

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-834]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Korea

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

ACTION: Amended preliminary determination of antidumping duty investigation.

SUMMARY: On January 4, 1999, the Department of Commerce ("the Department") published the preliminary determination of its antidumping duty investigation of stainless steel sheet and strip in coils ("SSSS") from Korea. This investigation covers three respondents, Pohang Iron and Steel Co., Ltd. ("POSCO"), Taihan Electric Wire Co., Ltd. ("Taihan"), and Inchon Iron and Steel Co., Ltd. ("Inchon").

POSCO submitted a ministerial error allegation on December 28, 1998 with respect to the preliminary determination signed on December 17, 1998. Based on the correction of certain significant ministerial errors made in the preliminary determination, we are amending our preliminary determination. This amendment is in accordance with 19 CFR 351.224(e).

EFFECTIVE DATE: January 26, 1999.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-1398 (Dybczak) or (202) 482-3818 (Johnson).

SUPPLEMENTARY INFORMATION:**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to the regulations set forth at 19 CFR part 351 (1998).

Significant Ministerial Errors

Under 19 CFR 351.224, a significant ministerial error is defined as a correction which, by itself or in combination with other errors, (1) would result in a change of at least 5

absolute percentage points in, but not less than 25 percent of, the weighted average dumping margin calculated in the original (erroneous) preliminary determination; or (2) would result in a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa. We are amending the preliminary determination of sales at less than fair value for SSSS from Korea to reflect the correction of a significant ministerial error made in the margin calculations regarding POSCO in that determination, pursuant to 19 CFR 351.224(g)(1). We are publishing this amendment to the preliminary determination pursuant to 19 CFR 351.224(e).

Scope of the Investigation

For purposes of this investigation, 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 mm in width and less than 4.75 mm 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 investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05,

7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this investigation 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 mm 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 mm); 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 mm and a thickness of 0.266 mm 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 investigation. These excluded products are described below.

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, plus or minus 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 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

plus-or-minus 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 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this investigation. 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 1.0 percent, manganese of no more than 1.0 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 between 0.002 and 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 investigation. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. 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."¹

Certain electrical resistance alloy steel is also excluded from the scope of this investigation. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials ("ASTM") 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 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 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."²

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this investigation. This high-strength, ductile stainless steel product is designated under the Unified Numbering System ("UNS") as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 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 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."³

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this investigation. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).⁴ This steel is similar to ASTM grade 440F, 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 square micron. 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."⁵

Period of Investigation

The period of investigation ("POI") is April 1, 1997 through March 31, 1998.

Background

On December 17, 1998, the Department issued its notice of preliminary determination of the antidumping duty investigation of SSSS from Korea (*Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Korea* (64 FR 137 (January 4, 1999))). We preliminarily calculated a dumping margin of 12.35 percent based on POSCO's sales.

On December 28, 1998, POSCO submitted timely written allegations that the Department made a ministerial error which resulted in a change of at least 5 absolute percentage points in, but not less than 25 percent of, the weighted-average margin calculated in the preliminary determination. POSCO alleged that the Department erred by (1) failing to apply a weighted-average exchange rate in calculating normal value; (2) inadvertently excluding all of POSCO's sales to customers that had been affiliated only during a portion of the POI; and (3) failing to include deductions for inland freight transport to warehouse and the warehousing expenses in calculating normal value.

The Department preliminarily determined that the decline in the won at the end of 1997 was so precipitous and large that the dollar-won exchange rate cannot reasonably be viewed as having simply fluctuated during this time, i.e., as having experienced only a momentary drop in value. Therefore, in making this preliminary determination, the Department stated that it would use daily rates exclusively for currency conversion purposes for home market sales matched to U.S. sales occurring between November 1, 1997 and December 31, 1997, while applying a standard exchange rate model with a modified benchmark for January to February, 1998. However, in the final stages of the margin calculation program, the Department inadvertently used these "modified" daily rates instead of a weighted-average exchange rate. For a further discussion of this

² "Gilphy 36" is a trademark of Imphy, S.A.

³ "Durphynox 17" is a trademark of Imphy, S.A.

⁴ This list of uses is illustrative and provided for descriptive purposes only.

⁵ "GIN4 Mo", "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

¹ "Arnokrome III" is a trademark of the Arnold Engineering Company.

issue, see *Analysis of Alleged Ministerial Errors—Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Korea* (“Analysis Memo”), dated January 19, 1999.

With respect to sales made to unaffiliated parties during the POI, POSCO had made sales to unaffiliated parties that had previously been affiliated. In identifying and excluding sales to affiliated parties that had failed the “arm’s length test,” the margin calculation program did not differentiate between sales made before and after the companies were unaffiliated, and therefore, all sales to these companies were inadvertently excluded in the margin calculation program. See *Analysis Memo*. In addition, inland freight from plant to warehouse and warehousing expenses were also inadvertently excluded from the calculation of movement expense used to determine normal value. As both of these expenses are standard deductions to normal value, their exclusion was a clerical error on the part of the Department. For a further discussion of this issue, see *Analysis Memo*.

In conclusion, we agree with POSCO that we inadvertently used daily rates instead of a weighted-average exchange rate, that sales made to unaffiliated companies were erroneously excluded from the calculation of normal value, and that deductions for inland freight from plant to warehouse and warehousing expenses were inadvertently excluded from the calculation of normal value. Because these errors taken together constitute a significant ministerial error, as defined in 19 CFR 351.224(g), we are amending our preliminary determination. In accordance with this amendment, we will amend POSCO’s cash deposit rate from 12.59 to 3.92 percent, and the All Other’s rate from 12.59 to 3.92 percent. See “Suspension of Liquidation” section, below.

Amended Preliminary Determination

As a result of our correction of these ministerial errors, we have determined the following amended weighted-average dumping margins apply:

Manufacturer/exporter	Margin percentage
Inchon	0.00
POSCO	3.92
Taihan Electric Wire	58.79
All Others	3.92

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart above. We will also instruct the Customs Service not to require cash deposits for manufacturers/exporters with *de minimis* or zero margins. These suspension-of-liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we are notifying the U.S. International Trade Commission (“ITC”) of our amended determination. If our final determination is affirmative, the ITC will determine before July 6, 1999, whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 23, 1999, and rebuttal briefs, limited to issues raised in case briefs, no later than March 1, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held no later than March 3, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, no later than February 3, 1999. Requests should contain: (1) the party’s name, address, and telephone number; (2) the number of participants; and (3) a list of the

issues to be discussed. Oral presentations will be limited to issues raised in the briefs. We will make our final determination no later than May 19, 1999.

This amended preliminary determination and notice are in accordance with section 733(d)(2) of the Act and 19 CFR 351.224 of the Department’s regulations.

Dated: January 14, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

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

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98-043. Applicant: University of Pennsylvania, Philadelphia, PA 19104-6085. Instrument: Electron Microscope, Model JEM-1010. Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 63 FR 50211, September 21, 1998. Order Date: July 1, 1998.

Docket Number: 98-044. Applicant: University of North Dakota School of Medicine & Health Sciences, Grand Forks, ND 58202. Instrument: Electron Microscope, Model H-7500. Manufacturer: Hitachi, Japan. Intended Use: See notice at 63 FR 50211, September 21, 1998. Order Date: April 14, 1998.

Docket Number: 98-045. Applicant: The University of Texas Health Science Center at San Antonio, San Antonio, TX 78284-7750. Instrument: Electron Microscope, Model EM208S. Manufacturer: N.V. Philips, Czech Republic. Intended Use: See notice at 63 FR 50556, September 22, 1998. Order Date: July 9, 1998.

Docket Number: 98-048. Applicant: North Carolina State University, Raleigh, NC 27695. Instrument: Electron Microscope, Model JEM-2010F. Manufacturer: JEOL Ltd., Japan.