

antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 3, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

#### Appendix—Issues in Decision Memo

##### Comments

1. Interest Rate Used to Calculate Home Market Credit
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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-841]

#### Preliminary Results of Antidumping Duty Administrative Review: Structural Steel Beams From the Republic of Korea

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

**ACTION:** Notice of the preliminary results of antidumping duty administrative review.

**SUMMARY:** In response to a request from the Committee for Fair Beam Imports, Nucor Corp., Nucor-Yamato Steel Co., TXI-Chaparral Steel Co., ("Petitioners"), INI Steel Company ("INI"), and Dongkuk Steel Mill Co., Ltd. ("DSM"), the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on structural steel beams ("SSB") from the Republic of Korea. This review covers INI and DSM, manufacturers and exporters of the subject merchandise. The period of review ("POR") is August 1, 2001 through July 31, 2002.

We preliminarily determined that INI has sold subject merchandise at less than normal value ("NV") during the POR. However, we preliminarily determine that DSM has not sold subject merchandise at less than NV. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Bureau of Customs and Border Protection ("Customs") to assess antidumping duties on entries of INI's merchandise during the POR for which the importer-specific assessment rates are above *de minimis*, in accordance with the Department's regulations (19 CFR 351.106 and 351.212(b)). The preliminary results are listed below in the section titled "Preliminary Results of Review."

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

**EFFECTIVE DATE:** September 9, 2003.

**FOR FURTHER INFORMATION CONTACT:** Aishe Allen (DSM) or Michael Holton (INI), Enforcement Group III—Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0172 and (202) 482-1324, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 18, 2000, the Department published in the **Federal Register** the antidumping duty order on structural steel beams from the Republic of Korea. *See Notice Amended Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from South Korea*, 65 FR 50501 (August 18, 2000). On August 6, 2002, we published in the **Federal Register** a notice for antidumping or countervailing duty order, finding, or suspended

investigation; opportunity to request administrative review on structural steel beams from the Republic of Korea covering the period August 1, 2001 through July 31, 2002. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 67 FR 50856 (August 6, 2002).

On August 30, 2002, respondent DSM, a Korean producer of subject merchandise, requested a review of its sales of subject merchandise during the POR in accordance with 19 CFR 351.213(b)(1). On August 30, 2002, petitioners and INI, in separate requests, requested that the Department conduct an administrative review of INI for the period of August 1, 2001 to July 31, 2002. On September 25, 2002, the Department published a notice of initiation of this antidumping duty administrative review for the period of August 1, 2001 through July 31, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews* 67 FR 60210 (September 25, 2002).

#### DSM

On September 30, 2002, the Department issued a questionnaire to DSM. DSM submitted its Section A questionnaire response on November 4, 2002. On November 13, 2002, DSM submitted its Sections B and C questionnaire responses.

On November 14, 2002, Petitioners submitted comments regarding sales below cost of production for DSM and requested that DSM respond to section D of the Department's September 30, 2002 questionnaire. On November 18, 2002, the Department informed petitioners that it would need to file a sales below cost allegation for the Department to consider whether DSM sold below its cost of production during the POR. On December 6, 2002, petitioners submitted an allegation that the home market sales submitted by DSM in its November 13, 2002, section B response were below its cost of production.

On December 20, 2002, the Department issued a supplemental questionnaire covering DSM's November 4, 2002 section A response. On January 13, 2003, DSM submitted its section A supplemental response to the Department's December 20, 2002 supplemental questionnaire.

On January 21, 2003, the Department initiated a sales below cost of production inquiry, and on January 22, 2003, requested DSM to respond to section D of the questionnaire.

On February 4, 2003, DSM requested that the Department allow it to report cost of production and constructed value information based on DSM's fiscal accounting period, which is based upon the calendar year (January 1 to December 31). On February 7, 2003, the Department issued a questionnaire to DSM requesting why it should not report its cost of production and constructed value data based on a fiscal year basis instead of the POR. On February 13, 2003, DSM submitted additional information regarding its cost reporting period. See *DSM's February 13, 2003 submission* at 2. Based on DSM's submission, the Department granted DSM's request that it be allowed to report its cost based on a twelve-month period that includes the second half of its 2001 fiscal year (July 1 to December 31, 2001) and the first half of its 2002 fiscal year (January 1 to June 30, 2002). See Memorandum to the File dated February 17, 2003.

On February 19, 2003, DSM submitted its Section D questionnaire response. On February 26, 2003, the Department issued a supplemental questionnaire covering DSM's section B response. On March 7, 2003, the Department issued a supplemental questionnaire covering DSM's November 4, 2002 Section C response. On March 24, 2003, the Department issued a supplemental questionnaire covering DSM's February 19, 2003 section D response. Also, on March 24, 2002, DSM submitted its section B response to the Department's February 26, 2002 supplemental questionnaire. On April 4, 2003, DSM submitted its section C response to the Department's March 7, 2003 supplemental questionnaire. On April 11, 2003, the Department issued a second supplemental questionnaire covering DSM's January 13, 2003 Section A response.

On April 21, 2003, DSM submitted its section D response to the Department's March 24, 2003 supplemental questionnaire. On May 6, 2003, DSM submitted its section A response to the Department's April 11, 2003 second supplemental questionnaire. On May 20, 2003, the Department issued a second supplemental questionnaire covering DSM's Section B response. On June 5, 2003, the Department issued a second supplemental questionnaire covering DSM's Section C response. On June 11, 2003, DSM submitted its section B response to the Department's May 20, 2003 second supplemental questionnaire. On June 24, 2003, DSM submitted its section C response to the Department's June 5, 2003 second supplemental questionnaire.

On June 26, 2003, the Department issued a second supplemental questionnaire covering DSM's Section D response. On July 8, 2003, DSM submitted its section D response to the Department's June 26, 2003 second supplemental questionnaire. On August 11, 2003, the Department determined that DSM and the Korean trading company it used were actually affiliated companies during the POR. See *Analysis of the Affiliation Dongkuk Steel Company* section below and *Antidumping Duty Administrative Review on Structural Steel Beams from South Korea for the Review Period of August 1, 2001 through July 31, 2002; Analysis of the Affiliation for Dongkuk Steel Mill Company, Ltd.*, from Aishe Allen through Robert Bolling to Edward Yang, dated August 11, 2003 ("*Affiliation Memorandum*").

#### INI

On September 25, 2002, the Department issued its antidumping questionnaire to INI. On November 4, 2002, INI reported that it made sales of subject merchandise to the United States during the POR in its response to Section A of the Department's questionnaire. On November 26, 2002, INI submitted its response to Sections B, C, and D of the Department's questionnaire. On March 14 and 19, 2003, the Department issued supplemental Sections A through C and Section D questionnaires, respectively. INI submitted its response to the Sections A through D supplemental questionnaires on April 11, 2003. On May 28, 2003, the Department issued its second supplemental questionnaires for Sections A through C. On May 30, 2003, the Department issued a third supplemental questionnaire for Section B. On June 9, 2003, INI submitted its response to the Sections A through D second supplemental questionnaires. On June 6, 2003, the Department issued a second supplemental Section D questionnaire. On June 13, 2003, INI submitted its response to the Department's second Section D supplemental questionnaire. On June 13, 2003, the Department issued a third supplemental questionnaire for Sections B through D to INI. On June 18, 2003, INI submitted its response to the third supplemental questionnaire for Sections B through D.

On April 17, 2003, due to the reasons set forth in the *Structural Steel Beams From Korea: Extension of Time Limit for Preliminary results of Antidumping Duty Administration Review*, 68 FR 18947 (April 17, 2003), the Department extended the due date for the preliminary results. In accordance with

section 751(a)(3)(A) of the Act, the Department extended the due date for the notice of preliminary results 120 days, from the original due date of May 3, 2003, to August 31, 2002. See *Structural Steel Beams From Korea: Extension of Time Limit for Preliminary results of Antidumping Duty Administration Review*, 68 FR 18947 (April 17, 2003).

The Department is conducting this administrative review in accordance with section 751 of the Act.

#### Verification

As provided in section 782(i) of the Act, the Department verified sales information of INI on June 23 through July 21, 2003, sales information of DSM from July 21 through July 25, 2003, and sales information of DSM's United States affiliate Dongkuk International, Inc. ("DKA"), July 29 through July 31, 2003, using standard verification procedures, including an examination of relevant sales, financial and production records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports and are on file in the Central Records Unit ("CRU") located in room 1870 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC.

#### Scope of the Review

The products covered by this investigation are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products, are outside and/or specifically excluded from the scope of this investigation: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060,

7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subheadings are provided for convenience and Customs (as of March 1, 2003, renamed the U.S. Bureau of Customs and Border Protection) purposes, the written description of the merchandise under investigation is dispositive.

#### Product Comparison

In accordance with section 771(16) of the Act, we considered all SSB produced by DSM and INI covered by the description in the "Scope of Review" section of this notice, *supra*, which were sold in the home market during the POR, to be the foreign like product for the purpose of determining appropriate product comparisons to SSB products sold in the United States. In making the product comparisons, we matched products based on the physical characteristics reported by DSM and INI as follows (listed in order of preference): hot formed or cold formed, shape/size (section depth), strength/grade, whether or not coated. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the antidumping duty questionnaire and instructions, or to constructed value ("CV"), as appropriate.

#### Affiliation

In order to complete the dumping calculation, the Department must determine whether the Korean trading company that DSM sold subject merchandise through is affiliated. DSM reported that it sold subject merchandise during the POR to an unaffiliated Korean trading company and reseller of the subject merchandise, which, in turn, resold the subject merchandise to DKA, an affiliated U.S. importer. As discussed below, the Department preliminarily determines that the Korean trading company is affiliated with DSM.

Information submitted on the record by DSM in its original Section A response indicates that DSM was not affiliated with the Korean trading company during the POR. In the Section A response, DSM reported that in January of 2001, it sold all of its ownership interest in the Korean trading company and was, therefore, no longer affiliated. See DSM's November 4, 2002, Section A questionnaire response. On April 7, 2003, petitioners requested that the Department investigate DSM's

continuing relationship with the Korean trading company, based on familial ownership in both companies. In response to the Department's April 11, 2003 second supplemental Section A questionnaire, DSM submitted information which demonstrated that there was a familial relationship between itself and the Korean trading company during the POR. See DSM's May 5, 2003 second supplemental Section A response. The information submitted on May 5, 2003, suggested that there was the requisite amount of control for affiliation between DSM and the Korean trading company. Based on record evidence, the Department has determined that DSM and the Korean trading company were affiliated during the POR, according to section 771(33)(A) and (F) of the Act. Due to the proprietary nature of this information and for a complete discussion of this issue, please see the *Affiliation Memorandum*.

#### Sales Outside the Ordinary Course of Trade

On February 12, 2003, Petitioners alleged that INI made sales outside the ordinary course of trade ("OCT") during the POR. Petitioners alleged that all of INI's home market sales of non-Korean specification ("non-KS") SSBs are outside the OCT based on total volume sold, the customer base, price per shipment and profitability of sales, and should be excluded from the home market database in the margin calculation. Additionally, Petitioners claim that all non-KS sales are overruns. Further, Petitioners stated that if the Department decided not to exclude all of INI's non-KS merchandise, then Petitioners have alleged that certain non-KS home market sales are aberrational and outside the OCT, and should be excluded from the home market database in the calculation of the margin. The Department has determined, based on record evidence, that certain INI home market sales are outside the OCT, and thus have made changes to INI's home market sales database. However, due to the proprietary nature of this information and for a complete discussion of this issue, please see the memorandum of *Analysis of Sales Outside the Ordinary Course of Trade for INI Steel Company* from Stephen Bailey and Michael Holton to Edward Yang dated September 2, 2003 ("*OCT Memorandum*"); and *Analysis Memorandum for INI Steel Company for the Preliminary Results of the Administrative Review on Structural Steel Beams ("SSB") from Korea for the period August 1, 2001 through July 31,*

2002, September 2, 2003 ("*INI Analysis Memorandum*").

#### Fair Value Comparisons

To determine whether sales of subject merchandise made by DSM and INI to the United States were made at prices below NV, we compared the export price ("EP"), or the constructed export price ("CEP"), to the NV, as described below. Pursuant to section 777A(d)(2) of the Act, we compared the EPs and CEPs of individual U.S. transactions to the monthly weight-averaged NV of the foreign like product where there were sales at prices above the cost of production ("COP"), as discussed in the "Cost of Production Analysis" section below.

#### Export Price and Constructed Export Price

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 producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. . . ." as adjusted under subsection (c). Section 772(b) of the Act defines CEP as "the price at which the 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. . . ." as adjusted under subsections (c) and (d). For the purpose of this administrative review DSM classified all of its U.S. sales as CEP, and INI has classified its U.S. sales as either EP or CEP.

#### DSM

DSM identified one channel of distribution for its U.S. sales. For U.S. sales, DSM sold all subject merchandise to an affiliated trading company in Korea (see affiliation section above), the subject merchandise was then resold by the affiliated trading company in Korea to DSM's U.S. affiliate, DKA, and DKA then resold the subject merchandise to unaffiliated U.S. customers. DSM has reported these sales as CEP sales because the first sale to an unaffiliated party occurred in the United States. Therefore, we based our calculation on CEP, in accordance with subsections 772(b), (c), and (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 expenses (*i.e.*, loading and unloading charges, wharfage and lashing expenses, brokerage fees, and port renovation expenses), international freight, marine insurance, other U.S. transportation expenses (*i.e.*, U.S. wharfage, brokerage, and handling charges), and U.S. customs duty. Also, we made deductions for commissions for selling the subject merchandise in the United States in accordance with section 772(d)(1)(A) of the Act. Additionally, we made deductions for expenses that bear a direct relationship to the sale in the United States (*i.e.*, credit, and other direct selling expenses) pursuant to section 772(d)(1)(B). We added an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act. Further, in accordance with section 772(c)(1)(A) of the Act, we added packing expenses.

For CEP sales, we also made an adjustment for profit in accordance with section 772 (d)(3) of the Act. We deducted the profit allocated to expenses deducted under sections 772(d)(1) and 772(d)(2) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on total revenue realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total, expenses for both the U.S. and home markets.

We changed the U.S. indirect selling expense ratio to correspond to the information contained in the finalized version of DKA's audited financial statements. See *Analysis Memorandum for Dongkuk Steel Mill Company ("DSM") for the Preliminary Results of the Administrative Review on Structural Steel Beams ("SSB") from Korea for the period August 1, 2001 through July 31, 2002, September 2, 2003 ("DSM Analysis Memorandum")*; *Sales Verification of Dongkuk International ("DKA") in the Antidumping Administrative Review of Structural Steel Beams ("SSB") from Korea, August 28, 2003 ("DKA Verification Report")*.

Furthermore, we have included the selling and general administrative ("SG&A") expenses of the affiliated trading company in Korea (*see* section on affiliation above) in the calculation of U.S. net price because all of DSM's U.S. sales pass through the Korean trading company. To account for these

SG&A expenses, the Department used financial statements of the affiliated trading company in Korea. Additionally, DSM failed to account for bad debt, interest, currency difference, and loss of sale assets when calculating its indirect selling expense ratio for DKA. For a detailed explanation, *see DSM Analysis Memorandum*.

#### INI

For this administrative review, INI reported that it sold both EP and CEP sales. EP sales were sold by the producer, INI, to an unaffiliated customer in the United States. The Department has determined that the sales made between INI's U.S. affiliate, Hyundai USA Corporation ("Hyundai USA"), and the first unaffiliated customer in the United States are CEP sales.

Having determined certain sales as EP, we calculated the packed, delivered, tax and duty paid price 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 warehouse, foreign warehousing expenses, foreign inland freight from the warehouse to the port of export, foreign wharfage and lashing expenses, international freight, other U.S. transportation expenses (*i.e.*, U.S. brokerage charges), commissions, and U.S. customs duty. Additionally, we added to the U.S. price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act. Where applicable, we made adjustments to gross unit price for billing adjustments.

We calculated the price of INI's sales based on CEP in accordance with section 772(b) 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 warehouse, foreign warehousing expenses, foreign inland freight from the warehouse to the port of export, foreign wharfage and lashing expenses, international freight, other U.S. transportation expenses (*i.e.*, U.S. brokerage charges), and U.S. customs duty. Additionally, we added to the U.S. price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act. Where applicable, we made a deduction to gross unit price for other discounts. Also, in accordance with section 772(c)(2)(A) of the act, we deducted packing expenses. In accordance with section 772(d)(1) of the

Act, we deducted certain selling expenses (*i.e.*, imputed credit expenses and bank expenses) and indirect selling expenses.

For CEP sales, we also made an adjustment for profit in accordance with section 772 (d)(3) of the Act. We deducted the profit allocated to expenses deducted under sections 772(d)(1) and 772(d)(2) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on total revenue realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and home markets.

For both EP and CEP sales, we made certain changes to INI's packing expenses based on pre-verification corrections. See *INI Steel Company Home Market Sales and United States Sales Verification Report; Antidumping Duty Administrative Review on Structural Steel Beams from Korea, dated August 20, 2003 ("INI Verification Report")*.

#### Normal Value

After testing home market viability, we calculated NV as noted in the "Price-to-CV Comparisons" and "Price-to-Price Comparisons" sections of this notice.

##### 1. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was 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 greater than or equal to five percent of the aggregate volume of U.S. sales), we compared DSM and INI's volume of home market sales of the foreign like product to the volume of each of their U.S. sales of subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because both DSM and INI's aggregate volume of home market sales of the foreign like product were greater than five percent of their aggregate volume of U.S. sales for the subject merchandise, we determined that sales in the home market provide a viable basis for calculating NV. We therefore based NV on home market sales to unaffiliated purchasers made in the usual commercial quantities and in the ordinary course of trade.

For NV, we used the prices at which the foreign like product was first sold for consumption in Korea, in the usual commercial quantities, in the ordinary

course of trade, and, to the extent possible, at the same level of trade ("LOT") as the EP or CEP as appropriate. After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-Constructed Value Price Comparisons" sections of this notice.

### 2. Arm's-Length Test

INI reported that it made sales in the home market to affiliated and unaffiliated end users and unaffiliated distributors. Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all billing adjustments, movement charges, direct selling expenses, discounts and packing. Where prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated party, we determined that sales made to the affiliated party were made at arm's length. See 19 CFR 351.403(c).<sup>1</sup> Where no affiliated customer ratio could be calculated because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's length and, therefore, excluded them from our analysis. See e.g., *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made comparisons to the next most similar model. Certain of INI's affiliated home market customer(s) did not pass the arm's length test. We did not consider the downstream sales from these customers to the first unaffiliated customer because INI's affiliated home market customers further manufactured the subject merchandise into merchandise outside of the scope of the order.

### 3. Cost of Production Analysis

#### DSM

Based on the information contained in a timely filed cost allegation by the petitioners on December 6, 2002, the Department found reasonable grounds

to believe or suspect that DSM's sales of the foreign like product in their respective comparison market were made at prices below the cost of production, pursuant to section 773(b)(1) of the Act based on allegations made by petitioners in this case. See *Petitioners' Allegation of Sales Below Cost of December 6, 2002*. As a result, the Department initiated a sales below-cost investigation. See *Letter of Initiation of Sales Below Cost Investigation* dated January 22, 2003.

#### INI

Because the Department disregarded certain INI sales made in the home market at prices below the cost of producing the subject merchandise in the most recently completed segment of this proceeding and excluded such sales from normal value, the Department determined that there are reasonable grounds to believe or suspect that INI made sales in the home market at prices below the cost of producing the merchandise in this review. See *Structural Steel Beams From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 68 FR 2499 (January 17, 2003); and section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a cost of production inquiry in this case on September 30, 2002, to determine whether INI made home market sales during the POR at prices below their respective COPs within the meaning of section 773(b) of the Act.

#### A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of DSM and INI's respective costs of materials and fabrication for the foreign like product, plus amounts for home market SG&A, including interest expenses, and packing costs. The Department relied on the COP data submitted by DSM and INI in their original and supplemental cost questionnaire responses.

For the purpose of these preliminary results, we did not revise the COP information submitted by DSM or INI.

#### B. Test of Home Market Prices

We compared the weighted-average COP for DSM's and INI's home market sales 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. 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, in accordance with sections 773(b)(1)(A) and (B) of the Act. We compared the COP to home market prices, less any applicable billing adjustments, movement charges, discounts, and indirect selling expenses.

#### C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of DSM or INI's sales of a given product were, within an extended period of time, 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 DSM or INI's sales of a given product were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time, in accordance with sections 773(b)(2)(B) of the Act and 19 CFR 351.406(b). In such cases, because we used POR average costs, 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. We compared the COP for subject merchandise to the reported home market prices less any applicable movement charges. Based on this test, we disregarded below-cost sales. Where all sales of a specific product were at prices below the cost of production, we disregarded all sales of that product.

#### D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated DSM's and INI's CV based on the sum of their cost of materials, fabrication, SG&A, including interest expenses, and profit. We calculated the COPs included in the calculation of CV as noted above in the "Calculation of COP" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by DSM and INI in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

#### Price-to-Price Comparisons

#### DSM

For those product comparisons for which there were sales at prices above the COP, we based NV on the home

<sup>1</sup> Because this review was initiated before November 23, 2002, the 99.5 percent test applies to this review. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69197 (November 15, 2002).

market prices to unaffiliated purchasers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

We made adjustments, where applicable, for movement expenses (*i.e.*, inland freight from plant to customer) in accordance with section 773(a)(6)(B) of the Act. We made circumstance-of-sale adjustments for credit and other discounts, where appropriate in accordance with section 773(a)(6)(C) of the Act. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs. We also made adjustments, where applicable, for other discounts, indirect selling expenses and inventory carrying costs in accordance with section 773(a)(6)(C) of the Act. Finally, in accordance with section 773(a)(4) of the Act, where the Department was unable to determine NV on the basis of contemporaneous matches in accordance with 773(a)(1)(B)(i), we based NV on CV.

We made changes to the reported variable cost of manufacturing, total cost of manufacturing and home market inventory carrying costs to account for a change in grade that was reported as a minor correction to the home market database at the start of verification. See DSM Analysis Memorandum and DSM Verification Report at page 2.

#### INI

For those product comparisons for which there were sales at prices above the COP, we based NV on the home market prices to unaffiliated purchasers and those affiliated customer sales which passed the arm's length test. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

We made adjustments, where applicable, for movement expenses (*i.e.*, inland freight from plant to distribution warehouse, and inland freight from plant/distribution warehouse to customer) in accordance with section 773(a)(6)(B) of the Act. We made circumstance-of-sale adjustments for credit, warranty expense and interest revenue, where appropriate in accordance with section 773(a)(6)(C). In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs. Where applicable, we modified the gross unit price based on billing adjustments. Finally, in accordance with section 773(a)(4) of the Act, where the Department was unable to determine NV on the basis of contemporaneous

matches in accordance with 773(a)(1)(B)(i), we based NV on CV.

For these preliminary results, we excluded certain home market sales from INI's reported home market sales data in the calculation of NV based on these sales being outside the ordinary course of trade. See *OCT Memorandum and INI Analysis Memorandum*. We also made certain changes to INI's packing expenses based on pre-verification corrections. See ("*INI Verification Report*")

#### Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a home market match of identical or similar merchandise. We calculated CV based on DSM's and INI's costs of materials and fabrication employed in producing the subject merchandise, SG&A including interest, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expense and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in Korea. For selling expenses, we used the actual weighted-average home market selling expenses. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We deducted from CV the weighted-average home market direct selling expenses.

#### Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("*LOT*") as the CEP transaction. 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 SG&A expenses and profit. For EP, the LOT is also the level of the starting price sale, which is usually from the exporter to the importer. 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 EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. 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 differences in the levels between NV and CEP sales 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 Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In implementing these principles in this administrative review, we obtained information from INI about the marketing stages involved in its reported U.S. and home market sales, including a description of the selling activities performed for each channel of distribution. In identifying levels of trade 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 levels of trade 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 levels of trade that are different for different categories of sales, the functions and activities should be dissimilar.

#### DSM

In accordance with the principles discussed above, we examined information regarding DSM's distribution systems in both the United States and Korean markets, including selling functions, classes of customers, and selling expenses for DSM.

DSM claimed only one level of trade in the home market. See DSM's November 13, 2002 submission at page B–20. Additionally, DSM reported that it sold through two channels of distribution in the home market: directly to unaffiliated customers (distributors and end-users); and government entities. See DSM's November 13, 2002 submission at page B–9. DSM reported that it performs the following selling functions in the home market: market research, price negotiations, order processing, sales calls and demonstrations, customer interaction, inventory maintenance, warranty services, and freight and delivery arrangement. See DSM's November 4, 2002 submission at Exhibit 6. Because DSM performs the same selling functions for its two channels of distribution in the home market and identical selling functions are performed for all home market sales, we

preliminarily determine that there is one LOT in the home market.

DSM claimed one level of trade in the U.S. market because all of its U.S. sales are CEP sales made through its U.S. affiliate, DKA. See DSM's November 4, 2002 submission at page 12. DSM reported that it sold through one channel of distribution in the U.S. market, directly from its production facility to the unaffiliated U.S.

customer. However, on paper, the sales process is as follows: DSM sold the merchandise to an affiliated Korean trading company, which then resold the merchandise to its U.S. affiliate, DKA, which resold the merchandise to the unaffiliated U.S. customer. See DSM's November 13, 2002 submission at page C-9. We determined the LOT of DSM's CEP sales based on the CEP starting price, and adjusted for selling expenses identified in section 772(d) of the Act. We found that the selling functions (*i.e.*, price negotiations, order processing, sales calls and demonstrations, and international freight arrangement) DSM performs after the section 772(d) adjustments are the same for all of its U.S. sales. See DSM's November 4, 2002 submission at Exhibit 6. Therefore, we preliminarily determine that DSM has one LOT in the U.S. market based on its selling functions to the United States.

In order to determine whether NV was established at a different LOT than CEP sales, we examined stages in the marketing process and selling functions along the chains of distribution between (1) DSM and its home market customers and (2) DSM and its affiliated U.S. reseller, DKA, after deductions for expenses and profits. Specifically, we compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, after deductions for economic activities which occurred in the United States, pursuant to section 772(d) of the Act, to determine if the home market level of trade constituted a different level of trade than the CEP level of trade. DSM did not request a CEP offset. Nonetheless, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and Korean markets, including the selling functions, classes of customer, and selling expenses to determine whether a CEP offset was necessary. For CEP sales, we found that DSM provided many of the same selling functions and expenses for its sale to its affiliated U.S. reseller, DKA, as it provided for its home market sales, including: Price negotiation; order processing; sales calls and

demonstrations; warranty services; and freight arrangement. Based on our analysis of the channels of distribution and selling functions performed for sales in the home market and CEP sales in the U.S. market, we preliminarily find that there is not a significant difference in the selling functions performed in the home market and the U.S. market for CEP sales. Thus, we find that DSM's NV and CEP sales were made at the same LOT, and no LOT adjustment or CEP offset need be granted.

#### INI

To determine whether an LOT adjustment was necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and home markets, including the selling functions, classes of customer, and selling expenses.

In both the U.S. and home markets, INI reported one level of trade. See INI's November 26, 2002, Sections B-D response, at B-16 and C-16. INI sold through two channels of distribution in the home market: (1) Unaffiliated distributors; and (2) affiliated and unaffiliated end-users. INI claims to have sold through two channels of distribution in the U.S. market: (1) INI sales to unaffiliated U.S. customers; and (2) INI sales through Hyundai U.S.A., a wholly owned U.S. subsidiary of Hyundai Corporation (Hyundai Corporation is INI's affiliated trading company in South Korea), to unaffiliated customers.

For sales in home market channels one and two, INI performed all sales-related activities, including: Inventory maintenance; after sales services/warranty; freight and delivery arrangement; and credit. INI's home market sales in channels one and two were made from inventory. Because these selling functions are similar for both sales channels, we preliminarily determine that there is one LOT in the home market.

For sales in U.S. channels one and two, INI performed all sales-related activities, including: After sales services/warranty; freight and delivery arrangement; credit and import documents arrangement. Because these selling functions are similar for both sales channels, we preliminarily determine that there is one LOT in the U.S. market.

In order to determine whether NV was established at a different LOT than CEP sales, we examined stages in the marketing process and selling functions along the chains of distribution between

INI and its home market customers. We compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, after deductions for economic activities occurring in the United States, pursuant to section 772(d) of the Act, to determine if the home market levels of trade constituted more advanced stages of distribution than the CEP level of trade. In the present review, INI did not request a LOT adjustment or a CEP offset. To determine whether a CEP offset was necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and Korean markets, including the selling functions, classes of customer, and selling expenses.

Based on our analysis of the channels of distribution and selling functions performed for sales in the home market and CEP sales in the U.S. market, we preliminarily find that INI offered many of the same selling functions in both markets, including: After sales services/warranties; freight and delivery arrangement; and credit. Accordingly, we determine that there is not a significant difference in the selling functions performed in the home market and U.S. market and that these sales are made at the same LOT. Consequently, we preliminarily determine that a LOT adjustment or CEP offset is not warranted in this case. Furthermore, we find INI's NV and EP sales were made at the same LOT, and thus, no LOT adjustment need be granted.

#### Currency Conversion

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

#### Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weight-averaged dumping margin exists for the period August 1, 2001 through July 31, 2002:

#### STRUCTURAL STEEL BEAMS FROM KOREA

Producer/Manufacturer/Exporter	Weighted-average margin %
DSM .....	0.04
INI .....	4.15

The Department will disclose calculations performed, within five days of publication of this notice, to the

parties to this proceeding in accordance with 19 CFR 351.224(b) of the Department's regulations. Any interested party may request a hearing within 30 days of publication. *See* 19 CFR 351.310(c) of the Department's regulations. Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii) of the Department's regulations. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. *See* 19 CFR 351.309(d) of the Department's regulations. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice, pursuant to 751(a)(3)(A) of the Act.

#### Assessment

Upon completion of this administrative review, the Department will determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with section 351.212(b)(1) of the Department's regulations, we will calculate exporter/importer specific assessment rates for merchandise subject to this review. The Department will issue appropriate assessment instructions directly to Customs within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct Customs to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importers' entries during the review period.

#### Cash Deposit

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results

of this administrative review, as provided in section 751(a)(1) of the Act: (1) The cash deposit rate for DSM and INI will be that established in the final results of this review; (2) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value ("LTFV") investigation, but the manufacturer is, the cash deposit rate will be the rate established in the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will continue to be the "all other" rate established in the LTFV investigation, which was 37.21 percent.

#### Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305, that continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 2, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-502]

#### Welded Carbon Steel Pipes and Tubes from India

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

**ACTION:** Notice of Rescission of Antidumping Duty New Shipper Review: Welded Carbon Steel Pipes and Tubes from India.

**EFFECTIVE DATE:** September 9, 2003.

**SUMMARY:** On July 3, 2003, the Department of Commerce published in the Federal Register a notice announcing the initiation of a new shipper review of the antidumping duty order on welded carbon steel pipes and tubes from India, covering the period May 1, 2002, through April 30, 2003. The review covered Surya Roshni, Ltd. On August 25, 2003, the request was withdrawn subsequent to the initiation of the new shipper review and, therefore, we are rescinding this review.

**FOR FURTHER INFORMATION CONTACT:** Minoos Hatten or Mark Ross at (202) 482-1690 and (202) 482-4794, respectively, AD/CVD Enforcement III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

The notice announcing the antidumping duty order on welded carbon steel pipes and tubes from India was published on May 12, 1986 (51 FR 17384). On May 30, 2002, we received a request for a new shipper review of the antidumping duty order on welded carbon steel pipes and tubes from India from Surya Roshni Ltd. (Surya). Pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d)(1), we initiated a new shipper review on July 3, 2003, for shipments of welded carbon steel pipes and tubes from India produced and exported by Surya (68 FR 39897). Surya withdrew its request for a new shipper review on August 25, 2003.

##### Rescission of New Shipper Review

Section 19 CFR 351.214(f)(1) provides that the Department of Commerce may rescind a new shipper review if the party that requested the review withdraws its request for review within sixty days of the date of publication of