

**DEPARTMENT OF AGRICULTURE****Natural Resources Conservation Service****Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Louisiana**

**AGENCY:** Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

**ACTION:** Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Louisiana for review and comment.

**SUMMARY:** It is the intention of the NRCS in Louisiana to issue new and revised conservation practice standards in Section IV of the FOTG for the following practices: Upland Wildlife Habitat Management (code 645), Wildlife Watering Facility (code 648), Pasture and Hay Planting (code 512), and Range Planting (code 550) are revised practice standards and Shallow Water Management for Wildlife (code 646) is a new practice standard.

**DATES:** Comments will be received for a 30-day period commencing with this date of publication.

**FOR FURTHER INFORMATION CONTACT:** Inquire in writing to Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service (NRCS), 3737 Government Street, Alexandria, Louisiana 71302. Copies of the practice standards will be made available upon written request.

**SUPPLEMENTARY INFORMATION:** Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State Technical Guides used to carry out highly erodible land wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Louisiana will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Louisiana regarding disposition of those comments and a final determination of change will be made.

Dated: March 29, 1999

**Billy R. Moore,**

*Acting State Conservationist, Alexandria, Louisiana 71302.*

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**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-580-811]

**Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review**

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

**ACTION:** Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review.

**SUMMARY:** On December 8, 1998, the Department of Commerce published the preliminary results and partial rescission of its 1997-98 administrative review of the antidumping duty order on steel wire rope from the Republic of Korea (63 FR 67662). The review covers 16 manufacturers/exporters for the period March 1, 1997, through February 28, 1998. Based on our analysis of the comments received, no changes in the calculated margin for Kumho Wire Rope Mfg. Co., Ltd. are required. We have, however, changed the adverse facts available margin.

**EFFECTIVE DATE:** April 13, 1999.

**FOR FURTHER INFORMATION CONTACT:** John Brinkmann at (202) 482-5288 or Dennis McClure at (202) 482-3530, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:****The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (1998).

**Background**

On December 8, 1997, the Department published in the **Federal Register** the preliminary results and partial rescission of its 1997-98 administrative review of the antidumping duty order on steel wire rope from the Republic of Korea. We gave interested parties an opportunity to comment on our preliminary results. The petitioner, the

Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, filed a case brief. There was no request for a hearing. We have conducted this administrative review in accordance with section 751 of the Act.

**Scope of Review**

The product covered by this review is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7312.10.9030, 7312.10.9060, and 7312.10.9090. Excluded from this order is stainless steel wire rope, *i.e.*, ropes, cables and cordage other than stranded wire, of stainless steel, not fitted with fittings or made up into articles, which is classifiable under HTSUS subheading 7312.10.6000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

**Partial Rescission**

As noted in the *Preliminary Results*, between April and August 1998, Dae Heung Industrial (Dae Heung), Dae Kyung Metal (Dae Kyung), Korea Sangsa, Myung Jin, and TSK Korea informed the Department that they had no shipments of the subject merchandise to the United States during the period of review (POR), *i.e.*, March 1, 1997, through February 28, 1998. In addition, information on the record shows that Boo Kook, Hanboo Wire Rope (Hanboo), Seo Hae Industrial (Seo Hae), and Seo Jin were no longer in operation and that, with the exception of Seo Hae, they did not receive our questionnaire. Using information from the Customs Service, we have confirmed that none of these companies had shipments of subject merchandise to the United States during the POR. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations and consistent with Departmental practice, we are rescinding our review of Boo Kook, Dae Heung, Dae Kyung, Hanboo, Korea Sangsa, Myung Jin, Seo Hae, Seo Jin and TSK Korea for this POR. *See, e.g., Certain Welded Carbon Steel Pipe and Tube from Turkey: Final Results and Partial Rescission of Antidumping Administrative Review*, 63 FR 35191 (June 29, 1998) and *Certain Fresh Cut Flowers From Colombia: Final Results and Partial Rescission of Antidumping*

*Duty Administrative Review*, 62 FR 53287, 53288 (October 14, 1997).

### Use of Facts Available

In the preliminary results of this review, we determined, in accordance with section 776(a) of the Act, that the use of facts available is appropriate for Dong-Il Steel (Dong Il), Dong Young, Jinyang Wire Rope (Jinyang), Kwangshin Rope, Yeonsin Metal (Yeonsin), and Sungsan Special Steel Processing (Sungsan), since they did not respond to our antidumping questionnaire. None of these parties commented on the preliminary results, nor have any arguments been presented which would cause us to reconsider the appropriateness of assigning margins based on facts available in the final results.

Over the course of this proceeding, the Department has faced a pattern of continuous non-compliance on the part of a number of uncooperative respondents<sup>1</sup> that received facts available. In this review, we continue to face a pattern of non-compliance by a number of non-responding companies. Therefore, we have concluded that the magnitude of the rate in place for the three prior reviews, as well as the rate applied for the preliminary results in this review, does not offer the adequate incentive to induce the respondents to cooperate in the proceeding. Moreover, if and when an interested party requests a review of Korean steel wire rope companies not previously reviewed, the Department needs to have in place a potential facts available rate that is sufficiently adverse to induce the cooperation of these companies.

The *Statement of Administrative Action* (SAA) recognizes the importance of facts available as an investigative tool in antidumping duty proceedings. The Department's potential use of facts available provides the only incentive to foreign exporters and producers to respond to the Department's questionnaires. See SAA at 868. Section 776(b) of the Act states that the Department may draw an adverse inference where the party has not acted to the best of its ability to comply with the requests for necessary information. The Department applies adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. One factor the Department considers in applying facts

available is the extent to which a party may benefit from its own lack of participation. See SAA at 870.

In the 1996/1997 review, we invited interested parties to supply specific data that the Department could consider in the event that we chose to establish a facts available rate that would be more appropriate to that segment of the proceeding. In response to this request for information, the petitioner, in its case brief, requested that we use the simple average of the dumping margins from the petition as adverse facts available (yielding a margin of 136.72 percent). The respondents did not comment on this issue.

As we did in the 1996/1997 administrative review, in order to fully consider this issue, we placed a copy of the original petition and the amendment to the petition from the investigation on the record of this administrative review (1997/1998 administrative review). After further analysis of the petition, and in light of the non-compliance by five companies, we again re-examined the bases for the initial dumping allegation. Based on this re-examination, we continue to find that the price-to-price sales used in the petition calculation are appropriate for use as adverse facts available in this review and have increased the adverse facts available rate from 13.79 percent to 136.72 percent as described in *Comment 1*.

Section 776(c) of the Act provides that the Department shall in using facts available, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The SAA provides that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, where corroboration is not practicable, the Department may use uncorroborated information. See *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta from Turkey*, 63 FR 68429 (December 11, 1998).

To corroborate the export prices in the petition, we looked at the Customs Service import statistics from 1991 for the HTSUS subheadings 7312.10.9030, 7312.10.9060, and 7312.10.9090. However, we concluded that the Customs Service data was not comparable to the prices in the petition, because the Customs Service data encompasses a wide range of steel wire

rope products, while the sales in the petition consist of a small number of specific product types. With regard to the normal values used in the petition's margin calculation, we were provided with no useful information by interested parties, and are aware of no other independent sources of information which would assist us in this aspect of the corroboration process.

Notwithstanding the difficulties encountered in our attempts to corroborate the information from the petition, the Department has no evidence that suggests that the margins in the petition do not have probative value. Accordingly, we determine that the information from the petition is still the most appropriate basis for facts available. We note that the SAA specifically states that "the fact that corroboration may not be practicable in a given circumstance will not prevent the agencies from applying an adverse inference under subsection (b)." See SAA at 870. Moreover, the SAA emphasizes that the Department need not prove that the facts available are the best alternative information. See SAA at 869.

In this instance, as discussed below in *Comment 1*, we have no reason to believe that the application of the average petition margin for Korean steel wire rope as the adverse facts available rate is inappropriate. Therefore, for the final results, we are assigning Dong-Il, Dong Young, Jinyang, Sungsan, and Yeonsin the rate of 136.72 percent as adverse facts available. In addition, as discussed in *Comment 2*, we are continuing to assign Kwangshin Rope a rate of 1.51 percent based on the all others rate as a non-adverse facts available rate. See also the Department's April 7, 1999, Memorandum from John Brinkmann to Richard W. Moreland regarding application of facts available.

### Comparisons

To determine whether sales of steel wire rope to the United States were made at less than normal value for Kumho, we compared the export price to the normal value. We made no changes in the margin calculation from the preliminary results of this review.

### Analysis of Comments Received

#### *Comment 1: Application of Adverse Facts Available to Non-responding Companies*

The petitioner argues that the adverse facts available rate of 13.79 percent established in the final results of the 1996/1997 review (see *Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Duty*

<sup>1</sup> We have applied facts available to seven companies in the 1992/1994 review, five companies in the 1994/1995 review, three companies in the 1995/1996 review, four companies in the 1996/1997 review, and six companies in this review (1997/1998).

*Administrative Review and Revocation in Part of Antidumping Duty Order*, 63 FR 17986, 17987 (April 13, 1998)) and applied to uncooperative respondents in the preliminary results of this review should be adjusted to fully reflect the dumping margins calculated in the antidumping petition (see *Preliminary Results*). The petitioner explains that when the Department calculated the current adverse facts available rate for the final results of the 1996/1997 review, the Department used an average of the rates in the petition, after excluding certain rates that pertained to wire rope manufactured to Military Specification (Mil Spec.). The petitioner argues that a respondent "should not find itself in a better position as a result of its noncompliance than it would have had it provided the Department with complete, accurate and timely information," citing *Silicon Metal From Argentina: Final Results of Antidumping Duty Administrative Review*, 58 FR 65336, 65338 (December 14, 1993) and *Olympic Adhesives, Inc. v. United States*, 899 F.2d 1565, 1571-72 (Fed. Cir. 1990), (explaining that parties should not be allowed to control the magnitude of the dumping margin by selectively providing the Department with information).

The petitioner asserts that the Department should include all the rates in the petition for the adverse facts available calculation for the current review. According to the petitioner, some of the sales excluded by the Department were not labeled as wire rope manufactured to Mil Spec. Additionally, the petitioner argues that the Department should include the sales labeled as Mil Spec., because these sales were not necessarily "certified" as Mil Spec. The petitioner asserts that, regardless of whether the manufacturers were certified to sell Mil Spec. wire rope in the United States, Kumho in this review, and two other companies in prior reviews, sold products manufactured to Mil Spec.

#### DOC Position

We agree with the petitioner that we should base the calculation of the adverse facts available margin on the average of all rates provided in the petition. The highest rate ever calculated for this case was 1.51 percent. Thus during the investigation and until the 1996/1997 review, the adverse facts available margin was 1.51 percent. Based upon a history of non-compliance by respondents in prior reviews, we determined in the 1996/1997 review that the rate was not sufficiently adverse to encourage compliance. See *Steel Wire Rope from*

*the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order*, 63 FR 17986 (April 13, 1998), *Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Japan*, 64 FR 8291 (February 19, 1999) and *Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil*, 64 FR 8299 (February 19, 1999). Therefore, we looked to the petition for information to support an adverse facts available rate that would encourage respondents to participate in future reviews.

When reviewing the petition prices and the evidence in the record for the 1996/97 review, we determined that Korean producers manufacture steel wire rope which differs significantly from steel wire rope built to the more demanding Mil Spec. Since information in the petition indicated that some of the price-to-price comparisons involved Mil Spec. sales, we excluded those sales from our calculation. This determination was consistent with Department's practice of excluding from the calculation of the adverse facts available rate a rate which is unrepresentative of the industry sales (see *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 40604, 40606 (August 5, 1996)).

As explained in the *Use of Facts Available* section above, application of adverse facts available in this administrative review is appropriate for Dong-Il, Dong Young, Jinyang, Yeonsin, and Sungsan, since they received and did not respond to our antidumping questionnaire. Furthermore, the record indicates that these companies are still operating. Therefore, based upon the information currently in the record and the continued non-compliance of respondents in this proceeding, it appears that the rate applied in the 1996/1997 review is no longer the appropriate rate for the facts available margin. First, evidence in the current review indicates that, regardless of whether Korean steel wire rope manufacturers were certified to sell Mil Spec. steel wire rope in the United States, at least one company did in fact export to the United States merchandise produced to Mil Spec. in significant quantities during the POR. Thus, there is no indication that Mil Spec. products are unrepresentative of industry sales from Korea. Second, based upon the continued non-compliance of respondents in this proceeding, we find that the margin of 13.79 percent is not sufficiently adverse to encourage compliance.

As we have determined that the petition provides an appropriate basis for adverse facts available data, and that we have no further indication that any of the price-to-price comparisons in the petition are unrepresentative, we find that it is proper to rely on all 52 transactions set forth in the petition as the basis for adverse facts available. We have determined, based upon the evidence on the record of this current review, that a simple average of all 52 rates in the petition would be sufficiently adverse to encourage compliance by exporters, and not unrepresentative of industry sales. The revised rate used as adverse facts available for the final results is 136.72 percent.

#### Comment 2: Application of Facts Available to a Closed Company

The petitioner argues that Kwangshin Rope failed to cooperate and should be subject to an adverse facts available rate to the same extent as the other uncooperative respondents (see *Comment 1*). Even though Kwangshin Rope was closed, the petitioner asserts that some or all of the required information for a response to the Department's questionnaire is still in possession of a successor, receiver or holding company. Thus, the petitioner states that Kwangshin Rope did not act to the best of its ability to comply with the Department's request for information (citing *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27340 (May 19, 1997)).

The petitioner further asserts that it is not clear whether there was an absence of bad faith on the part of Kwangshin Rope and that the Department has clear authority to make an adverse inference. The petitioner argues that there is clear and compelling logic in support of an adverse inferences since the deposit and payment of antidumping duties are the responsibility of the U.S. importer. In addition, the petitioner states that Kwangshin Rope was an uncooperative respondent in the 1992/1994 and 1994/1995 administrative reviews.

#### DOC Position

We disagree that Kwangshin Rope failed to cooperate and should be given an adverse facts available rate. Section 776(b) of the Act states that an adverse inference is applied only when "an interested party has failed to cooperate by not acting to the best of its ability." Thus, we do not generally apply adverse facts available where the record indicates that the respondent did not receive our questionnaire. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Static*

*Random Access Memory Semiconductors from Taiwan (SRAMS from Taiwan)* 62 FR 51442, (Oct. 1, 1997), decision confirmed in *Final Determination of SRAMS from Taiwan*, and *Queen's Flowers de Columbia v. United States*, Slip Op. 97-120 (CIT Aug. 25, 1997) (the use of adverse "best information available" was unwarranted where the respondent did not receive a questionnaire the Department sent to an incorrect address). In this review, Kwangshin Rope's questionnaire was returned because the company was closed. Therefore, in accordance with our practice, it would be inappropriate to assign an adverse facts available rate to a company which is not capable of rebutting an inference of adverse facts available. For the final results, we have continued to apply the all others rate as facts available for Kwangshin Rope.

#### Final Results of Review

We determine the following margins exist for the period March 1, 1997, through February 28, 1998:

Manufacturer/exporter	Margin (percent)
Dong-Il Steel Manufacturing Co., Ltd. ....	*136.72
Dong Young .....	*136.72
Jinyang Wire Rope, Inc. ....	*136.72
Kumho Wire Rope Mfg. Co., Ltd. ....	0.25
Kwangshin Rope .....	**1.51
Sungsan Special Steel Processing .....	*136.72
Yeonsin Metal .....	*136.72

\* Adverse facts available rate based on information provided in petition

\*\* Non-adverse facts available rate based on the all others rate.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212 (b)(1), we have calculated importer-specific assessment rates by dividing the dumping margin found on the subject merchandise examined by the entered value of such merchandise. We will direct the Customs Service to assess antidumping duties by applying the assessment rate to the entered value of the merchandise entered during the POR, except where the assessment rate is de minimis (see 19 CFR 351.106(c)(2)). The Department will issue appraisal instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of

this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the other reviewed companies will be those rates established above (except that, if the rate for a firm is *de minimis*, i.e., less than 0.5 percent, a cash deposit of zero will be required for that firm); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation, the cash deposit rate will be 1.51 percent, the "all others" rate established in the LTFV investigation (58 FR 11029).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/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 is a sanctionable violation. This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 7, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-9195 Filed 4-12-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-502]

#### Certain Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes From Thailand.

**SUMMARY:** In response to requests by two importers, Ferro Union Inc. ("Ferro Union"), and ASOMA Corp. ("ASOMA"), and four domestic producers, Allied Tube and Conduit Corporation, Sawhill Tubular Division—Armco, Inc., Wheatland Tube Company, and Laclede Steel Company (collectively, the "domestic producers" or "petitioners"), the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipes and tubes from Thailand. This review covers Saha Thai Steel Pipe Co., Ltd. ("Saha Thai"), a Thai manufacturer and its affiliated exporter of the subject merchandise to the United States. The period of review (POR) is March 1, 1997 through February 28, 1998.

We have preliminarily determined that the respondent sold subject merchandise at less than normal value ("NV") during the POR. If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties based on the differences between the export price and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding should also submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

**EFFECTIVE DATE:** April 13, 1999.

**FOR FURTHER INFORMATION CONTACT:** John Totaro, AD/CVD Enforcement Group III, Office VII, Room 7866, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1374.

#### Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995,