of 600 mm or greater and with a thickness of less than 0.5 mm. *See Exhibit IV-6.* Because this product is representative of the TMP entering the United States from Germany, it is an appropriate basis for the calculation of export price. In particular, Petitioners calculated the weighted-average POI customs value (*i.e.*, FOB foreign port value) for TMP products imported from Germany under HTS subheading 7210.12.00.00. *See Exhibit IV-6.* From the average unit customs value, Petitioners deducted foreign brokerage and handling and inland freight from ThyssenKrupp's facility in Andernach to the port at Antwerp to arrive at an average ex-factory price in Germany. *See Exhibit IV-7.* Net export price is calculated at **Exhibit IV-8.**

In the only previous case involving TMP, *i.e.*, *Certain Tin Mill Products From Japan* (A-588-854), Commerce accepted the use of average unit customs value as the basis for export price. *Initiation of Antidumping Duty Investigation: Certain Tin Mill Products From Japan*, 64 Fed. Reg. 66892. 66893 (Nov. 30, 1999). The use of average unit import values for TMP, therefore, is consistent with Commerce's practice.

B. Normal Value

Petitioners retained the services of a market researcher who sought to obtain pricing information for TMP in Germany but was unable to do so. **Exhibit IV-9** contains a declaration discussing the efforts to acquire such information. Because Petitioners were unable to obtain home market prices, Petitioners instructed the market researcher to obtain third-country pricing

information. Germany's largest export market for TMP (other than the United States) is Belgium. *See Exhibit IV-10.* Again, however, the market researcher was unable to obtain such third-country pricing data, as documented at **Exhibit IV-9.**

1. Third country price

Because Petitioners based export price on the average unit POI customs value for German imports into the United States within HTS 7210.12.00.00, Petitioners calculate normal value based on third-country prices from Germany to Belgium under that same HTS code. The calculation of third-country price appears at **Exhibit IV-11.**

The third-country price thus calculated, however, is significantly below the cost of production ("COP") detailed in the section below. A worksheet demonstrating that third-country price is below cost appears at **Exhibit IV-12.** Accordingly, Petitioners base normal value on constructed value ("CV").

2. Constructed value

Normal value is based upon an estimate of the COP and profit in the home market for TMP corresponding to the specifications used as the basis for export price described above, *i.e.*, tin-plated nonalloy steel with a width of 600 mm or greater and with a thickness of less than 0.5 mm. Petitioners do not have access to ThyssenKrupp's factors of production ("FOPs") and consumption rates for those FOPs. Accordingly, as an estimate of the ThyssenKrupp's FOPs, Petitioners relied on Cleveland-Cliffs' actual consumption of raw materials, labor, and energy to make all TMP with the above-mentioned relevant physical characteristics. Cleveland-Cliffs is an appropriate producer to use for such estimates because it has a similar production process to ThyssenKrupp. Both companies have cold-rolling and coating facilities to convert hot-rolled steel into tinplate. Petitioners provide a cost model at **Exhibit IV-13.** A declaration from the individual at Cleveland-Cliffs responsible for providing the usage rate information is also included in this exhibit.

Petitioners valued materials, labor, and energy inputs using value information from Germany. Factory overhead; selling, general, and administrative (“SG&A”) expenses, and profit are based on the financial results of ThyssenKrupp. Additional details are provided below.

a) Direct materials and scrap

Petitioners calculated ThyssenKrupp’s cost of direct materials and scrap by using the average CIF import value of these materials at the German port, imported into Germany for the period November 2021 through October 2022, the most recent twelve-month period for which data are available. **Exhibit IV-14** contains the German import data obtained from Global Trade Atlas (“GTA”) and used to value materials. Consistent with Commerce’s practice, Petitioners excluded imports from non-market economies, countries with generally-available export subsidies, and unspecified countries. Because the import data overlap the POI, Petitioners did not inflate the data to the full POI per the Department’s normal practice. Values were converted to U.S. dollars using the Department’s Investigations Exchange Rates for the presumptive POI. **Exhibit IV-14** contains Petitioners’ calculations as well as the actual German import data, a pivot table used to populate the summary page, and a list of countries excluded from the data. **Exhibit IV-15** contains the Department’s POI exchange rates to convert the foreign currency to U.S. Dollars.

b) Labor

Petitioners valued labor using information published by the International Labor Organization (“ILO”) and made adjustments, as necessary, for inflation. See **Exhibit IV-16**.

c) Energy and utilities

Petitioners relied upon the following publicly available information to value electricity, natural gas, oxygen, hydrogen, coke oven gas, nitrogen, and steam in Germany:

- The value for electricity is based upon the Q1 through Q3 2022 “Electricity For Extra Large Firms” rates (the latest available data) reported by GlobalPetroPrices, available at <https://www.globalpetrolprices.com>. See **Exhibit IV-17**.
- The value for natural gas is based upon the Q1 through Q4 2022 “Natural For Extra Large Firms” rates (the latest available data) reported by GlobalPetroPrices, available at <https://www.globalpetrolprices.com>. See **Exhibit IV-18**.
- Steam is valued as a function of the value of natural gas per the Department’s normal practice. See **Exhibit IV-19**. Similarly, hydrogen is valued based on its energy density relative to natural gas. See **Exhibit IV-20**.

d) Factory overhead, SG&A, and profit

Financial statements for ThyssenKrupp Rasselstein GmbH, which is a subsidiary of ThyssenKrupp AG, are not published on the ThyssenKrupp website and are not publicly available elsewhere. Accordingly, to calculate overhead, SG&A, and profit, Petitioners used ThyssenKrupp AG’s financial statements for the fiscal year ending September 30, 2022. See **Exhibit IV-21** for the financial ratio calculation worksheet and copies of ThyssenKrupp’s audited financial statements.

e) Packing inputs

The packing costs reflected in the cost model are conservative in that they relate to domestic shipments which contain few packaging materials. Indeed, Petitioners only included costs for labor and packing skids consumed in the packing operations. Packaging for ocean-going shipments is usually more advanced in order to protect the steel from the elements. Petitioners valued the labor associated with packing using the surrogate labor rate, as described in the direct materials section, above. To the extent that ThyssenKrupp’s packaging is more elaborate than Cleveland-Cliffs’, CV is understated.

CV is the sum of COP, profit, and packing costs.

C. Dumping Margin

The dumping margin based on a comparison of export price (based on the weighted-average customs value) to CV for the same products is provided at **Exhibit IV-21**. As shown in those exhibits, the dumping margin is 43.64 percent.

IV. MATERIAL INJURY AND THREAT OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY

Petitioners allege that imports of TMP from Germany sold at less than fair value are a cause of material injury and threaten to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the Commission in Volume I of this petition.

V. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, German producers and exporters are selling TMP for less than fair value in the United States. Accordingly, Petitioners request that the Department initiate an antidumping duty investigation on TMP from Germany.

Respectfully submitted,

/s/ Stephen P. Vaughn
Stephen P. Vaughn
Jamieson L. Greer
Neal J. Reynolds
Daniel L. Schneiderman
Barbara Medrado
Bonnie B. Byers, Consultant
Edmond A. O'Neill, Consultant

KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 737-0500

Counsel to Petitioners