

preliminary results are based, and a description of any action proposed based on those results in accordance with 19 CFR 351.221(b)(4) and 19 CFR 351.221(c)(3)(i). Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of the review. The Department will issue its final results of review within 270 days after the date on which the changed circumstances review is initiated, in accordance with 19 CFR 351.216(e), and will publish these results in the **Federal Register**.

The current requirement for a cash deposit of estimated antidumping duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

This notice is in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.221 of the Department's regulations.

Dated: April 3, 2006.

**David M. Spooner**,  
Assistant Secretary for Import  
Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-580-834)

#### **Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review**

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

**SUMMARY:** In response to a request by Allegheny Ludlum Corporation, AK Steel Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Armco Independent Organization, Inc., and the United Steelworkers (collectively "the petitioners"), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (SSSSC) from the Republic of Korea (Korea). This review covers five producers/exporters of the subject merchandise to the United States. This is the sixth period of review (POR), covering July 1, 2004, through June 30, 2005.

We have preliminarily determined that the sole company participating in this review, DaiYang Metal Co., Ltd. (DMC), has made sales below normal

value (NV). In addition, we preliminarily determine that adverse facts available (AFA) should be applied to the remaining four companies (Boorim Corporation (Boorim), Dae Kyung Corporation (Dae Kyung), Dine Trading Co., Ltd. (Dine), and Dosko Co., Ltd. (Dosko)) for the POR because they declined to participate in this administrative review. If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

In addition, we have preliminarily determined to rescind the review with respect to the following companies because these companies had no shipments of subject merchandise during the POR: BNG Steel Co. (BNG), Hyundai Corporation (Hyundai), NIC International Co., Ltd. (NIC), Pohang Iron and Steel Co., Ltd. (POSCO), Samkyung Corporation (Samkyung), Sammi Corporation (Sammi), Samwon Precision Metals Co., Ltd. (Samwon), and Sun Woo Tech Company (Sun Woo).

We invite interested parties to comment on these preliminary results. Parties who wish to submit comments in this proceeding are requested to submit with each argument: (1) a statement of the issue; and (2) a brief summary of the argument.

**EFFECTIVE DATE:** April 10, 2006.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin or Brianne Riker, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-0656 or (202) 482-0629, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On July 1, 2005, the Department published in the **Federal Register** a notice of "Opportunity To Request Administrative Review" of the antidumping duty order on SSSSC from Korea (70 FR 38099).

In accordance with 19 CFR 351.213(b)(1), on July 29, 2005, the Department received a request from the petitioners to conduct an administrative review for the following 13 producers/exporters of SSSSC: BNG, Boorim, Dae Kyung, Dine, DMC, Dosko, Hyundai, NIC, POSCO, Samkyung, Sammi, Samwon, and Sun Woo.

In August 2005, the Department initiated an administrative review and issued questionnaires to each of these companies. See *Initiation of*

*Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (Aug. 29, 2005).

In August, September, and October 2005, the following companies informed the Department that they had no shipments or entries of subject merchandise during the POR: BNG, Hyundai, NIC, POSCO, Samkyung, Sammi, Samwon, and Sun Woo. We reviewed CBP data and confirmed that there were no entries of subject merchandise from any of these companies. See "Partial Rescission of Review," below, for further discussion. Consequently, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are preliminarily rescinding our review for BNG, Hyundai, NIC, POSCO, Samkyung, Sammi, Samwon, and Sun Woo. However, we note that Boorim, Dae Kyung, Dine, and Dosko did not respond to the Department's questionnaire. For further discussion, see the "Application of Facts Available" section, below.

In October 2005, we received a response to sections A through C of the questionnaire (*i.e.*, the sections regarding sales to the home market and the United States) and section D of the questionnaire (*i.e.*, the section regarding cost of production (COP) and constructed value (CV)) from DMC.

In December 2005 and January 2006, we issued supplemental questionnaires to DMC. We received responses to these questionnaires in February 2006. In March 2006, we issued an additional supplemental questionnaire to DMC; we received DMC's response to this questionnaire on March 15, 2006.

##### **Scope of the Order**

The products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 millimeters in width and less than 4.75 millimeters in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071,

7219.1300.81,<sup>1</sup> 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: 1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; 2) sheet and strip that is cut to length; 3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 millimeters or more); 4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 millimeters); and 5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 millimeters and a thickness of 0.266 millimeters or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties, the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel is also excluded from the scope. Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product that is used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 millimeters, and with a mass of 225 kilograms or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of two millimeter depth. The material must exhibit residual stresses of two millimeters maximum deflection, and flatness of 1.6 millimeters over 685 millimeters length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than one percent, manganese of no more than one percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip

contains, by weight, 26 to 30 percent chromium, and seven to 10 percent cobalt, with the remainder of iron, in widths 228.6 millimeters or less, and a thickness between 0.127 and 1.270 millimeters. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."<sup>2</sup>

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1,390 degrees Celsius and displays a creep rupture limit of four kilograms per square millimeter at 1,000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."<sup>3</sup>

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and seven to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1,700 Mpa and ultimate tensile strengths as high as 1,750 Mpa after aging, with elongation percentages of 3 percent or less in 50 millimeters. It is generally provided in thicknesses between 0.635 and 0.787 millimeters, and in widths of 25.4 millimeters. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."<sup>4</sup>

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical

<sup>1</sup> Due to changes to the HTSUS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

<sup>2</sup> "Arnokrome III" is a trademark of the Arnold Engineering Company.

<sup>3</sup> "Gilphy 36" is a trademark of Imphy, S.A.

<sup>4</sup> "Durphynox 17" is a trademark of Imphy, S.A.

instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).<sup>5</sup> This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent, and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6."<sup>6</sup>

#### Period of Review

The POR is July 1, 2004, through June 30, 2005.

#### Partial Rescission of Review

As noted above, BNG, Hyundai, NIC, POSCO, Samkyoung, Sammi, Samwon, and Sun Woo informed the Department that they had no shipments of subject merchandise to the United States during the POR. We have confirmed this with CBP. See the November 9, 2005, memorandum to the file from Brianne Riker, entitled "Placing U.S. Customs and Border Protection Data on the Record of the 2004 - 2005 Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils from the Republic of Korea." Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are preliminarily rescinding our review with respect to

these companies. See, e.g., *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 70 FR 67665, 67666 (Nov. 8, 2005); *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part*, 69 FR 64731, 64732 (Nov. 8, 2004); and *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part*, 68 FR 53127, 53128 (Sept. 9, 2003).

#### Application of Facts Available

Section 776(a) of the Tariff Act of 1930, as amended (the Act), provides that the Department will apply "facts otherwise available" if, *inter alia*, necessary information is not available on the record or an interested party: 1) Withholds information that has been requested by the Department; 2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

As discussed in the "Background" section, above, on August 19, 2005, the Department requested that Boorim, Dae Kyung, Dine, and Dosko respond to the Department's antidumping duty questionnaire. The deadline to file a response was September 27, 2005. The Department did not receive a response from Boorim, Dae Kyung, Dine, or Dosko. On November 4, 2005, the Department placed a memorandum on the record with information regarding delivery confirmation of the questionnaires to each company. See the November 4, 2005, memorandum to the file from Brianne Riker entitled, "Placing Information on the Record of the 2004–2005 Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils from Korea." Thus, pursuant to sections 776(a)(2)(A) and (C) of the Act, because these companies did not respond to the Department's questionnaire, the Department preliminarily finds that the use of total facts available is appropriate.

#### Adverse Facts Available

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply

with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. See, e.g., *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (Sept. 13, 2005); see also *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (Aug. 30, 2002). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, Vol. 1, at 870 (1994) (SAA). Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997), and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003) (*Nippon*). We preliminarily find that Boorim, Dae Kyung, Dine, and Dosko did not act to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act, because they failed to respond to the Department's questionnaire. Therefore, an adverse inference is warranted in selecting facts otherwise available. See *Nippon*, 337 F.3d at 1382–83.

Section 776(b) of the Act provides that the Department may use as AFA, information derived from: 1) The petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record.

The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (Feb. 23, 1998). Additionally, the Department's practice has been to assign the highest margin determined for any party in the less-than-fair-value (LTFV) investigation or in any administrative review of a specific order to respondents who have failed to cooperate with the Department.

<sup>5</sup> This list of uses is illustrative and provided for descriptive purposes only.

<sup>6</sup> "GIN4 Mo," "GIN5," and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

See, e.g., *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897, 54898 (Sept. 19, 2005).

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, we have preliminarily assigned a rate of 58.79 percent, which was the rate alleged in the petition, as adjusted at the initiation of the LTFV investigation. This rate was assigned in a previous segment of this proceeding and is the highest rate determined for any respondent in any segment of this proceeding. See *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from the Republic of Korea; and Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 66 FR 45279 (Aug. 28, 2001) (*Amended LTFV Final Determination*). The Department finds that this rate is sufficiently high as to effectuate the purpose of the facts available rule (i.e., we find that this rate is high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act).

Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Department's regulations provide that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See 19 CFR 351.308(d) and SAA at 870. To the extent practicable, the Department will examine the reliability and relevance of the information to be used. Unlike other types of information, such as input costs or selling expenses, there are no independent sources from which the Department can derive dumping margins. The only source for dumping margins is administrative determinations. In the LTFV investigation in this proceeding, the Department found that the petition rate was reliable. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from South Korea*, 64 FR 137, 146 (Jan. 4, 1999), upheld in the *Amended LTFV Final Determination*.

With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether

there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin. See, e.g., *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest margin as AFA because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). Therefore, we examined whether any information on the record would discredit the selected rate as reasonable facts available. To do so, we conducted research in an attempt to find data that might help inform the Department's corroboration analysis. We did not find any information that would discredit the selected AFA rate. See the April 3, 2006, memorandum to the file from Brianne Riker entitled,

"Research for Corroboration for the Preliminary Results in the 2004 - 2005 Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils from the Republic of Korea." We did observe, however, that the AFA margin selected fell within the range of transaction-specific margins calculated for DMC. Since we did not find evidence indicating that the margin used as facts available in this proceeding is not appropriate, we have determined that the 58.79 percent margin calculated in the LTFV investigation is appropriate as AFA and are assigning this rate to Boorim, Dae Kyung, Dine, and Dosko. This is consistent with section 776(b) of the Act which states that adverse inferences may include reliance on information derived from the petition.

#### Comparisons to Normal Value

To determine whether DMC's sales of subject merchandise from Korea to the United States were made at less than NV, we compared the constructed export price (CEP) to the NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual CEP transactions.

#### Product Comparisons

In accordance with section 771(16) of the Act, we first attempted to compare products produced by the same company and sold in the U.S. and home markets that were identical with respect to the following characteristics: grade,

hot- or cold-rolled, gauge, surface finish, metallic coating, non-metallic coating, width, temper, and edge. Where there were no home market sales of foreign like product that were identical in these respects to the merchandise sold in the United States, we compared U.S. products with the most similar merchandise sold in the home market based on the characteristics listed above, in that order of priority.

#### Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. DMC reported that it made all sales of subject merchandise to the United States through its wholly owned subsidiary in the United States, Ocean Metal Corporation (OMC). Consequently, it classified all of its U.S. sales as CEP sales. We based our calculations on CEP, in accordance with sections 772(b)-(d) of the Act.

We calculated CEP based on packed prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight from the plant to the port of export, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight from the port to the warehouse, U.S. inland freight from the warehouse to the unaffiliated customer, and U.S. brokerage and handling. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (i.e., imputed credit, commissions, banking expenses, and domestic banking fees) and indirect selling expenses, including inventory carrying costs and other indirect selling expenses. In addition, we increased CEP by an amount equal to the countervailing duty (CVD) rate attributed to export subsidies in the most recently completed segment of the CVD proceeding in which DMC participated (i.e., the investigation), in accordance with section 772(c)(1)(C) of the Act.

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 DMC and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales. We recalculated indirect selling expenses incurred in Korea for U.S. sales by deducting certain expenses which DMC incurred only for home market sales. We allocated the remaining expenses over total worldwide sales because we find that DMC incurred these expenses to support its general selling activities without regard to a particular market. For further details regarding these adjustments, see the April 3, 2006, memorandum to the file from Brianne Riker entitled, "Calculations Performed for DaiYang Metal Co., Ltd. for the Preliminary Results in the 2004–2005 Antidumping Duty Administrative Review on Stainless Steel Sheet and Strip in Coils from the Republic of Korea" ("DMC Prelim Calc Memo").

## Normal Value

### A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of DMC's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that DMC had a viable home market during the POR. Consequently, we based NV on home market sales.

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

DMC made sales of SSSSC to affiliated parties in the home market during the POR. Consequently, we tested these sales to ensure that they were made at "arm's-length" prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, we compared the unit prices of sales to affiliated and unaffiliated customers net of all discounts, movement charges, direct selling expenses, and packing expenses. Where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade (LOT), we determined that the sales made to the affiliated party were at arm's length. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of*

*Trade*, 67 FR 69186, 69187 (Nov. 15, 2002).

### C. Cost of Production Analysis

Pursuant to section 773(b)(2)(A)(ii) of the Act, there were reasonable grounds to believe or suspect that DMC had made home market sales at prices below its COP in this review because the Department had disregarded sales that failed the cost test for DMC in the most recently completed segment of this proceeding in which DMC participated (*i.e.*, the 2000–2001 administrative review). See *Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 68 FR 6713, 6715 (Feb. 10, 2003). As a result, the Department initiated an investigation to determine whether DMC had made home market sales during the POR at prices below its COP.

#### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of DMC's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses. See the "Test of Home Market Sales Prices" section below for treatment of home market selling expenses.

We relied on the COP data submitted by DMC in its questionnaire response, except for the following instances where the information was not appropriately quantified or valued:

1. We disallowed the gain on equity method and miscellaneous gain as offsets to the G&A expense rate calculation.
2. We made an adjustment to the reported G&A expense rate to exclude packing expenses and include scrap by-product revenue offsets in the denominator of this calculation.
3. We made an adjustment to the reported interest expense rate calculation to: 1) disallow the interest income deduction; and 2) exclude packing expenses and include scrap by-product revenue offsets in the denominator of this calculation.

For further details regarding these adjustments, see the April 3, 2006, memorandum from Michael Harrison, Senior Accountant, to Neal M. Halper, Director of Accounting, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - DaiYang Metal Co. Ltd."

We have requested additional information from DMC related to the offsets claimed for its G&A and interest calculations. We intend to consider this information for purposes of our final results. In addition, we note that in a submission dated March 20, 2006, the petitioners requested that the Department collect certain data on DMC's purchases from its suppliers of hot-rolled coil in order to examine DMC's relationships with its suppliers. However, the petitioners provided no evidence in this submission that suggests that DMC has reported its data inappropriately. As a result, we have not pursued this matter further.

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

We compared the weighted-average COP figures to home market prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to home market prices, less any applicable discounts, movement charges, selling expenses, and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: 1) in substantial quantities within an extended period of time; and 2) at prices which permitted the recovery of all costs within a reasonable period of time. See sections 773(b)(2)(B)-(D) of the Act.

#### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that model were made in "substantial quantities" within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we disregarded these below-cost sales for DMC and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### D. Level of Trade

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 export price (EP) or 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 and profit. For EP, the U.S. LOT is also the LOT of the starting-price sale, which is usually from exporter to importer. For CEP, it is the LOT of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP 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 LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs 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, 61732–33 (Nov. 19, 1997).

In implementing these principles in this administrative review, we obtained information from DMC regarding the marketing stages for its reported U.S. and home market sales, including a description of the selling activities performed by DMC for each channel of distribution. In identifying LOTs for CEP, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). Generally, if the reported LOTs are the same in the home and U.S. markets, the functions and activities of the seller should be similar. Conversely, if a party reports LOTs that are different for different categories of sales, the functions and activities should be dissimilar.

In both the U.S. and home markets, DMC reported one LOT. DMC stated

that it sold through two channels of distribution in the home market: 1) directly to affiliated and unaffiliated manufacturers; and 2) directly to unaffiliated distributors/end users. In the U.S. market, DMC made sales through its U.S. affiliate/subsidiary, OMC, which re-sold the merchandise to unaffiliated U.S. customers. DMC stated that its home market sales are not made at the same LOT as its U.S. sales.

For home market sales, DMC reported the following selling activities: sales forecasting, strategic/economic planning, personnel training/exchange, engineering service, sales promotion, procurement/sourcing service, inventory maintenance, order input/processing, providing direct sales personnel, sales/marketing support, and market research. Because DMC's selling activities did not vary by channels of distribution, we preliminarily determine that there is one LOT in the home market.

Regarding its sales to OMC, DMC reported that it performed the following selling activities: sales forecasting, strategic/economic forecasting, engineering service, order input/processing, providing direct sales personnel, and providing freight and delivery services. Further, we find that, based on DMC's narrative descriptions of its selling practices and functions, DMC performed personnel training/exchange, procurement and sourcing services, and inventory maintenance for its sales to OMC.<sup>7</sup> Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

These selling activities can be generally grouped into four core selling function categories for analysis: 1) Sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these core selling functions, we find that DMC

<sup>7</sup> DMC states that procurement and sourcing services include purchasing materials, labor, and other cost items for production. We find that because these services relate to the production of all of DMC's merchandise, this function is performed for sales that DMC makes to OMC. Further, DMC states that personnel training and exchanges include providing internal and external training opportunities for employees to enhance their sales skills. Therefore, we also find that this selling activity is performed for DMC's sales to OMC because DMC's sales personnel make export sales as well as domestic sales. Finally, regarding inventory maintenance, DMC stated in the narrative portion of the October 27, 2005, Section A response and the March 15, 2006, supplemental response that when OMC places an order with DMC, DMC personnel check the inventory to determine whether the product is in stock. Therefore, we find that DMC performs inventory maintenance for sales to OMC.

performed sales and marketing and inventory maintenance and warehousing services in both markets, including sales forecasting, strategic/economic planning, personnel training/exchange, procurement and sourcing services, engineering services, order input/processing, provision of direct sales personnel, and inventory maintenance. Additionally, for its sales to OMC, we find that DMC performed freight and delivery services. Finally, we find that warranty and technical support services are not performed in either market.

DMC also provided information to indicate whether each reported selling activity was performed to a low, medium, or high degree. DMC indicated that the selling activities that were performed in the home market only (*i.e.*, sales promotion, sales/marketing support, and market research) were all performed to a low degree. Furthermore, DMC indicated that the only activity performed for sales to OMC and not for domestic sales, freight and delivery services (including inland freight and domestic brokerage and handling), was performed to a high degree.

We evaluated the core selling function categories in the U.S. and home market LOTs and found them to be similar with respect to sales and marketing, inventory maintenance, and warranty and technical support. Although freight services were provided for U.S. sales to OMC and not home market sales, we did not find this to be a material selling function distinction significant enough to warrant a separate LOT. Therefore, after analyzing the selling functions performed in each market, we find that the distinctions in selling functions are not material and thus, that the home market and U.S. LOTs are the same. Accordingly, we determine that no LOT adjustment is warranted or possible for DMC. Regarding the CEP-offset provision, as described above, it is appropriate only if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability. Because we find that no difference in LOTs exists, we do not find that a CEP offset is warranted for DMC.

#### E. Calculation of Normal Value

Regarding home market date of sale, DMC reported the tax invoice date. Because this date occurred after the date of shipment in certain cases, we followed our normal practice of using the earlier of the sale invoice date or date of shipment as the date of sale for all home market sales. See *Allied Tube*

and *Conduit Corp. v. United States*, 127 F.Supp.2d 207 (CIT 2000); *Allied Tube and Conduit Corp. v. United States*, 132 F.Supp.2d 1087 (CIT 2001); see also *Honey from Argentina: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 621, 622 (Jan. 6, 2004), unchanged in *Honey from Argentina: Final Results of Antidumping Duty Administrative Review*, 69 FR 30283 (May 27, 2004); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan*, 64 FR 30574, 30587 (June 8, 1999); and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Belgium*, 64 FR 15476, 15481–82 (Mar. 31, 1999).

For those product comparisons for which there were sales at prices above the COP, we based NV on the home market prices to unaffiliated customers and those affiliated customers which passed the arm's-length test. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise. See 19 CFR 351.411(b).

Furthermore, we made deductions from the reported gross unit price for discounts, where applicable. Pursuant to section 773(a)(6)(c)(iii) of the Act, we also made deductions from the starting price for home market credit expenses, where applicable. We disallowed credit expenses for certain home market customers for which DMC reported a credit period well in excess of a year, especially in light of the fact that DMC reported early payment discounts for certain of these customers. We have solicited additional information regarding these credit periods and will consider it for the final results. For further details, see the "DMC Prelim Calc Memo." In accordance with 19 CFR 351.410(e), where applicable, we offset any commission paid on a U.S. sale by reducing the NV by the amount of home market indirect selling expenses, up to the amount of the U.S. commission. We recalculated home market indirect selling expenses by: 1) assigning to the home market certain expenses which DMC had incorrectly allocated to all markets; and 2) allocating the remaining expenses over total worldwide sales, because we find that DMC incurred these expenses to support its general selling activities without regard to a particular market. For further details regarding these adjustments, see the

"DMC Prelim Calc Memo." In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

#### Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415 based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

#### Preliminary Results of the Review

We preliminarily determine that the following margins exist for the period July 1, 2004, through June 30, 2005:

Manufacturer/Producer/Exporter	Margin Percentage
Boorim Corporation .....	58.79
Dae Kyung Corporation .....	58.79
DaiYang Metal Co., Ltd. ....	2.95
Dine Trading Co., Ltd ...	58.79
Dosko Co., Ltd. ....	58.79

#### Public Comment

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of publication. Any hearing, if requested, will be held two days after the date rebuttal briefs are filed. Pursuant to 19 CFR 351.309, interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any such written comments, within 120 days of publication of these preliminary results.

#### Assessment

Pursuant to section 351.212(b) of the Department's regulations, the Department calculates an assessment rate for each importer or customer of the subject merchandise. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review. Upon issuance of the final results of this administrative review, if any importer- or customer-specific assessment rates calculated in the final results are above *de minimis* (i.e., at or above 0.5 percent), see 19 CFR 351.106(c), the Department will instruct CBP to assess antidumping duties on

appropriate entries by applying the assessment rate to the entered value of the merchandise.

The Department clarified its "automatic assessment" regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States, as well as any companies for which we are rescinding the review based on claims of no shipments. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

#### Cash Deposit Requirements

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of SSSSC from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: 1) The cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except no cash deposit will be required if its weighted-average margin is *de minimis*, i.e., less than 0.5 percent); 2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original LTFV investigation or a previous review, the cash deposit rate will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; 3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 2.49 percent, the "all others" rate established in the LTFV investigation.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate

regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 3, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E6-5202 Filed 4-7-06; 8:45 am]

Billing Code: 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### **Consortium for Astro-Particle Research in Utah et al., Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments**

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 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC. Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 05-057. Applicant: Consortium for Astro-particle Research in Utah/University of Utah, Salt Lake City, Utah. Instrument: Fluorescent Telescope Array; with GroundScintillator, Laser Atmosphere Monitor and LAN Network.

Manufacturer: Various; Japan, UK. Intended use: See Notice at 71 FR 4895, January 30, 2006. Reasons: These instrument systems when deployed in Utah are capable of conducting a joint US-Japan led scientific project to measure the energy, pointing direction and chemical composition of ultra high energy cosmic rays using both the fluorescence technique, which uses large telescopes to observe fluorescent tracks from cosmic ray showers in the atmosphere and the secondary shower charged particle technique, which uses

ground-based light sensing photo-tubes and counters to measure the number and timing of particle arrivals. Results obtained by these techniques can be cross correlated, compared and evaluated for developing more precise measurements and to provide information about likely celestial sources of the cosmic rays observed.

Docket Number: 05-059. Applicant: College of Staten Island, Staten Island, NY. Instrument: Plasma System. Manufacturer: Diener Electronic GmbH & Co., KG, Germany. Intended Use: See Notice at 71 FR 10649, March 2, 2006. Reasons: The foreign article is a compatible, (sole source) accessory for existing instrumentation for materials research. It consists of a plasma type microwave generator with a glass chamber for conducting semiconductor processing procedures. It can be used to develop and study:

1. Nanotechnology with focused ion beams, including electronic properties of carbon nanowires direct written with nano-scaled ion beams on carbonaceous substrates
  2. Micro- and nano-scale light emitting diodes on diamond, with the aim to develop single molecule and single photon electrically driven light sources operating at room temperature
  3. High-pressure, high-temperature diamond anvil cells with internally heated anvils for hydrothermal and shear stress experiments.
- The instrument will also be used in courses on materials science. These instruments are pertinent to each applicant's needs and we know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

[FR Doc. E6-5193 Filed 4-7-06; 8:45 am]

Billing Code: 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### **University of Puerto Rico at Mayaguez, 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 p.m. in Suite 4100W, Franklin Court Building, U.S.

Department of Commerce, 1099 14th Street, NW., Washington, DC. Docket Number: 06-002. Applicant: University of Puerto Rico at Mayaguez. Instrument: Electron Microscope, Model JEM-2010. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 71 FR 10650, March 2, 2006. Order Date: 2/11/05.

Docket Number: 06-003. Applicant: Oklahoma State University, Stillwater, OK. Instrument: Electron Microscope, Model JEM-2100F. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 71 FR 10650, March 2, 2006. Order Date: 12/13/05.

Docket Number: 06-004. Applicant: University of North Texas. Instrument: Electron Microscope, Model Technai G<sup>2</sup> F20 S-TWIN. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 71 FR 10650, March 2, 2006. Order Date: 8/4/04.

Docket Number: 06-005. Applicant: University of Maryland, College Park, MD. Instrument: Electron Microscope, Model JEM-2100F. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 71 FR 10650, March 2, 2005. Order Date: 4/13/05.

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 is an electron microscope and is intended for research or scientific educational uses. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument OR at the time of receipt of application by U.S. Customs and Border Protection.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### **Applications for Duty-Free Entry of Scientific Instruments**

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), we invite comments on the question of whether instruments of equivalent scientific value, for the