

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

We will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: December 20, 2005.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-855]

#### **Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Preliminary Critical Circumstances Determination: Diamond Sawblades and Parts Thereof from the Republic of Korea**

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

**SUMMARY:** We preliminarily determine that diamond sawblades and parts thereof (DSB) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). In addition, we preliminarily determine that there is not a reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise exported from Korea.

Interested parties are invited to comment on this preliminary determination. Because we are postponing the final determination, we will make our final determination not

later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

**EFFECTIVE DATE:** December 29, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mark Manning or Maisha Cryor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5253 or (202) 482-5831, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Preliminary Determination**

We preliminarily determine that DSB from Korea are being, or are likely to be, sold in the United States at LTFV, as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice. In addition, we preliminarily determine that there is not a reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise exported from Korea. The critical circumstances analysis for the preliminary determination is discussed below under the section "Critical Circumstances."

##### **Background**

Since the initiation of this investigation (*see Initiation of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea*, 70 FR 35625 (June 21, 2005) (*Initiation Notice*)), the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage of the scope of the investigation. *See Initiation Notice*, at 70 FR 35626. On September 16, 2005, and October 6, 2005, Ehwa Diamond Industrial Co., Ltd. (Ehwa) submitted comments on product coverage. The petitioner<sup>1</sup> submitted rebuttal comments in September 2005, October 2005, and November 2005. On November 23, 2005, Diamax Industries Inc. (Diamax) also submitted comments on product coverage. *See* "Scope Comments" section below.

On June 23, 2005, and June 29, 2005, respectively, the Department requested quantity and value (Q&V) information from a total of thirteen producers of DSB in Korea. The Korean DSB producers from which Q&V information was requested were identified in the Petition, as well as other sources. *See* Memorandum to the File, from Maisha

Cryor, Import Compliance Specialist, through Mark Manning, Acting Program Manager, Regarding "Investigation of Diamond Sawblades and Parts Thereof from the Republic of Korea; Release of Mini-section A Questionnaires," dated June 23, 2005. On June 30, 2005, and July 6, 2005, respectively, the Department received timely Q&V responses from seven Korean producers/exporters of DSB. *See* Memorandum to the File, from Maisha Cryor, Import Compliance Specialist, through Mark Manning, Acting Program Manager, Regarding "Investigation of Diamond Sawblades and Parts Thereof from the Republic of Korea; Mini-section A Questionnaire Response Status," dated July 15, 2005.

On July 14, 2005, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of DSB imported from Korea that are alleged to be sold in the United States at LTFV. *See* ITC Investigation No. 731-TA-1093.

On July 14, 2005, the Department issued its proposed draft product characteristics and model match criteria to the seven Korean producers/exporters of DSB who submitted timely Q&V information. *See* "Letter to All Interested Parties, Regarding Product Characteristics and Model Match Criteria for the Antidumping Investigation of Diamond Sawblades and Parts Thereof from the Republic of Korea," dated July 14, 2005. After setting aside a period of time for all interested parties to provide comments on the proposed product characteristics and model match criteria, the Department received comments from Ehwa, Shinhan Diamond Industrial Co., Ltd. (Shinhan) and the petitioner on July 22, 2005. On July 29, 2005, Ehwa, Shinhan and the petitioner submitted rebuttal comments.

On July 20, 2005, the Department selected Ehwa, Shinhan and BK Diamond Products (BK Diamond) (collectively, the respondents), as mandatory respondents in this investigation. *See* Memorandum from Maisha Cryor, Analyst, to Holly A. Kuga, Senior Office Director, "Selection of Respondents for the Antidumping Duty Investigation of Diamond Sawblades and Parts Thereof from the Republic of Korea," dated July 20, 2005 (Respondent Selection Memorandum), on file in the Central Records Unit (CRU), Room B-099 of the main Commerce building.

On July 20, 2005, the Department issued sections A-E of its antidumping

<sup>1</sup> The petitioner in this investigation is the Diamond Sawblade Manufacturers' Coalition.

questionnaire to the mandatory respondents in this investigation.<sup>2</sup>

On July 22, 2005, in response to the Department's selection of BK Diamond as a mandatory respondent, BK Diamond submitted a letter requesting that the Department reconsider its selection, stating that it acted as a trading company and had no involvement in the production of subject merchandise. *See* BK Diamond's July 22, 2005, submission at page 2. On July 27, 2005, and August 4, 2005, respectively, the Department issued supplemental questionnaires to BK Diamond regarding its business activities, and received responses on August 2, 2005, and August 9, 2005, respectively. On August 10, 2005, the petitioner submitted comments in which it advocated retaining BK Diamond's status as a mandatory respondent; BK Diamond submitted rebuttal comments on August 16, 2005. *See* submission from the petitioner, "Diamond Sawblades and Parts Thereof from South Korea: Selection of Mandatory Respondent – BK Diamond," dated August 10, 2005 (petitioner's comments); *see also*, submission from BK Diamond, "Rebuttal to Petitioner's August 10<sup>th</sup> Letter Regarding Selection of BK Diamond as Mandatory Respondent: *Diamond Sawblades and Parts Thereof from Korea*," dated August 16, 2005 (Rebuttal). After reviewing both BK Diamond and the petitioner's submissions, we determined that BK Diamond is a trading company and should not be a mandatory respondent in this investigation. *See* Memorandum to Holly A. Kuga, Senior Office Director, from Maisha Cryor, Import Compliance Specialist, through Mark Manning, Acting Program Manager, "Change of Respondents in the Antidumping Investigation of Diamond Sawblades and Parts Thereof (DSB) from the Republic of Korea (Korea)," dated August 18, 2005. After removing BK Diamond as a mandatory respondent in this investigation, the Department determined that it was appropriate to select an additional

<sup>2</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all of the company's home market sales of foreign like product or, if the home market is not viable, of sales of the foreign like product in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of the company's U.S. sales of subject merchandise. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

respondent. *Id.* Therefore, on August 18, 2005, the Department selected Hyosung Diamond Industrial Co. (Hyosung) as a mandatory respondent. *Id.*

After reviewing interested parties' comments, the Department revised the proposed product characteristics and model match criteria issued in its July 14, 2005, letter, and instructed Ehwa and Shinhan to report their product characteristics accordingly for sections B and C of the Department's questionnaire. *See* "Letter to All Interested Parties, Regarding Product Characteristics and Model Match Criteria for the Antidumping Investigation of Diamond Sawblades and Parts Thereof from the Republic of Korea," dated August 5, 2005.

We issued sections A–E of the antidumping questionnaire to Hyosung on August 18, 2005, complete with the final product characteristics and model match criteria.

On August 19, 2005, Ehwa requested that the Department exclude the following from its reporting requirement: (1) Resales by a downstream affiliated U.S. reseller; (2) home market (HM) and U.S. market sales of cores and segments; and (3) U.S. sales of further processed products. On September 7, 2005, the petitioner submitted rebuttal comments. On September 7, 2005, Shinhan requested that the Department exclude the following from Shinhan's reporting requirement: (1) Export price (EP) sales; (2) sales of merchandise produced by an unaffiliated Chinese producer; (3) U.S. further manufactured sales; and (4) sales of diamond segments. On September 9, 2005, the petitioner submitted rebuttal comments. On October 14, 2005, the Department denied Ehwa's request to exclude HM and U.S. market sales of cores and segments from its reporting requirement. *See* Letter from the Department to J. David Park, Esq. (counsel to Ehwa), "Exclusion Requests," dated October 14, 2005. However, the Department granted Ehwa's request to exclude resales by a downstream affiliated U.S. reseller and U.S. sales of further processed products. *Id.* Similarly, the Department denied Shinhan's request to exclude EP sales and sales of diamond segments from its reporting requirement. *See* Letter from the Department to Raymond Paretzky, Esq. (counsel to Shinhan), "Exclusion Requests," dated October 14, 2005. However, the Department granted Shinhan's request to exclude sales of merchandise produced by an unaffiliated Chinese producer and U.S. further manufactured sales. *Id.* Both Ehwa and Shinhan stated that their total sales of U.S. further manufactured

products accounted for less than five percent of their total quantity of U.S. sales. The Department has a demonstrated history of excusing respondents from reporting sales of U.S. further manufactured sales, in an investigation, when the sales account for less than five percent of total U.S. quantity.<sup>3</sup> *See e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from South Africa*, 67 FR 31243 (May 9, 2002) (no change in the final determination); *Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan*, 64 FR 8291 (February 19, 1999) (no change in the final determination); *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Static Random Access Memory Semiconductors From the Republic of Korea*, 62 FR 51437 (October 1, 1997) (no change in the final determination). With respect to Hyosung, in its September 29, 2005, section A questionnaire response, Hyosung requested that it be excused from reporting its EP sales. On October 17, 2005, the Department denied this request. *See* the Department's supplemental section A questionnaire, dated October 17, 2005.

We received section A questionnaire responses from Shinhan and Ehwa on August 26, 2005. We received Hyosung's section A response on September 29, 2005.

On September 8, 2005, and November 10, 2005, the Department issued supplemental section A questionnaires to Ehwa and Shinhan and received responses on September 29, 2005, November 10, 2005 and December 5, 2005. We issued a supplemental section A questionnaire to Hyosung on October

<sup>3</sup> While the Department granted requests by Ehwa and Shinhan to exclude certain sales from their reporting requirement, the Department also informed both parties that we reserved the right to request additional information regarding the sales subject to exclusion requests. *See* Letter from the Department to J. David Park, Esq. (counsel to Ehwa), "Exclusion Requests," dated October 14, 2005; *see also*, Letter from the Department to Raymond Paretzky, Esq. (counsel to Shinhan), "Exclusion Requests," dated October 14, 2005. Consequently, the Department issued supplemental questionnaires to Ehwa and Shinhan in September 2005 and October 2005 regarding their exclusion requests and received responses in September 2005 and October 2005. Furthermore, the Department informed Ehwa and Shinhan that, if subsequent to verification, we determined that the data which Ehwa and Shinhan requested not to submit were mis-characterized or should have been used in our analysis, we may rely on facts available, as required by section 776(a)(2)(B) of the Tariff Act of 1930, as amended. *Id.*

17, 2005, and received a response on November 14, 2005.

On September 26, 2005, the petitioner submitted a letter in support of the postponement of the preliminary determination. The petitioner stated that a postponement of the preliminary determination was necessary in order to permit the Department and the petitioner time to fully analyze the information that had been submitted in the investigation. On October 13, 2005, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation by 50 days, from October 31, 2005, until December 20, 2005. *See Postponement of Preliminary Determinations of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People's Republic of China (A-570-900) and the Republic of Korea (A-580-855)*, 70 FR 59719 (October 13, 2005).

We received section B and C questionnaire responses from Ehwa and Shinhan on October 3, 2005. We issued supplemental section B and C questionnaires to Shinhan on October 21, 2005, and received a response on November 21, 2005. We issued supplemental section B and C questionnaires to Ehwa on October 25, 2005, and October 28, 2005, respectively and received responses on December 2, 2005. We received section B and C questionnaire responses from Hyosung on October 28, 2005. We issued supplemental section B and C responses to Hyosung on November 10, 2005, and received responses on December 8, 2005.

On October 7, 2005, in accordance with 19 CFR 351.301(d)(2)(i)(B), the petitioner submitted allegations that HM sales were made at prices below the cost of production (COP) by Ehwa and Shinhan. After reviewing the petitioner's allegations, the Department, in accordance with section 773(b)(2)(A)(i) of the Act, concluded that there was a reasonable basis to suspect that Ehwa and Shinhan were selling DSB in Korea at prices below the COP and initiated cost investigations on October 28, 2005.<sup>4</sup> On October 28, 2005,

we requested that Ehwa and Shinhan respond to section D of the Department's questionnaire. *See* Letter from the Department to J. David Park, Esq. (counsel to Ehwa), "Section D Deadline," dated October 28, 2005; *see also*, Letter from the Department to Raymond Paretzky, Esq. (counsel to Shinhan), "Section D Deadline," dated October 28, 2005. On November 4, 2005, in accordance with 19 CFR 351.301(d)(2)(i)(B), the petitioner submitted allegations that HM sales were made at prices below the COP by Hyosung. After reviewing the petitioner's allegations, the Department, in accordance with section 773(b)(2)(A)(i) of the Act, concluded that there was a reasonable basis to suspect that Hyosung was selling DSB in Korea at prices below the COP and initiated a cost investigation on November 10, 2005.<sup>5</sup>

Ehwa and Shinhan submitted their section D responses on November 21, 2005, and November 22, 2005, respectively. Hyosung submitted its section D response on December 5, 2005. We issued supplemental section D responses to Ehwa, Shinhan and Hyosung on December 14, 2005. We note that the Department's supplemental D questionnaires were extensive and covered several fundamental issues, including transactions with affiliated parties, transactions with non-market economy companies, and specialized business contracts. In addition, two of the respondents departed from their normal cost accounting records and adopted another methodology for reporting purposes. The responses to these supplemental questionnaires will be submitted to the Department after this preliminary determination. The Department will analyze these issues, provide the results of our analysis to the respondents and petitioner, and allow the parties to comment on the results of our analysis of these issues prior to the final determination.

On November 21, 2005, the petitioner alleged that critical circumstances exist with respect to imports of DSB from Korea. Accordingly, pursuant to section 732(e) of the Act, on November 29, 2005, we requested information from Ehwa, Shinhan and Hyosung regarding monthly shipments to the United States

during the period January 2002 through October 2005.

On December 6, 2005, we received monthly shipment information from Ehwa and Shinhan. Hyosung submitted its monthly shipment information on December 7, 2005. The critical circumstances analysis for the preliminary determination is discussed below in the "Critical Circumstances" section of this notice. On December 16, 2005, Ehwa requested that the Department postpone its final determination in the event of an affirmative preliminary determination, in accordance with section 735(a)(2) of the Act.

On December 12, 2005, the petitioner submitted a major input allegation that Ehwa and Shinhan purchased certain major inputs from affiliated entities at prices that were below the affiliated parties' costs of production. Ehwa provided rebuttal comments on December 14, 2005.

On December 12, 2005, the petitioner also submitted a letter in which it raised a question concerning the business relationship between two of the respondents. We received rebuttal comments from the respondents on December 14, 15, and 16, 2005, and additional argument from the petitioner on December 16, 2005. However, as of the date of this preliminary determination, the nature of this topic is designated as business proprietary. Therefore, for further discussion of this matter, please see Memorandum from Thomas F. Futtner, Acting Office Director, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, "Investigation of Diamond Sawblades and Parts Thereof from the Republic of Korea; Petitioner's Allegation Regarding the Business Relationship Between Two Respondents," dated December 20, 2005, a public version of which is on file in Department's CRU.

#### Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a

<sup>4</sup> *See* Memorandum to Holly A. Kuga, Senior Office Director, from James Balog, Accountant and Maisha Cryor, Analyst, through Mark Manning, Acting Program Manager, "Diamond Sawblades and Parts Thereof from Korea, RE: Petitioner's Allegation of Sales Below the Cost of Production for Ehwa (Ehwa Cost Memorandum)," dated October 28, 2005; *see also* Memorandum to Holly A. Kuga, Senior Office Director, from Nancy Decker, Accountant and Maisha Cryor, Analyst, through Mark Manning, Acting Program Manager, "Diamond Sawblades and Parts Thereof from Korea, RE: Petitioner's Allegation of Sales Below the Cost of Production for Shinhan (Shinhan Cost Memorandum)," dated October 28, 2005.

<sup>5</sup> *See* Memorandum to Holly A. Kuga, Senior Office Director, from Nancy Decker, Accountant and Maisha Cryor, Analyst, through Mark Manning, Acting Program Manager, "Diamond Sawblades and Parts Thereof from Korea, RE: Petitioner's Allegation of Sales Below the Cost of Production for Hyosung (Hyosung Cost Memorandum)," dated November 10, 2005.

request for extension of provisional measures from a four-month period to not more than six months.

Pursuant to section 735(a)(2) of the Act, on December 16, 2005, Ehwa requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**, and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) Ehwa accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

#### Period of Investigation

The period of investigation (POI) is April 1, 2004, through March 31, 2005. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

#### Scope of Investigation

The products covered by this investigation are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of this investigation are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of this investigation. Diamond sawblades and/or sawblade cores with a thickness of

less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of this investigation. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of this investigation. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the petition. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of this investigation. Merchandise subject to this investigation is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. The tariff classification is provided for convenience and U.S. Customs and Border Protection purposes; however, the written description of the scope of this investigation is dispositive.

#### Scope Comments

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments no later than 20 calendar days from the publication of the *Initiation Notice* (See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) and *Initiation Notice* at 70 FR 35626).

As noted in the "Background" section above, on September 16, 2005, and October 6, 2005, Ehwa requested that the Department clarify the scope of the investigation. Specifically, Ehwa requested that the Department expressly state whether the term "sawblades," as it appears in the scope of the investigation, refers only to blades that are used on saws and otherwise meets the physical parameters specified in the scope of the investigation. In addition, Ehwa requested that the Department confirm whether the scope of the investigation covers (1) sawblades with concave or convex cores, and (2) industrial-application, metal-bonded, diamond "1A1R" grinding wheels (grinding wheels). Ehwa submitted additional comment on its request concerning "1A1R" grinding wheels on December 14, 2005. We received rebuttal comments from the petitioner

regarding Ehwa's scope clarification requests on September 23, 2005, October 28, 2005, and November 9, 2005. In addition, on November 23, 2005, Diamax, an importer of diamond sawblades, requested that the Department exclude granite contour diamond sawblades from the scope of the investigation. Specifically, Diamax stated that granite contour diamond sawblades should be excluded from the scope of investigation because: (1) the cores of the sawblades are concave instead of flat, (2) the core hardness of the sawblades falls below the requisite hardness stated in the scope of the investigation, and (3) application of the criteria contained in 19 CFR 351.225(d)(2) indicates that granite contour diamond sawblades should not be covered by the scope of the investigation. We issued Diamax supplemental questions on December 9, 2005. We received Diamax's response on December 15, 2005. The petitioner provided rebuttal comments on December 16, 2005.

Based upon the record evidence, we have neither changed the scope of the investigation, as proposed by Ehwa, nor excluded the products requested by Ehwa or Diamax from the scope of investigation. Specifically, neither Ehwa nor Diamax were able to demonstrate that the products for which they requested exclusion were not covered by the parameters of the scope of the investigation. For further details regarding the Department's decision, see Memorandum from Mark Manning, Acting Program Manager, to Thomas F. Futtner, Acting Office Director, Office 4, "Consideration of Scope Exclusion and Clarification Requests," dated December 20, 2005 (Scope Exclusion Memorandum).

#### Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, however, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection or (2) exporters/producers accounting for the largest volume of the

merchandise under investigation that can reasonably be examined. After consideration of the complexities expected to arise in this proceeding and the resources available to it, the Department determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we limited our examination to the three exporters and producers accounting for the largest volume of the subject merchandise pursuant to section 777A(c)(2)(B) of the Act. The three Korean producers/exporters (Ehwa, Shinhan, and Hyosung) that accounted for a significant percentage of all exports of the subject merchandise from Korea during the POI were selected as mandatory respondents. *See* Respondent Selection Memorandum at 3.

### Country of Origin

Certain information in this investigation has led the Department to make a preliminary finding regarding the country of origin of subject merchandise sold by the respondents in this investigation. As of the date of this preliminary determination, the nature of this information has been designated as business proprietary. However, based on this information, the Department has determined that the country of origin for completed DSB subject to this investigation is the location where the diamond sawblade is manufactured from a core and segments. For further discussion of this matter, please *see* Memorandum from Thomas F. Futtner, Acting Office Director, to Stephen J. Claeys, "Investigation of Diamond Sawblades and Parts Thereof from the Republic of Korea; Country of Origin," dated December 16, 2005, a public version of which is on file in Department's CRU.

### Fair Value Comparisons

To determine whether sales of DSB from Korea to the United States were made at LTFV, we compared constructed export price (CEP) and EP to the normal value (NV), as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average CEPs and EPs to POI weighted-average NVs.

### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by Ehwa, Shinhan, and Hyosung in the HM during the POI that fit the description in the "Scope of

Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the HM, where appropriate. We have relied upon fourteen criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product. These criteria, in order of importance are: (1) physical form; (2) diameter; (3) type of attachment; (4) cutting edge; (5) diamond mesh size; (6) diamond concentration; (7) diamond grade; (8) segment height; (9) segment thickness; (10) segment length; (11) number of segments; (12) core metal; (13) core type; and (14) core thickness. Where there were no sales of identical merchandise in the HM made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade, we made product comparisons using constructed value (CV).

### Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP as defined in sections 772(a) and (b) of the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser for exportation to the United States. We based EP on packed and delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, we reduced the starting price by movement expenses and export taxes and duties, if appropriate. These deductions included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance and U.S. customs duties.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by, or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act. We based CEP on packed prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, we reduced the starting price by movement expenses,

which include, where applicable, expenses incurred for foreign inland freight, international freight, marine insurance, foreign and U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight, and warehousing. In accordance with section 772(d)(1) of the Act, we made additional adjustments to the starting price in order to calculate CEP, by deducting direct and indirect selling expenses related to commercial activity in the United States. Pursuant to section 772(d)(3) of the Act, where applicable, we made an adjustment to the starting price for CEP profit.

We determined EP and CEP for each company as follows:

#### A. Ehwa

We calculated a CEP for all of Ehwa's U.S. sales because the subject merchandise was sold directly to General Tool, Ehwa's U.S. affiliate, prior to being sold to the first unaffiliated purchaser in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include expenses incurred for inland freight, domestic brokerage and handling, U.S. brokerage and handling. In addition, we made deductions from the U.S. starting price for discounts and rebates. We also made adjustments to the U.S. starting price for billing adjustments. Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Ehwa and its U.S. affiliates on their sales of the subject merchandise in the United States and the profit associated with those sales.

The Department interprets section 772(c)(1)(B) as requiring that any duty drawback be added to CEP if two criteria are met: (1) import duties and rebates are directly linked to, and dependent upon, one another, and; (2) raw materials were imported in sufficient quantities to account for the duty drawback received on exports of the manufactured product. The first prong of the test requires the Department "to analyze whether the foreign country in question makes entitlement to duty drawback dependent upon the payment of import duties." *See* Far East Machinery, 699 F. Supp. at 311. This ensures that a duty drawback adjustment will be made only where the drawback received by the manufacturer is contingent on import duties paid or accrued. The second

prong requires the foreign producer to show that it imported a sufficient amount of raw material (upon which it paid import duties) to account for the exports upon which it claimed its rebates. *Id.* Ehwa reported that it received certain “drawback” amounts associated with duties paid on imported inputs pursuant to the Korean Government’s individual application system, where the duty is rebated based upon each applicant’s use of the imported input. Since the applicable criteria appear to have been met in this case, we made additions to the starting price for duty drawback in accordance with section 772(c)(1)(B) of the Act.

#### B. Shinhan

We calculated a CEP for a portion of Shinhan’s U.S. sales because the subject merchandise was sold directly to SH Trading, Shinhan’s U.S. affiliate, prior to being sold to the first unaffiliated purchaser in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include expenses incurred for inland freight, domestic brokerage and handling, U.S. brokerage and handling. In addition, we made deductions from the U.S. starting price for discounts and rebates. We also made adjustments to the U.S. starting price for billing adjustments. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Shinhan and its U.S. affiliates on their sales of the subject merchandise in the United States and the profit associated with those sales.

We calculated EP for a portion of Shinhan’s U.S. sales because the merchandise was sold directly by Shinhan to the first unaffiliated purchaser in the United States prior to importation. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include expenses incurred for foreign inland freight, foreign brokerage and handling, and U.S. customs duties, when applicable. In addition, we made deductions from the starting price for discounts, where appropriate.

As mentioned above, the Department will add duty drawback to U.S. price only if the respondent demonstrates that it has satisfied the Department’s two-prong test. Shinhan reported that it received certain “drawback” amounts associated with duties paid on imported inputs pursuant to the Korean Government’s individual application system, where the duty is rebated based upon each applicant’s use of the imported input. Since the applicable

criteria appear to have been met in this case, we made additions to the starting price for duty drawback in accordance with section 772(c)(1)(B) of the Act.

#### C. Hyosung

We calculated a CEP for a portion of Hyosung’s U.S. sales because the subject merchandise was sold directly to Western Diamond Tools Inc., Hyosung’s U.S. affiliate, prior to being sold to the first unaffiliated purchaser in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include expenses incurred for inland freight, domestic brokerage and handling, international freight, U.S. brokerage and handling, and U.S. customs duties. Where applicable, we adjusted movement expenses to account for freight revenue. In addition, we made deductions from the U.S. starting price for discounts and rebates, such as early payment discounts, quantity discounts, and other discounts. Additionally, we made adjustments to the U.S. starting price for billing adjustments and the value of returned merchandise. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Hyosung and its U.S. affiliates on their sales of the subject merchandise in the United States and the profit associated with those sales.

We calculated EP for a portion of Hyosung’s U.S. sales because the merchandise was sold directly by Hyosung to the first unaffiliated purchaser in the United States prior to importation. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include expenses incurred for inland freight, domestic brokerage, international freight, and U.S. customs duties, where applicable. In addition, we made deductions from the starting price for discounts, where appropriate.

As mentioned above, the Department will add duty drawback to U.S. price only if the respondent demonstrates that it has satisfied the Department’s two-prong test. Hyosung received drawback for certain duties it paid on inputs used to produce subject merchandise that was exported to the United States pursuant to the Korean government’s fixed-rate system, rather than the individual application system used by Ehwa and Shinhan. While there have been cases where specific respondents have been able, on their own, to demonstrate an entitlement to an upward adjustment to U.S. price for duty drawback under the fixed-rate

scheme, the Department has repeatedly found that the fixed-rate system, by itself, does not meet the Department’s two-prong test. *See Polyester Staple Fiber from Korea: Final Results of Antidumping Duty Administrative Review*, 67 FR 63616 (October 15, 2002) and Issues and Decision Memorandum at Comment 5. In this investigation, Hyosung reported that its own yield rates are not used in calculating the amount of duty drawback received from the Korean Government. Instead, the amount of drawback it receives derives from the fixed-rate of drawback published by the Commissioner of the Korean Customs Service. *See Hyosung’s* December 8, 2005, submission at 17. According to Hyosung, the amount of drawback it receives is simply the fixed-rate of drawback established by the Korean Customs Service multiplied by the commercial invoice value from its export sales.

Based on evidence on the record of the instant case, we find that Hyosung has not provided sufficient documentation to satisfy the first prong of the Department’s duty drawback test. With regard to prong one, an analysis of the information on the record does not demonstrate that the import duties paid and the amount of duty rebated are directly linked. Record evidence indicates that in order to qualify for drawback under the fixed-rate duty drawback system, Hyosung has only to provide Korean Customs with an export permit and commercial invoice. *See Hyosung’s* October 28, 2005, at page 31, and Attachment C–10. According to Hyosung, the duty refunded is a fixed percentage of the export invoice value, where the percent is determined by the Korean Customs Service. In other words, Hyosung’s rebate is not based on the actual amount of duties paid on raw materials imported by Hyosung. Thus, the information submitted by Hyosung demonstrates only that the amount of duty rebated is tied to the FOB price of the exported merchandise. There is no evidence on the record that the amount of duty rebated and received by Hyosung is directly linked to or dependent upon import duties paid by Hyosung. Accordingly, for purposes of this preliminary determination, we are not granting Hyosung a duty drawback adjustment.

#### Normal Value

##### A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the HM to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of HM sales of the foreign like product is equal

to or greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of HM sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

In this investigation, we determined that the aggregate volume of HM sales of the foreign like product for each respondent was sufficient to permit a proper comparison with its U.S. sales of the subject merchandise.

#### *B. Affiliated Party Transactions and Arm's-Length Test*

Ehwa, Shinhan and Hyosung reported that they sold DSB in the comparison market only to unaffiliated customers. Therefore, application of the arm's-length test is unnecessary.

#### *C. Level of Trade/Constructed Export Price Offset*

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the CEP. Pursuant to 19 CFR 351.412(c)(1), the NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses (SG&A) and profit. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. See 19 CFR 351.412(c)(2). If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997). For CEP sales, if the LOT of the home market sale is more remote from the factory than the CEP level and there is no basis for determining whether the

difference between the LOT of the home market sale and the CEP transaction affects price comparability, we adjust NV pursuant to section 773(a)(7)(B) of the Act (the CEP-offset provision). See *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002).

In this investigation, we obtained information from each respondent regarding the marketing stages involved in making the reported HM and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

#### *Ehwa*

The Department analyzed Ehwa's sales data to make a company-specific LOT finding. Based upon this analysis, the Department denied Ehwa a LOT adjustment, but did grant Ehwa a CEP-offset. As of the date of this preliminary determination, the nature of Ehwa's LOT data is designated as business proprietary. Therefore, for further discussion of this matter, please see Memorandum from Maisha Cryor, Senior International Trade Compliance Analyst, to Thomas F. Futtner, Acting Office Director, "Level of Trade Analysis," dated December 20, 2005, a public version of which is on file in Department's CRU.

#### *Shinhan*

The Department analyzed Shinhan's sales data to make a company-specific LOT finding. Based upon this analysis, the Department denied Shinhan a LOT adjustment, but did grant Shinhan a CEP-offset. As of the date of this preliminary determination, the nature of Shinhan's LOT data is designated as business proprietary. Therefore, for further discussion of this matter, please see Memorandum from Maisha Cryor, Senior International Trade Compliance Analyst, to Thomas F. Futtner, Acting Office Director, "Level of Trade Analysis," dated December 20, 2005, a public version of which is on file in Department's CRU.

#### *Hyosung*

The Department analyzed Hyosung's sales data to make a company-specific LOT finding. Based upon this analysis, the Department found that because there is only one LOT in the HM, it is not possible to compare price differences between sales at different levels of trade. Therefore, pursuant to section 773(7)(A) of the Act, the Department determined that Hyosung does not qualify for a LOT adjustment. However, the Department

did determine that Hyosung's LOT is at a more advanced stage of distribution than the LOT for CEP sales and granted Hyosung a CEP offset to NV. For a further discussion of our LOT analysis for Hyosung, please see Memorandum from Thomas Martin, International Trade Compliance Analyst, to Thomas F. Futtner, Acting Office Director, "Level of Trade Analysis: Hyosung D & P Co., Ltd. and Western Diamond Tools Inc.," dated December 20, 2005.

#### *D. Cost of Production Analysis*

Based on our analysis of the petitioner's allegations, we found that there were reasonable grounds to believe or suspect that Ehwa, Shinhan, and Hyosung's sales of DSB in the HM were made at prices below their respective COP. Accordingly, pursuant to section 773(b) of the Act, we initiated sales-below-cost investigations to determine whether Shinhan, Ehwa and Hyosung's sales were made at prices below their respective COPs. See the Ehwa Cost Memorandum, the Shinhan Cost Memorandum, and the Hyosung Cost Memorandum.

##### *1. Calculation of COP*

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for SG&A, and interest expenses. See "Test of Home Market Sales Prices" section below for treatment of HM selling expenses. We relied on the COP data submitted by Ehwa, Shinhan, and Hyosung except for an adjustment made to Shinhan's reported general and administrative (G&A) expenses and interest expenses. Specifically, we deducted "Loss on Disposal of Accounts Receivable," which is reported as a non-operating expense on Shinhan's financial statement from Shinhan's G&A calculation. For further details regarding these adjustments, please see the Memorandum from Nancy Decker, Case Accountant, to Neal M. Halper, Director of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination - Shinhan" dated December 20, 2005.

##### *2. Test of Home Market Sales Prices*

On a product-specific basis, we compared the adjusted weighted-average COP to the HM sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable billing adjustments, movement charges, and

direct and indirect selling expenses. In determining whether to disregard HM sales made at prices less than its COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's sales of a given product during the POI are at prices less than the COP, we determine that the below-cost sales represent substantial quantities within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

Our cost test revealed that more than twenty percent of Ehwa, Shinhan, and Hyosung's HM sales of certain products were made at below-cost prices during the reporting period. Therefore, we disregarded those below-cost sales while retaining the above-cost sales for our analysis. Where there were no sales of any comparable product at prices above the COP, we used CV as the basis for determining NV.

### E. Calculation of Normal Value Based on Comparison Market Prices

#### Ehwa

For Ehwa, we calculated NV based on ex-factory prices to unaffiliated customers. We reduced the HM starting price for rebates in accordance with 19 CFR 351.401(c). In addition, we reduced the starting price for inland freight pursuant to section 773(a)(6)(B) of the Act. In accordance with 19 CFR 351.401(c), we increased the starting price for interest revenue and adjusted for billing adjustments and discounts. We also made circumstances of sale (COS) adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted HM packing costs from, and added U.S. packing costs to, the

starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

#### Shinhan

We based NV for Shinhan on prices to unaffiliated customers. We reduced the HM starting price for rebates in accordance with 19 CFR 351.401(c). In addition, we reduced the starting price for inland freight pursuant to section 773(a)(6)(B) of the Act. In accordance with 19 CFR 351.401(c), we increased the starting price for interest revenue and adjusted for billing adjustments and discounts. We also made COS adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted HM packing costs from, and added U.S. packing costs to, the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

#### Hyosung

We based NV for Hyosung on prices to unaffiliated customers. We reduced the HM starting price for rebates in accordance with 19 CFR 351.401(c). In addition, we reduced the starting price for inland freight pursuant to section 773(a)(6)(B) of the Act. We also made COS adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted HM packing costs from, and added U.S. packing costs to, the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

### Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

### Critical Circumstances

On November 21, 2005, the petitioner alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of diamond sawblades and parts thereof from Korea. In accordance with 19 CFR 351.206(c)(2)(i), because the petitioner submitted its critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances

exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported 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 (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during a "relatively short period" of time may be considered "massive." Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the above statutory criteria have been satisfied, we examined: (1) the evidence presented in the petitioner's submission of November 21, 2005, and (2) additional information obtained from Ehwa, Shinhan, and Hyosung.

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. *See Preliminary Determination of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (Nov. 27, 2000). With regard to imports of DSB from Korea, the petitioner makes no specific mention of a history of dumping for Korea. As we are not aware of any antidumping order in any country on diamond sawblades and parts thereof from Korea, the Department does not



find a history of injurious dumping of the subject merchandise from Korea pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported 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 in accordance with section 733(e)(1)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for EP sales, or 15 percent or more for CEP transactions, sufficient to impute knowledge of dumping. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (October 19, 2001). In determining whether an importer knew or should have known that there was likely to be material injury caused by reason of such imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports. *See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61964 (November 20, 1997).

In the instant case, the respondents reported both EP and CEP sales. The preliminary dumping margins calculated for Ehwa, Shinhan, and Hyosung's EP sales are below 25 percent, while the preliminary dumping margins for Ehwa, Shinhan, and Hyosung's CEP sales are below 15 percent. *See Memorandum* from Mark J. Manning, Acting Program Manager, to Thomas F. Futtner, Acting Office Director, "Preliminary Negative Determination of Critical Circumstances," dated December 20, 2005 (Critical Circumstances Memorandum). As the preliminary margins are below the level we use to impute knowledge of sales at LTFV, we find that Ehwa, Shinhan, and Hyosung do not satisfy section 733(e)(1)(A)(ii) of the Act.

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 733(e)(1)(B) of the Act, the Department normally compares the import volume of the subject merchandise for three months immediately preceding the filing of the petition (*i.e.*, the base

period), and three months following the filing of the petition (*i.e.*, the comparison period). However, as stated in section 351.206(i) of the Department's regulations, if the Secretary finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

In this case, the petitioner asserts that it was well known in the industry that a coalition was formed to file a petition, and that certain respondents were in contact with the petitioner regarding the petition status. However, in its November 21, 2005, submission, the petitioner submitted no evidence or documentation to support this assertion. For this reason, we find that importers, exporters, or producers of diamond sawblades from Korea had knowledge that a proceeding was likely as of May 3, 2005, the date of the filing of the petition. On November 22, 2005, the Department requested from Ehwa, Shinhan, and Hyosung monthly shipment data for January 2002 through October 2005 (the most recently completed month for which the respondents have shipment data). In determining whether imports were massive, we selected a five-month period as the basis of our comparison. Specifically, we compared the volume of shipments reported by each respondent from May 2005 through September 2005 (the comparison period) to the volume of shipments by that respondent during December 2004 through April 2005 (the base period). We found that Ehwa's shipments increased by more than 15 percent, while shipment's from Shinhan and Hyosung did not. *See Critical Circumstances Memorandum* at 5 and Attachment 1. Since imports were massive from Ehwa, we find that Ehwa satisfies section 733(e)(1)(B) of the Act while Shinhan and Hyosung do not.

With respect to the companies covered by the "all others" rate, it is the Department's normal practice to conduct its critical circumstances analysis of companies in the "all others" group based on the experience of investigated companies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737, 9741 (March 4, 1997) (*Rebar from Turkey*) (the Department found that

critical circumstances existed for the majority of the companies investigated, and therefore concluded that critical circumstances also existed for companies covered by the "all others" rate). However, the Department does not automatically extend an affirmative critical circumstances determination to companies covered by the "all others" rate. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan*, 64 FR 30574 (June 8, 1999) (*Stainless Steel from Japan*). Instead, the Department considers the usual critical circumstances criteria with respect to the companies covered by the "all others" rate. Consistent with *Stainless Steel from Japan*, the Department has, in this case, applied the usual critical circumstances criteria to the "all others" category for the antidumping investigations of diamond sawblades from Korea.

The dumping margin for the "all others" category in the instant case, 10.56 percent, does not exceed the 15 percent threshold necessary to impute knowledge of dumping for CEP sales, nor the 25 percent threshold for imputing knowledge of dumping for EP sales. Therefore, we find there is not a reasonable basis to impute, to importers, knowledge of dumping for the companies covered by the "all others" rate. Consequently, we find that knowledge of dumping does not exist with regard to the companies subject to the "all others" rate.

With respect to massive imports, two out of the three investigated companies did not have massive imports between the base period and comparison period. We compared the total shipments made by each of the three companies during the base period to the total shipments made by each company in the comparison period and found that the total shipments for the investigated companies did not increase by 15 percent. For this reason, we determine that there have been no massive imports of diamond sawblades from the "all others" category. *See Critical Circumstances Memorandum* at page 6 and Attachment 1.

Given the analysis summarized above, and described in more detail in the Critical Circumstances Memorandum, we preliminarily determine that critical circumstances do not exist for imports of diamond sawblades and parts thereof from Korea for Ehwa, Shinhan, Hyosung, or the companies covered by the "all others" rate. We will make a final determination concerning critical circumstances for all producers and exporters of subject merchandise from

Korea when we make our final dumping determination in this investigation.

**Verification**

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

**Suspension of Liquidation**

In accordance with section 733(e)(2)(A) of the Act, we are directing CBP to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal**

**Register**. These suspension of liquidation instructions will remain in effect until further notice.

We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds CEP, as indicated in the chart below. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage	Critical Circumstances
Ehwa Diamond Industrial Co., Ltd. ....	11.25	Negative
Hyosung Diamond Industrial Co. ....	6.15	Negative
Shinhan Diamond Industrial Co., Ltd. ....	11.25	Negative
All Others .....	10.56	Negative

The “All Others” rate is calculated exclusive of all *de minimis* margins and margins based entirely on adverse facts available.

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports materially injure, or threaten material injury to, the U.S. industry.

**Disclosure**

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Public Comment**

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should

confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party’s name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 20, 2005.

**Joseph Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-8091 Filed 12-28-05; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**University of Vermont, et al., Notice of Consolidated Decision on Applications, for Duty-Free Entry of Electron Microscopes**

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW, Washington, D.C.

*Docket Number:* 05-045. Applicant: University of Vermont, School of Medicine, Burlington, VT 05401. Instrument: Electron Microscope, Model Morgagni 268. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 70 FR 71465, November 29, 2005. Order Date: December 29, 2004.

*Docket Number:* 05-048. Applicant: Purdue University, West Lafayette, IN 47907. Instrument: Electron Microscope, Model Nova 200 NanoLab. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 70 FR 72609, December 6, 2005. Order Date: December 17, 2004.

*Docket Number:* 05-045. Applicant: Purdue University, West Lafayette, IN 47907. Instrument: Electron Microscope, Model Technai G<sup>2</sup> F30 S-TWIN. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 70 FR 72609, December 6, 2005. Order Date: December 22, 2004.

*Docket Number:* 05-050. Applicant: Ohio State University, Columbus, OH 43210. Instrument: Electron Microscope, Model Titan F30 S-TWIN. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 70 FR 72609, December 6, 2005. Order Date: April 14, 2005.

*Docket Number:* 05-051. Applicant: The Rockefeller University, New York, NY 10021. Instrument: Electron Microscope, Model Technai G<sup>2</sup> 12 Spirit Bio Twin. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 70 FR 72609. Order Date: April 13, 2005.

*Comments:* None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument provides a conventional