

intermediate consignee, ultimate consignee, or end-user.

5. *Five Violations of 15 CFR 764.2(a)—Engaging in Prohibited Conduct—Export Without Licenses:* On or about February 4, 1998, February 26, 1998, April 28, 1998, May 7, 1998, and June 8, 1998, Suntek exported detector log video amplifiers from the United States to the PRC without obtaining the BIS licenses required under Sections 742.4 and 742.5 of the Regulations.

6. *Five Violations of 15 CFR 764.2(e)—Acting with Knowledge—Exporting Without Licenses:* In connection with the five exports of detector log video amplifiers set forth in subparagraph 5. above, Suntek sold or transferred with knowledge that the licenses were required for the exports and that the required licenses were not obtained.

BIS and Suntek having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me; It is therefore ordered:

*First*, that a civil penalty of \$275,000 is assessed against Suntek, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

*Second*, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701–3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Suntek will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

*Third*, for a period 20 years from the date of entry of the Order, Suntek Microwave, Inc., 8698 Thornton Avenue, Newark, California 94560, its successors and assigns, and when acting for or on behalf of Suntek, its officers, representatives, agents, or employees (“Denied Person”) may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

*Fourth*, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

*Fifth*, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm corporation, or business organization related to a Denied Person by affiliation, ownership, control, or

position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

*Sixth*, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

*Seventh*, that, as authorized by Section 766.18(c) of the Regulations, the civil penalty set forth above shall be suspended in its entirety for one year from the date of this Order, and shall thereafter be waived, provided that during the period of suspension, Suntek has committed no violation of the Act or any regulation, order or license issued thereunder.

*Eighth*, that the charging letter, the Settlement Agreement, and this Order, in addition to the record of the case, shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 6th day of May 2004.

**Julie L. Myers,**

*Assistant Secretary of Commerce for Export Enforcement.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A–580–836)

#### **Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results and Rescission in Part of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of final results and rescission in part of antidumping duty administrative review.

**SUMMARY:** On November 6, 2003, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products (steel plate) from the Republic of Korea (Korea). The review covers steel plate exported to the United States by Dongkuk Steel Mill Co., Ltd. (DSM) during the period from February 1, 2002 through January 31, 2003. We provided interested parties with an opportunity to comment on the preliminary results of review. After analyzing the comments

received, we have made no changes in the margin calculation. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled, "Final Results of Review."

**EFFECTIVE DATE:** May 12, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen or Howard Smith, AD/CVD Enforcement, Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2769 or (202) 482-5193, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On November 6, 2003, the Department published in the *Federal Register* the preliminary results of the administrative review of the antidumping duty order on steel plate from Korea. See *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 68 FR 62770 (November 6, 2003) (*Preliminary Results*). In response to the Department's invitation to comment on the *Preliminary Results* of this review, DSM filed a case brief on December 8, 2003. No other interested party filed case or rebuttal briefs.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

### Scope of the Review

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 1,250 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 to be 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 this 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 to be included in this 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. The merchandise subject to the order is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090,

7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

### Period of Review

The period of review (POR) is February 1, 2002 through January 31, 2003.

### Rescission of Review

We preliminarily rescinded the review with respect to Korea Iron & Steel Co., Ltd. (KISCO) and Union Steel Manufacturing Co., Ltd. (Union) because they reported that they made no shipments of subject merchandise during the POR. The Department reviewed U.S. Customs and Border Protection (CBP) data, which supports the claims that these companies did not export subject merchandise during the POR. The record evidence demonstrates that KISCO and Union did not export subject merchandise during the POR. We received no comment on this issue. Therefore, in accordance with 19 C.F.R. § 351.213(d)(3) and consistent with Department's practice, we are rescinding this administrative review with respect to KISCO and Union.

### Section 201 Duties

In the *Preliminary Results*, the Department noted that it had not previously addressed the appropriateness of deducting section 201 duties from U.S. prices. Since the *Preliminary Results*, the Department has determined not to deduct 201 duties from U.S. prices in calculating dumping margins. The reasons for this decision are set forth in *Stainless Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 69 FR 19154 (April 12, 2004). Consistent with this decision, the Department has not deducted 201 duties from U.S. prices in calculating dumping margins for these final results.

### Analysis of Comments Received

All issues raised in the case brief submitted by DSM are addressed in the "Issues and Decision Memorandum" from Holly A. Kuga, Acting Deputy Assistant Secretary, to James J. Jochum, Assistant Secretary for Import Administration (*Issues and Decision Memorandum*). The *Issues and Decision Memorandum* is dated concurrently with this notice and is hereby adopted by this notice. A list of the issues which the parties have raised is attached to this notice as an appendix. Parties can

find a complete discussion of all issues raised in this administrative review, and the corresponding recommendations, in the *Issues and Decision Memorandum* which is on file in the Central Records Unit, room B-099 of the main Department of Commerce building. In addition, a complete version of the *Issues and Decision Memorandum* can be accessed directly on the Web at "http://ia.ita.doc.gov". The paper copy and the electronic version of the Issues and Decision Memorandum are identical in content.

#### Final Results of Review

We determine that the following weighted-average percentage margin exists for the period February 1, 2002 through January 31, 2003:

Exporter/Manufacturer	Margin (percent)
Dongkuk Steel Mill Co., Ltd. ....	0.85

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this 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 of this notice, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for DSM will be the rate shown above; (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 review 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 for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by any segment of this proceeding, the cash deposit rate will be the "all others" rate of 0.98 percent, which is the "all others" rate established in the LTFV investigation, adjusted for the export subsidy rate found in the countervailing duty investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Assessment

The Department will determine, and the CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 C.F.R.

§ 351.212(b)(1), the Department has calculated an importer-specific assessment rate for merchandise subject to this review. Where the importer-specific assessment rate is above *de minimis*, we will instruct the CBP to assess the calculated assessment rate against the entered customs values of the subject merchandise on each of the importer's entries during the POR. The Department will issue the appropriate assessment instructions directly to the CBP within 15 days of publication of these final results of review.

#### Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 C.F.R. § 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement may result in the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent increase in antidumping duties by the full amount of the antidumping and/or countervailing duties reimbursed.

#### Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 C.F.R. 351.305. 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 terms of an APO is a violation which is subject to sanction.

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

Dated: May 4, 2004.

**James J. Jochum,**  
Assistant Secretary for Import Administration.

#### Appendix Issues in Decision Memorandum

*Comment 1:* Whether Dongkuk Steel Mill Co., Ltd. and Dongkuk Industries Co., Ltd. are affiliated

*Comment 2:* Whether the Department of Commerce should grant Dongkuk Steel

Mill Co., Ltd. a constructed export price (CEP) offset

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

[I.D. 042304B]

#### Endangered and Threatened Species; Take of Anadromous Fish

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

**ACTION:** Notice of availability and request for comment.

**SUMMARY:** Notice is hereby given that NMFS has received an application for incidental take permit 1481 (Permit) from the Idaho Department of Fish and Game (IDFG) pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, IDFG's application includes a conservation plan (Plan) designed to minimize and mitigate any such take of endangered or threatened species. The Permit application is for the incidental take of ESA-listed adult and juvenile salmonids associated with otherwise lawful recreational fisheries on non-listed species in the Snake River and its tributaries in the State of Idaho. NMFS also announces the availability of a draft Environmental Assessment (EA) for the Permit modification application under the National Environmental Policy Act (NEPA). This document serves to notify the public of the availability for comment of the permit modification application and the associated draft EA before a final decision on whether to issue a Finding of No Significant Impact is made by NMFS. All comments received will become part of the public record and will be available for review pursuant to section 10(c) of the ESA.

**DATES:** Written comments on the draft EA must be received no later than 5 p.m. Pacific daylight time on May 27, 2004.

**ADDRESSES:** Written comments and requests for copies of the draft EA should be addressed to Herb Pollard, Salmon Recovery Division, 10215 W. Emerald, Suite 180, Boise, ID 83704, or faxed to (208) 378-5699. Comments on this draft EA may be submitted by e-mail. The mailbox address for providing e-mail comments is [Permit1481.nwr@noaa.gov](mailto:Permit1481.nwr@noaa.gov). Include in the subject line the following document