

Reply Brief,” dated June 30, 2009. CP Kelco subsequently contacted officials at the Department and withdrew its request for a public hearing. See CP Kelco’s “Withdrawal of Hearing Request,” dated July 2, 2009. In lieu of a public hearing, counsel for respondent requested a meeting with Department officials. See the Memorandum to the File, titled “Administrative Review of the Antidumping Duty Order on Purified Carboxymethylcellulose from the Netherlands: Meeting with Counsel for Respondent,” dated July 15, 2009. The current deadline for the final results of this review is September 23, 2009.

#### Extension of Time Limits for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the final results of an administrative review within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 120 day time period for the final results to 180 days.

The Department has determined it is not practicable to complete this administrative review within the statutory time limit because the Department requires additional time to fully evaluate the comments put forth by CP Kelco, particularly the extensive comments concerning the nature of reported factoring expenses. Accordingly, the Department is extending the time limit for completion of the final results of this administrative review until no later than October 7, 2009, which is 134 days after the date on which the preliminary results of review were published.

This extension is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: September 18, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9-23115 Filed 9-23-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-836]

#### **Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Administrative Review in Part**

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

**SUMMARY:** On March 24, 2009, in response to a request from interested parties, the Department of Commerce (the Department) published a notice of initiation of the administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate (CTL plate) from the Republic of Korea (Korea). The review covers four manufacturers/exporters. The period of review is February 1, 2008, through January 31, 2009. We have preliminarily determined that sales have been made below normal value by certain companies subject to this review. We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument a statement of the issue and a brief summary of the argument.

**DATES:** *Effective Date:* September 24, 2009.

#### **FOR FURTHER INFORMATION CONTACT:**

Yang Jin Chun or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5760 and (202) 482-4477, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On February 10, 2000, the Department published in the **Federal Register** the antidumping duty order on CTL plate from Korea. See *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea*, 65 FR 6585 (February 10, 2000). On February 4, 2009, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on CTL plate from Korea. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity*

*To Request Administrative Review*, 74 FR 6013 (February 4, 2009). On February 27, 2009, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Dongkuk Steel Mill Co., Ltd. (DSM), requested that the Department review its sales of subject merchandise from Korea and Nucor Corporation, the domestic interested party in this review, requested that the Department review the sales of subject merchandise from Korea produced or exported by Daewoo International Corporation (Daewoo), Hyosung Corporation (Hyosung), Hyundai Mipo Dockyard Co., Ltd. (Hyundai Mipo), and JeongWoo Industrial Machine Co., Ltd. (JeongWoo), during the period of review. On March 24, 2009, in accordance with 19 CFR 351.221(c)(1)(i), the Department initiated the administrative review of the antidumping duty order on CTL plate from Korea produced and/or exported by DSM, Daewoo, Hyosung, Hyundai Mipo, and JeongWoo for the period of review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 12310, 12312 (March 24, 2009).

On April 1, 2009, for purposes of selecting respondents in this review, we released the data we obtained from U.S. Customs and Border Protection (CBP) on March 16, 2009, for this review to interested parties which have access to business-proprietary information under the Administrative Protective Order. See the April 1, 2009, memorandum to the File entitled “Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: CBP Data” (CBP Data Memo). On April 8, 2009, DSM withdrew its request that the Department review its sales of subject merchandise. On May 7, 2009, we issued a quantity-and-value questionnaire to Daewoo, Hyosung, Hyundai Mipo, and JeongWoo. See the May 12, 2009, memorandum to the File entitled “Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Release of Quantity-and-Value Questionnaire” (Q&V Release Memo). On June 5, 2009, we rescinded the review in part with respect to CTL plate from Korea produced and/or exported by DSM. See *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 27015 (June 5, 2009).

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

The products covered by the antidumping duty order are certain hot-rolled carbon-quality steel: (1) Universal

mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to length (not in coils) and without patterns in relief), of iron or non-alloy quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products included in the scope of the order are of rectangular, square, circular, or other shape and of rectangular or non-rectangular cross section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been “worked after rolling”)—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished, or coated with plastic or other non-metallic substances are included within the scope. Also, specifically included in the scope of the order are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products included in the scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of

series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

Imports of steel plate are currently classified in the HTSUS under subheadings 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.53.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00, 7225.40.30.50, 7225.40.70.00, 7225.50.60.00, 7225.99.00.90, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the order is dispositive.

#### Intent To Rescind in Part

In accordance with 19 CFR 351.213(d)(3), we will rescind an administrative review in part if we conclude that there were no exports of subject merchandise during the period of review. On May 20, 2009, Daewoo submitted a letter stating that it had no shipments of subject merchandise during the period of review. Daewoo's claim of no shipments is consistent with CBP data on the record of the review. *See* CBP Data Memo. Further, we have received no comments on Daewoo's May 20, 2009, submission. Because we preliminarily find that Daewoo had no shipments of subject merchandise during the period of review, we intend to rescind the administrative review with respect to Daewoo. If we continue to find at the time of our final results that Daewoo had no shipments of CTL plate from Korea, we will rescind the administrative review with respect to Daewoo.

#### Use of Adverse Facts Available

For the reasons discussed below, we determine that the use of adverse facts available is appropriate for the preliminary results with respect to Hyosung, Hyundai Mipo, and JeongWoo.

##### A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide

such information by the deadlines for submission of the information and in the form or manner requested, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall use facts otherwise available in reaching the applicable determination.

On May 7, 2009, we transmitted our questionnaire to Hyosung, Hyundai Mipo, and JeongWoo via Federal Express. We confirmed that Hyundai Mipo and JeongWoo signed for and received the questionnaire on May 11, 2009, and Hyosung signed for and received the questionnaire on May 12, 2009. *See* Q&V Release Memo. The due date for the responses to our questionnaire was May 18, 2009. The Department never received a response from Hyosung, Hyundai Mipo, or JeongWoo.

Because Hyosung, Hyundai Mipo, and JeongWoo did not provide their responses to the Department's questionnaire, Hyosung, Hyundai Mipo, and JeongWoo failed to provide any information to the Department within the meaning of section 776(a)(2) of the Act. As a result, we are unable to calculate margins for Hyosung, Hyundai Mipo, and JeongWoo and, therefore, must rely entirely on facts available.

##### B. Application of Adverse Inferences for Facts Available

In selecting among the facts otherwise available, section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party. In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. 1, 103d Cong. (1994), reprinted in 1994 U.S.C.C.A.N. 4040 (SAA), establishes that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” *See* SAA at 870. The SAA also instructs the Department to consider, in employing adverse inferences, “the extent to which a party may benefit from its own lack of cooperation.” *Id.* Moreover, “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).

We find that, by failing completely to respond to our questionnaire, Hyosung, Hyundai Mipo, and JeongWoo withheld requested information and thus failed to cooperate to the best of their abilities. Therefore, we find it appropriate to use an inference that is adverse to these companies' interests in selecting from among the facts otherwise available. By doing so, we ensure that these companies will not obtain a more favorable rate by failing to cooperate than had they cooperated fully.

#### C. Selection of Information Used as Facts Available

Where the Department applies an adverse facts-available rate because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c) and the SAA at 870.

For the preliminary results, we have selected 32.70 percent as the adverse facts-available dumping margin for Hyosung, Hyundai Mipo, and JeongWoo. This rate is the rate we assigned as adverse facts available to Tae Chang Steel Co., Ltd. (TC Steel), which failed to submit its response to our antidumping questionnaire in the administrative review of this proceeding for the period February 1, 2006, through January 31, 2007. See *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Administrative Review in Part*, 72 FR 65701, 65702–03 (November 23, 2007) (*CTL Plate from Korea 2006–07 Prelim*), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review in Part*, 73 FR 15132, 15133 (March 21, 2008) (*CTL Plate from Korea 2006–07 Final*) (collectively *CTL Plate from Korea 2006–07*). In *CTL Plate from Korea 2006–07*, the adverse facts-available rate of 32.70 percent which we assigned to TC Steel was the highest product-specific margin we had calculated based on data reported by a respondent. See *CTL Plate from Korea 2006–07 Prelim*, 72 FR at 65702–03, and *CTL Plate from Korea 2006–07 Final*, 73 FR at 15133. We have selected this rate because we have never reviewed Hyosung, Hyundai Mipo, and JeongWoo in a prior segment

of this proceeding and we do not have any additional information about these three companies. *Id.* Moreover, we believe this rate is sufficiently high to ensure that Hyosung, Hyundai Mipo, and JeongWoo do not obtain a more favorable result by failing to cooperate.

#### D. Corroboration of Information

Section 776(c) of the Act provides that, when the Department relies on secondary information as facts available, it must corroborate, to the extent practicable, that information from independent sources that are reasonably at its disposal. The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics, and customs data as well as information obtained from interested parties during the particular proceeding. *Id.*

To corroborate secondary information, to the extent practicable, the Department normally examines the reliability and relevance of the information to be used. See, e.g., *Ball Bearings and Parts Thereof from France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews and Intent to Rescind Reviews in Part*, 73 FR 25654, 25657 (May 7, 2008), unchanged in *Ball Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008) (collectively *AFBs 18*). Unlike other types of information such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only sources for antidumping duty margins are administrative determinations. Thus, with respect to an administrative review, if the Department chooses to use as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. See *AFBs 18* and *Antifriction Bearings and Parts Thereof from France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews, Partial Rescission of Administrative Reviews, Notice of Intent To Rescind Administrative Reviews, and Notice of Intent To Revoke Order in Part*, 69 FR 5949, 5953 (February 9, 2004), unchanged in *Antifriction Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative*

*Reviews in Part, and Determination To Revoke Order in Part*, 69 FR 55574, 55576–77 (September 15, 2004).

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996), the Department disregarded the highest margin in that case as best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited or judicially invalidated. See *D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (CAFC 1997).

In this review, there are no circumstances present to indicate that the selected margin is not appropriate as adverse facts available. Moreover, there is no information on the record of this review that demonstrates that 32.70 percent, which we assigned to TC Steel as an adverse facts-available rate in *CTL Plate from Korea 2006–07*, is not an appropriate adverse facts-available rate for Hyosung, Hyundai Mipo, and JeongWoo. Because there are no calculated margins for any other respondents in this administrative review, we examined transaction-specific margins from the administrative review of the antidumping duty order on CTL plate from Korea for the period February 1, 2007, through January 31, 2008, and we found a number of transaction-specific margins in our calculation for DSM which were higher than 32.70 percent. See the September XX, 2009, memorandum to the File entitled “Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Placement on Record” for details which contain DSM's business-proprietary information. With the information at our disposal for the corroboration of this adverse facts-available rate, we find that the rate of 32.70 percent is corroborated to the greatest extent practicable in accordance with section 776(c) of the Act.

Because we are making an adverse inference with regard to Hyosung, Hyundai Mipo, and JeongWoo based on the most recent information at our disposal, we preliminarily find that the

rate of 32.70 percent is a reasonable indication of the margins that Hyosung, Hyundai Mipo, and JeongWoo would have received on their U.S. transactions had they responded to our request for information. We preliminarily find that use of the rate of 32.70 percent as adverse facts available is sufficiently high to ensure that Hyosung, Hyundai Mipo, and JeongWoo do not benefit from failing to cooperate in our review by refusing to respond to our questionnaire. *See CTL Plate from Korea 2006–07 Final*, 73 FR at 15133.

#### Preliminary Results of the Review

As a result of our review, we preliminarily determine that the weighted-average dumping margins for CTL plate from Korea for the period February 1, 2008, through January 31, 2009, are as follows:

Company	Margin (percent)
Hyosung .....	32.70
Hyundai Mipo .....	32.70
JeongWoo .....	32.70

#### Disclosure and Public Comment

We will disclose the draft liquidation instructions to parties to this review within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the date of publication of this notice. *See* 19 CFR 351.310. Interested parties who wish to request a hearing or to participate in a hearing if a hearing is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain the following: (1) The party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed.

Issues raised in the hearing will be limited to those raised in the case briefs. *See* 19 CFR 351.310(c). Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of review. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. *See* 19 CFR 351.309(d)(1) and 19 CFR 351.310(c). Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. *See* 19 CFR 351.310(d). Parties who submit case briefs or rebuttal briefs in this proceeding are

requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited. *See* 19 CFR 351.309(c)(2). The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs, not later than 120 days after the date of publication of this notice. *See* section 751(a)(3)(A) of the Act.

#### Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. Because we are relying on total adverse facts available to establish the dumping margins for Hyosung, Hyundai Mipo, and JeongWoo, we intend to instruct CBP to apply a dumping margin of 32.70 percent to CTL plate from Korea that was produced and/or exported by Hyosung, Hyundai Mipo, and JeongWoo and entered, or withdrawn from warehouse, for consumption during the period of review.

The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of the final results of review.

#### Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of steel plate from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash-deposit rates for Hyosung, Hyundai Mipo, and JeongWoo will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value 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; (4) if neither the exporter nor the manufacturer has its own rate, the cash-deposit rate will be 0.98 percent,<sup>1</sup> the all-others rate established in the less-than-fair-value investigation, adjusted for the export-subsidy rate in the companion

<sup>1</sup> *See* the September XX, 2009, memorandum to the File entitled "Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: All-Others Cash-Deposit Rate" for details on the calculation of this rate.

countervailing duty investigation. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also 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 the period of review. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: September 18, 2009.

**Carole A. Showers,**

*Acting Deputy Assistant Secretary for Policy and Negotiations.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648–XR53

#### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

**AGENCY:** Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS).

**ACTION:** Notification of a proposal for an EFP to conduct exempted fishing; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the subject EFP application that was submitted by the Cornell Cooperative Extension of Suffolk County Marine Program (CCE) warrants further consideration and should be issued for public comment. The EFP would exempt participating vessels from summer flounder size restrictions and summer flounder mesh-size restrictions. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be