

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-848]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Korea

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

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT:

Brian Ledgerwood at (202) 482-3836, or Mark Young at (202) 482-6397, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations are to the regulations at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products ("cold-rolled steel") from Korea are being, or are likely to be, sold in the United States at less than fair value ("LFTV"), as provided in section 735 of the Act. The estimated margins of sales at LFTV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Korea*, 67 FR 31255 (May 9, 2002) ("Preliminary Determination"). On June 28, 2002, the Department published its postponement of the final determination in the above captioned antidumping duty investigation. See *Certain Cold-Rolled Carbon Steel Flat Products from Korea: Postponement of Final Determination of Antidumping Investigation*, 67 FR 43582, ("June 28, 2002"). Since the preliminary

determination, the following events have occurred. In May 2002, the Department verified the responses submitted by the respondents in this investigation, Pohang Iron & Steel Co., Ltd. ("POSCO") and Dongbu Steel Co., Ltd., ("Dongbu") (collectively, "the respondents"). In July 2002, the Department conducted the U.S. subsidiary verification of Pohang Steel America Corporation ("POSAM") and Dongbu U.S.A. Incorporated ("Dongbu USA"). On August 26, 2002, we received case briefs from the petitioners¹ and the respondents. On September 5, 2002, we received rebuttal briefs from the petitioners and the respondents. A public hearing was held on September 9, 2002.

With respect to scope, in the preliminary LFTV determinations in this and the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. See *Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LFTV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (see the June 13, 2002, memorandum regarding "Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea" (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit ("CRU"), room B-099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners² and respondents from

various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a "correction" for an already excluded product. On July 8, 2002, the scope petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the *Scope of Investigation* section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled ("cold-reduced") flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the *Scope Appendix* attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings*, see the memorandum titled "Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea," dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation ("POI") is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., September 2001).

Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by the respondents. We used standard verification procedures including

and Weirton Steel Corporation (collectively, "the scope petitioners").

¹ The petitioners in this investigation are Bethlehem Steel Corporation, National Steel Corporation, United States Steel Corporation, and Nucor Corporation.

² The petitioners in the scope rulings are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc.,

examination of relevant accounting and production records, and original source documents provided by the respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are listed in the appendix to this notice and addressed in the *Decision Memorandum* dated September 23, 2002, and are hereby adopted by this notice. The *Decision Memorandum* is on file in room B-099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov/frn/index.html>. The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determinations

Based on our findings at verification, and analysis of comments received, we have made adjustments to the preliminary determination in calculating the final dumping margin in this proceeding. These adjustments to the dumping margin are discussed in the *Decision Memorandum* for this investigation.

Critical Circumstances

On April 10, 2002, the Department preliminarily determined that critical circumstances exist with respect to all imports of cold-rolled steel from Korea except for those from Dongbu. See Memorandum from Bernard Carreau to Faryar Shirzad Re: Preliminary Affirmative Determinations of Critical Circumstances; see also *Notice of Preliminary Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from Australia, the Peoples Republic of China, India, The Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157 (April 18, 2002) (“*Preliminary Critical Circumstances Determination*”). In its preliminary finding of critical circumstances, the Department determined that there was a history of dumping and material injury by reason of dumped imports of subject merchandise in the United States by Korean manufacturers; that there was a reasonable basis to believe or suspect importers of the subject merchandise knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and that there have been massive imports of the

subject merchandise over a relatively short period of time. For further details, see the *Preliminary Determination*, the *Preliminary Critical Circumstances Determination*, and *Memorandum to File, from Mark Manning: Respondents' Arguments Concerning the Preliminary Determination of Affirmative Critical Circumstances*, dated April 26, 2002.

Whereas no new or persuasive evidence to the contrary has been presented to the Department since the *Preliminary Critical Circumstances Determination*, we have determined in this final determination that critical circumstances exist for imports of Cold-Rolled Steel from Korea (with the exception of Dongbu). See *Decision Memorandum* at comment 7 for further discussion.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (“Customs”) to continue to suspend liquidation of all imports of cold-rolled steel from Korea (except those produced or exported by Dongbu) that are entered, or withdrawn from warehouse, for consumption on or after February 8, 2002 (which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**). For subject merchandise produced or exported by Dongbu, we are instructing Customs to continue to suspend liquidation for imports that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002 which is the date of the preliminary determination. Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

In the companion countervailing duty investigation we have found the existence of export subsidies. Section 772(c)(1)(C) of the Act directs the Department to increase EP or CEP by the amount of the countervailing duty “imposed” on the subject merchandise “to offset an export subsidy” in an administrative review. The basic economic theory underlying this provision is that in parallel antidumping and countervailing duty investigations, if the Department finds that a respondent received the benefits of an export subsidy program, it is presumed the subsidy contributed to lower-priced sales of subject merchandise in the United States market by the amount of any such export subsidy. Thus, the subsidy and

dumping are presumed to be related, and the assessment of duties against both would in effect be “double-application” or imposing two duties against the same situation. Therefore, Congress, through section 772(c)(1)(C) of the Act, indicated that the Department should factor the subsidy into the antidumping calculations to prevent this “double-application” of duties.

We believe the economic theory implicit in section 772(c)(1)(C) of the Act should also generally apply to our cash deposit calculations in an investigation. The calculations underlying cash deposit rates resulting from an initial investigation are essentially equivalent to those determined in administrative reviews leading to the assessment of antidumping duties. Congress has indicated, in effect, that no dumping exists if the export subsidies calculated in a countervailing duty proceeding are equal to or greater than the calculated dumping margin. The Department believes that this is true regardless if such a result appears in an administrative review or in an investigation. The Department has determined in its Final Affirmative Countervailing Duty Determination: *Notice of Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from the Republic of Korea (“Cold-Rolled CVD”)* (issued concurrently) that the product under investigation benefited from export subsidies. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct the Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated below, minus the amount of the countervailing duty determined to offset an export subsidy. See, e.g., *Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy*, 63 FR 49327 (September 15, 1998); and *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From India*, 67 FR 34899, (May 16, 2002). Accordingly, for cash deposit purposes we will subtract from the cash deposit rate that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination, in the event that an order in the companion countervailing

duty case is issued.³ After the adjustment for the cash deposit rate attributed to export subsidies, the resulting cash deposit rate for Dongbu will be 11.02 percent. In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of the preliminary determination in the **Federal Register**. We will instruct the Customs Service to continue to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the normal value exceeds the export price, adjusted for the export subsidy rate, as indicated below. These suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margins exist for the period July 1, 2000, through June 30, 2001:

Manufacturer/exporter	Margin (percent) ⁴
POSCO	5.15 ⁵
Dongbu	11.13
All Others	8.90

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC

³ Because suspension of liquidation in *Cold-Rolled CVD* is currently discontinued and will not be resumed unless and until the Department issues a countervailing duty order, the antidumping cash deposit rates are the rates indicated below.

⁴ If an order is issued in the companion countervailing duty investigation, suspension of liquidation in *Cold-Rolled CVD* will resume. Additionally, if an order is issued in this antidumping duty investigation, the Department will issue antidumping duty cash deposit instructions requiring a cash deposit rate for Dongbu equal to the dumping margin calculated for Dongbu less the export subsidy rate calculated for Dongbu in *Cold-Rolled CVD*. In *Cold-Rolled CVD*, Dongbu's *ad valorem* export subsidy rate is 0.11 percent. Therefore, we will adjust Dongbu's antidumping duty rate by the export subsidy rate, if necessary (*i.e.*, 11.13 – 0.11 = 11.02 percent). Furthermore, the Department will issue antidumping duty cash deposit instructions requiring an "All Others" cash deposit equal to the "All Others" antidumping duty rate less the "All Others" export subsidy rate calculated in *Cold-Rolled CVD*. In *Cold-Rolled CVD*, the "All Others" *ad valorem* export subsidy rate is 0.11 percent. Therefore, we will adjust the antidumping duty "All Others" margin by the export subsidy rate, if necessary (*i.e.*, 8.90 – 0.11 = 8.79 percent).

⁵ In *Cold-Rolled CVD*, POSCO's *ad valorem* net subsidy rate is *de minimis*. Therefore, we will not adjust POSCO's antidumping duty rate by its export subsidy rate, because POSCO would be excluded from any resulting countervailing duty order on certain cold-rolled carbon steel flat products from Korea.

will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of 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 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—List of Comments and Issues in the Decision Memorandum

A. Issues

Scope

1. Scope of the Investigation

Pohang Iron & Steel Co., Ltd. ("POSCO")

Sales Issues:

Comment 1: U.S. "Channel 3" Sales

Comment 2: Middleman Dumping Allegation

Comment 3: Certifications of Completeness and Accuracy

Comment 4: U.S. Indirect Selling Expenses

Comment 5: Temper, Annealing, and Surface Finish Fields

Comment 6: Constructed Export Price—CEP—Offset

Comment 7: Critical Circumstances

Cost Issues:

Comment 8: General and Administrative Expense Rate Calculation

Dongbu Steel Co., Ltd. ("Dongbu")

Sales Issues:

Comment 9: U.S. Indirect Selling Expense Calculation Methodology

Comment 10: Constructed Export Price—CEP—Offset

Comment 11: Warranty Expenses

Comment 12: Submission of New Factual Information

Comment 13: Ministerial Errors

A. The Department's Preliminary Determination Failed to Distinguish Between Prime and Non-Prime Sales

B. The Department's Margin Program Incorrectly Converts the Variables HMMOVE and HMPACK

C. The Department's Preliminary Determination Double Counted Billing Adjustments

D. The Department Failed to Assign a Weight to Dongbu's "Stone Finish" Merchandise

Cost Issues:

Comment 14: Interest Expense/Financial Expense Ratio

Comment 15: General and Administrative Expense Rate

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–810]

Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products From Turkey

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

EFFECTIVE DATE: October 3, 2002.

ACTION: Notice of final determination of sales at less than fair value.

FOR FURTHER INFORMATION CONTACT:

Melissa Blackledge, or Robert James at (202) 482–3518, or (202) 482–0649, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Tariff Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Final Determination

We determine that cold-rolled carbon steel flat products (cold-rolled steel) from Turkey are being sold, or are likely