

Dated: August 31, 2004.

**Margaret J. Boland,**

*Designated Federal Official.*

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## DEPARTMENT OF AGRICULTURE

### National Agricultural Statistics Service

#### Advisory Committee on Agriculture Statistics

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Notice of renewal at USDA.

**SUMMARY:** The U.S. Department of Agriculture (USDA) has renewed the charter for the Advisory Committee for Agriculture Statistics. Effective October 1, 1996, responsibility for the census of agriculture program was transferred to the National Agricultural Statistics Service (NASS) at USDA from the Bureau of the Census, U.S. Department of Commerce. Effective February 2, 1997, NASS also received the transferred program positions and staff from the Bureau of the Census, U.S. Department of Commerce. Responsibility for the Advisory Committee on Agriculture Statistics, which is a discretionary committee, was transferred, along with its allocated slot, to USDA with the census of agriculture program.

The Advisory Committee on Agriculture Statistics has provided input and direction to the census of agriculture program since the committee was first established on July 16, 1962. It has been particularly critical to have the committee as a valuable resource to USDA during the transfer of the census from the U.S. Department of Commerce.

The purpose of the committee is to make recommendations on census of agriculture operations including questionnaire design and content, publicity, publication plans, and data dissemination.

**FOR FURTHER INFORMATION CONTACT:** R. Ronald Bosecker, Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720-2707.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act (5 U.S.C. appendix), notice is hereby given that the Secretary of Agriculture has renewed the charter for the Advisory Committee on Agriculture Statistics, hereafter referred to as Committee. The purpose of the Committee is to advise the Secretary of Agriculture on the conduct of the periodic censuses and surveys of

agriculture, other related surveys, and the types of agricultural information to obtain from respondents. The committee also prepares recommendations regarding the content of agriculture reports, and presents the views and needs for data of major suppliers and users of agriculture statistics.

The Secretary of Agriculture has determined that the work of the Committee is in the public interest and relevant to the duties of USDA. No other advisory committee or agency of USDA is performing the tasks that will be assigned to the Committee.

The Committee, appointed by the Secretary of Agriculture, shall consist of 25 members representing a broad range of disciplines and interests, including, but not limited to, agricultural economists, rural sociologists, farm policy analysts, educators, State agriculture representatives, and agriculture-related business and marketing experts.

Representatives of the Bureau of the Census, U.S. Department of Commerce, and Economic Research Service, USDA, serve as ex-officio members of the Committee.

The committee draws on the experience and expertise of its members to form a collective judgment concerning agriculture data collected and the statistics issued by NASS. This input is vital to keep current with shifting data needs in the rapidly changing agricultural environment and keep NASS informed of emerging developments and issues in the food and fiber sector that can affect agriculture statistics activities.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Signed at Washington, DC, August 27, 2004.

**R. Ronald Bosecker,**

*Administrator.*

[FR Doc. 04-20217 Filed 9-3-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-816]

#### Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review and Antidumping Duty New Shipper Review

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

**SUMMARY:** In response to requests from petitioners, the Department of Commerce (the Department) is conducting the tenth administrative review of the antidumping order on corrosion-resistant carbon steel flat products (CORE) from Korea.<sup>1</sup> This review covers three manufacturers and exporters of the subject merchandise: Union Steel Manufacturing Co., Ltd. (Union), Pohang Iron & Steel Company, Ltd. (POSCO), Pohang Coated Steel Co., Ltd. (POCOS), and Pohang Steel Industries Co., Ltd. (PSI) (collectively, the POSCO Group), and Dongbu Steel Corporation, Ltd. (Dongbu). The period of review (POR) is August 1, 2002, through July 31, 2003. In response to a request from Hyundai Hysco (HYSCO), the Department is also conducting a new-shipper review. The POR for the new-shipper review is August 1, 2002, through July 31, 2003.

We preliminarily determine that during the POR, Union, the POSCO Group, Dongbu, and HYSCO did not make sales of the subject merchandise at less than normal value (NV) (*i.e.*, sales were made at "zero" or *de minimis* dumping margins). If these preliminary results are adopted in the final results of this administrative review, we will instruct Customs and Border Protection (CBP) to liquidate appropriate entries without regard to antidumping duties. Furthermore, we rescinded the request for review of the antidumping order for SeAH Steel Corporation (SeAH) because neither SeAH nor its affiliates had exports or sales of subject merchandise to the United States during the POR. For more information, see *Corrosion-Resistant Carbon Steel Flat Products from Korea: Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 25059 (May 5, 2004) (*Partial Rescission of CORE*).

Interested parties are invited to comment on these preliminary results. Parties who submit comments in this segment of the proceeding should also submit with them: (1) a statement of the

<sup>1</sup> Petitioners are the International Steel Group.

issues and (2) a brief summary of the comments.

**EFFECTIVE DATE:** September 7, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Mark Young (Union), Carrie Farley (Dongbu), Lyman Armstrong (the POSCO Group), and Joy Zhang (HYSCO), AD/CVD Enforcement, Office III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6397, (202) 482-0395, (202) 482-3601, and (202) 482-1168, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On August 19, 1993, the Department published the antidumping order on CORE from Korea. See *Antidumping Duty Orders on Certain Cold-Rolled Carbon Steel Flat Products and Certain Corrosion-Resistant Carbon Steel Flat Products from Korea*, 58 FR 44159 (August 19, 1993) (*Orders on Certain Steel from Korea*). On August 1, 2003, we published in the **Federal Register** the notice of *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 45218. On August 29, 2003, petitioners requested reviews of the POSCO Group, SeAH, Dongbu, Dongshin Special Steel Co., Ltd. (Dongshin), and Union. The Department initiated these reviews on September 30, 2003. See, *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Review*, 68 FR 56262.

On August 29, 2003, HYSCO requested a new shipper review. On October 3, 2003, the Department initiated this review. See *Corrosion-Resistant Carbon Steel Flat Products from Korea: Initiation of New Shipper Antidumping Duty Review*, 68 FR 57423.

During the most recently completed segments of the proceeding in which SeAH, Dongbu, Union, and the POSCO Group participated, the Department found and disregarded sales that failed the cost test.<sup>2</sup> Pursuant to section 773(b)(2)(A)(ii) of the Tariff Act of 1930, as amended (the Act), we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of NV in this

review were made at prices below the cost of production (COP). Therefore, we instructed SeAH, Dongbu, Union, and the POSCO Group to fill out sections A-D of the initial questionnaire, which we issued on October 3, 2003.<sup>3</sup>

On January 2, 2004, petitioners alleged that HYSCO made sales of the foreign like product under consideration for the determination of NV in this review at prices below COP. On January 20, 2004, the Department rejected petitioners' COP allegation. See the Department's January 20, 2004, letter from the Department to petitioners, a public document on file in the Central Records Unit (CRU) room B099 in the main Commerce building. On January 22, 2004, petitioners submitted revised COP allegations. On February 3, 2004, HYSCO rebutted petitioners' COP allegation. On March 29, 2004, the Department initiated a COP investigation of HYSCO. See the Department's March 29, 2004, memorandum, the public version of which is available in the CRU. Therefore, we issued a section D questionnaire to HYSCO on April 5, 2004.

On March 4, 2004, the Department published an extension of preliminary results of the administrative review, extending the preliminary results until August 30, 2004.<sup>4</sup> See *Corrosion-Resistant Carbon Steel Flat Products from Korea: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 69 FR 10203.

On March 24, 2004, the Department published an extension of preliminary results of the new shipper review, extending the preliminary results until July 22, 2004. See *Corrosion-Resistant Carbon Steel Flat Products from Korea: Extension of Time Limit for the Preliminary Results of Antidumping Duty New Shipper Review*, 69 FR 13812. On April 15, 2004, the Department aligned the new shipper review with the current administrative review, further extending the preliminary results of the new shipper review until August 30, 2004. See *Memorandum to the File from Paul Walker, re: Request for Alignment of Annual and New Shipper Reviews*, a public document on file in the CRU.<sup>5</sup>

<sup>3</sup> Section A: Organization, Accounting Practices, Markets and Merchandise Section B: Comparison Market Sales

Section C: Sales to the United States  
Section D: Cost of Production and Constructed Value

<sup>4</sup> As a result of a typographical error, the Department published the extended preliminary signature date as September 1, 2004. The actual signature date is August 30, 2004.

<sup>5</sup> The memorandum states that September 1, 2004, is the new date for the preliminary results;

### SeAH

On May 5, 2004, the Department rescinded the review of SeAH because neither SeAH nor its affiliates had exports or sales of the subject merchandise to the United States during the POR. See *Partial Rescission of CORE*.

On June 22, 2004, the Department published a correction regarding its rescission of the review of SeAH. See *Corrosion-Resistant Carbon Steel Flat Products from Korea: Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 34646, in which the Department addressed a comment from petitioners that it inadvertently failed to address in the March 4, 2004, rescission notice. Upon review of petitioners' additional comment, the Department determined to continue to rescind the review of SeAH. *Id.* at 34647.

### Dongshin

On October 24, 2003, the Department confirmed that Dongshin received the initial questionnaire. See the October 24, 2003, memorandum to the file containing the shipping receipt indicating that Dongshin had received the initial questionnaire, a public document on file in the CRU. On November 7, 2003, the Department sent a letter to Dongshin inquiring whether it intended to respond to the Department's initial questionnaire. Dongshin failed to respond to the Department's attempts to contact it and failed to respond to the initial questionnaire.

### Dongbu

On November 10, 2003, Dongbu submitted its section A response. On December 5, 2003, Dongbu submitted its sections B through D response. On May 3, 2004, Dongbu submitted its supplemental questionnaire response for sections A through D. On August 6, 2004, Dongbu submitted an additional supplemental questionnaire response.

### Union

On November 10, 2003, Union submitted its section A response. On December 5, 2003, Union submitted its sections B through D response. On April 2, 2004, Union submitted its supplemental questionnaire response. On July 23 and July 30, 2004, Union submitted its second and third supplemental questionnaire responses, respectively.

however, the correct date for the preliminary results of the administrative and new shipper reviews is August 30, 2004.

<sup>2</sup> See *Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Steel Flat Products from Korea*, 67 FR 11976 (March 18, 2002) (7th Review of CORE from Korea).

### The POSCO Group

On November 19, 2003, the POSCO Group submitted its section A response. On December 12, 2003, the POSCO Group submitted its sections B through D response. On April 14, 2004, the POSCO Group submitted its supplemental questionnaire response for sections A through C. On May 17, 2004, the POSCO Group submitted its supplemental questionnaire response for section D.

### HYSCO

On November 21, 2003, HYSCO submitted its section A response and its importer questionnaire response. On December 12, 2003, HYSCO submitted its section B through D response. On January 16, 2004, HYSCO submitted its supplemental section A responses. On February 13, 2004, HYSCO submitted its supplemental questionnaire response for sections B and C. On April 23, 2004, HYSCO submitted questionnaire responses to sections A through D of the Department's questionnaire. On July 1, 2004, HYSCO submitted its 2003 consolidated and unconsolidated financial statements of Hyundai Pipe of America (HPA), HYSCO's U.S. affiliated company. On July 20, 2004, HYSCO submitted a supplemental questionnaire response to section D.

### Petitioners' Request for Revision to the Model Match Criteria

In their May 28, 2004, submission, petitioners requested that the Department refine its model match criteria to reflect the actual sales and pricing practices undertaken by Dongbu, Union, and POSCO during the POR. Petitioners claim that the Department's model match criteria currently is based on a design from the underlying investigation that no longer reflects the sales and pricing practices of the Korean respondents. Thus, petitioners request that the Department obtain the Korean respondents' actual product specifications—actual thickness, width, etc.—so that real product comparisons can be made rather than comparisons based on classifications provided by the companies.

In their June 7, 2004, submission, Dongbu and Union object to petitioners' request for revisions to the model match criteria. Dongbu and Union assert that their current internal pricing guidelines are the same as those used by the Department in the underlying investigation to establish the original matching criteria. They further argue that the Department's established policy dictates that it refrain from revising model match criteria absent evidence of

a change in the norms of the industry under review. The Korean respondents contend that the internal pricing guidelines on which petitioners' argument relies fail to constitute sufficient evidence of a change in industry norms.

The Department has determined not to alter the model match criteria in this segment of the proceeding. For further discussion of the this issue, see the August 27, 2004, memorandum from Eric B. Greynolds, Program Manager, Office of AD/CVD Enforcement III, to Melissa G. Skinner, Office Director, Office of AD/CVD Enforcement III, of which the public version is available in the CRU.

### Period of Review

The POR for these reviews is August 1, 2002, through July 31, 2003. These reviews cover entries from Dongshin, Dongbu, Union, the POSCO Group, and HYSCO.

### Scope of the Reviews

These reviews cover flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in these reviews are flat-rolled products of non-rectangular cross-section where such 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. Excluded from these reviews are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from these reviews are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from these reviews are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

These HTS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

### Verification

The Department is determining which of the three Korean respondents (Union, Dongbu, and the POSCO Group) involved in the administrative review it will verify. Further, in keeping with its current practice regarding new shipper reviews, the Department intends to verify the questionnaire responses submitted by HYSCO. All verifications undertaken in the administrative reviews and new shipper review will be conducted after the publication of the preliminary results. Parties will be given the opportunity to comment on the Department's verification findings in their case and rebuttal briefs.

### Use of Partial Facts Available

The Department has determined preliminarily that the use of partial facts available is appropriate for purposes of determining the preliminary dumping margin for subject merchandise sold by Union. Specifically, the Department has applied partial facts available for various expenses and adjustments with respect to the comparison margin program for Union. See Union's August 31, 2004, Preliminary Calculation Memorandum (Union's Preliminary Calculation Memorandum).

Section 776(a)(2) of the Act provides that "if an interested party or any other person (A) withholds information that

has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.”

In its section B–D response at section B, page 14, Union reported its inland freight charge for certain home market sales as “freight equalized” (*i.e.*, Union splits the freight charge with the customer based on a freight schedule). However, upon closer examination of the home market database and sample documentation submitted by Union, it appears that Union reported the entire freight amount, including the amount paid by the customer.

As long recognized by the Court of International Trade (CIT), the burden is on the respondent, not the Department, to create a complete and accurate record. *See Pistachio Group of Association Food Industries v. United States*, 641 F. Supp. 31, 39–40 (CIT 1987). In its narrative questionnaire response, Union indicated that the total inland freight amount, for certain home market sales, is allocated to the customer and Union based on a fee schedule that it provided. However, as noted above, it appears that in the home market database Union incurred the total cost of the inland freight. Therefore, in accordance with section 776(a)(2)(B) of the Act, we are applying partial facts otherwise available in calculating Union’s dumping margin. As facts available, the Department used the sample documentation that illustrates the freight split as provided in Exhibit 21 of Union’s April 2, 2004, submission as a basis for determining the freight paid by Union. *See Union’s Preliminary Calculation Memorandum.*

#### Use of Adverse Facts Available

In accordance with section 776(a)(2) of the Act, the Department has determined that the use of facts available is appropriate for purposes of determining the preliminary antidumping duty margins for the subject merchandise sold by Dongshin. Section 776(a)(2) of the Act provides: If an interested party (A) withholds

information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of

the information or in the form and the manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

Moreover, section 776(b) of the Act provides that:

If the administering authority 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 from the administering authority, the administering authority, in reaching the applicable determination under this subtitle, may use an inference that is adverse to the interests of the party in selecting from among the facts otherwise available.

As explained above in the “Background” section of these preliminary results, Dongshin, despite the Department’s repeated inquiries, failed to provide a response to the Department’s initial questionnaire. Therefore, we have determined that Dongshin’s failure to respond to the Department’s questionnaire warrants the use of facts otherwise available pursuant to sections 776(a)(2)(A) and (C) of the Act. Moreover, the Department finds that Dongshin failed to cooperate by not acting to the best of its ability by not submitting a questionnaire response; accordingly, the Department is using an inference that is adverse to Dongshin in the preliminary results pursuant to section 776(b) of the Act.

Section 776(c) of the Act provides that when the Department selects from among the facts otherwise available and relies on “secondary information,” the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department’s disposal. The Statement of Administrative Action (SAA) provides that “corroborate” means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d). However, unlike other types of information, such as input costs or selling expenses, there are no

independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it does not question the reliability of the margin for that time period. *See Grain-Oriented Electrical Steel from Italy: Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 36551, 36552 (July 11, 1996). With respect to the relevance aspect of corroboration, however, 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 Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company’s rate that was uncharacteristic of the industry, resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated); *see also F. Lii De Cecco di Filippo v. U.S.*, 216 F.3d 1027 (Fed. Cir. 2000). Accordingly, for Dongshin we have resorted to adverse facts available and have used the all others rate in effect for this order (17.70 percent)<sup>6</sup>, which is the highest margin upheld in

<sup>6</sup> The all others rate was a calculated rate based on the weighted-average margin for Pohang Iron and Steel, the sole respondent in the investigation of corrosion-resistant steel from Korea. *See Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Korea*, 58 FR 37176 (July 9, 1993); *see also Amendment of Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Korea*, 58 FR 41083 (August 2, 1993). The Department considered using the higher rate we calculated for Dongbu in the fifth administrative review of this proceeding; however, we found that rate to be inappropriate because it was based upon duty absorption. *See Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea*, 65 FR 24180 (April 25, 2000).

this proceeding, as the margin for these preliminary results because there is no evidence on the record indicating that such a margin is not appropriate as adverse facts available. See *Orders on Certain Steel from Korea*.

#### Transactions Reviewed for the POSCO Group

For these preliminary results, we have accepted the POSCO Group's reporting methodology for overruns and have excluded reported overrun sales in the home market from our sales comparisons because such sales were outside the ordinary course of trade.<sup>7</sup> This is consistent with the methodology we accepted in prior reviews. See, e.g., *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 47163, 47166 (September 11, 2001) (*Preliminary Results of the 7th Review of CORE from Korea*). Based on its questionnaire response, we have adopted the same approach with respect to overrun sales made by Union.

#### Affiliated Parties

For purposes of these reviews, we are treating POSCO, POCOS, and PSI as affiliated parties and have "collapsed" them, i.e., treated them as a single producer of CORE, within the meaning of 19 CFR 351.401(f)(1). We refer to the collapsed respondent as the POSCO Group. We note that the POSCO Group was treated as collapsed in the most recently completed segment of this proceeding. See *Preliminary Results of the 7th Review of CORE from Korea*, 66 FR at 47166-47167. The POSCO Group has submitted no information to warrant reconsideration of that determination.

In past reviews, we have taken the same approach with respect to Union and Dongkuk Industries Co., Ltd. (DKI). *Id.* However, based on information submitted by Union, we have preliminarily determined not to collapse Union and DKI. For further information, see the August 27, 2004, memorandum from Mark Young, Senior Analyst, Office of AD/CVD Enforcement III, and Eric B. Greynolds, Program Manager, Office of AD/CVD Enforcement III, to Melissa G. Skinner, Director, Office of AD/CVD Enforcement III re: Collapsing.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all CORE

products produced by the respondents and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to CORE sold in the United States.

Where there were no sales in the ordinary course of trade 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 listed in Appendix V of the Department's antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent. Where sales were made in the home market on a different weight basis from the U.S. market (theoretical versus actual weight), we converted all quantities to the same weight basis, using the conversion factors supplied by the respondents, before making our fair-value comparisons.

#### Normal Value Comparisons

To determine whether sales of CORE by the respondents to the United States were made at less than NV, we compared the EP or CEP to the NV, as described in the "Export Price/Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

#### Date of Sale

It is the Department's practice normally to use the invoice date as the date of sale, although we may use a date other than the invoice date if we are satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. See 19 CFR 351.401(i). We have preliminarily determined that there is no reason to depart from the Department's treatment of invoice date as the date of sale for Dongbu, the POSCO Group, and Union. Consistent with prior reviews, for home market sales, we used the reported date of the invoice from the Korean manufacturer; for U.S. sales we have followed the Department's methodology from prior reviews, and have based date of sale on invoice date from the U.S. affiliate, unless that date was subsequent to the date of shipment to the unaffiliated customer from Korea, in which case that shipment date is the date of sale. See *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Preliminary Results*, 65 FR

54197, 54201 (September 7, 2000) (*Preliminary Results of the 8th Review of CORE from Korea*), and *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews*, 66 FR 3540 (January 16, 2001) (*8th Review of CORE from Korea*). Consistent with the Department's practice, we have used shipment date as date of sale for HYSCO because shipment date occurred prior to invoice date. See *Honey from Argentina: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 621, (January 6, 2004). See also *Notice of Final Determinations of Sales at Less than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 52741 (September 5, 2003) and accompanying Decision Memorandum at Comment 3.

#### Export Price/Constructed Export Price

We calculated the price of U.S. sales based on CEP, in accordance with section 772(b) of the Act. The Act defines the term "constructed export price" 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)." In contrast, "export price" is defined 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 the subject merchandise outside of the United States." Sections 772(a) and (b) of the Act.

In determining whether to classify U.S. sales as either EP or CEP sales, the Department must examine the totality of the circumstances surrounding the U.S. sales process, and assess whether the reviewed sales were made "in the United States" for purposes of section 772(b) of the Act. In the instant case, the record establishes that Dongbu's, the POSCO Group's, Union's, and HYSCO's affiliates in the United States (1) took title to the subject merchandise and (2) invoiced and received payment from the unaffiliated U.S. customers. Thus, the Department has determined that these U.S. sales should be classified as CEP transactions.

For Dongbu, the POSCO Group, Union, and HYSCO we calculated CEP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, foreign inland insurance, foreign

<sup>7</sup> For purposes of this proceeding, overrun sales are those products which have not been sold within 90 days of production or those products which were produced for export but were, in fact, sold to the domestic market.

brokerage and handling, international freight, marine insurance, U.S. warehousing expenses, U.S. wharfage, U.S. inland freight, U.S. brokerage and handling, loading expenses, other U.S. transportation expenses, U.S. customs duties, commissions, credit expenses, letter of credit expenses, warranty expenses, other direct selling expenses, inventory carrying costs incurred in the United States, and other indirect selling expenses in the country of manufacture and the United States associated with economic activity in the United States. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. Where appropriate, we added interest revenue to the gross unit price.

In order to ensure that we have accounted for all appropriate U.S. interest expenses (*i.e.* both imputed and actual) without double-counting, we have utilized the following interest expense methodology. As in the prior review, in the U.S. indirect selling expenses, we have included net financial expenses incurred by the respondent's U.S. affiliates; however, we added U.S. interest expenses only after deducting U.S. imputed credit expenses and U.S. inventory carrying costs, so as to eliminate the possibility of double-counting U.S. interest expenses.<sup>8</sup>

Consistent with the Department's normal practice, we added the reported duty drawback to the gross unit price. We did so in accordance with the Department's long-standing test, which requires: (1) that the import duty and rebate be directly linked to, and dependent upon, one another; and (2) that the company claiming the adjustment demonstrate that there were sufficient imports of imported raw materials to account for the duty drawback received on the exports of the manufactured product. See *Preliminary Results of the 8th Review of CORE from Korea*, 65 FR at 54202.

#### Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the

foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade.

Where appropriate, we deducted rebates, discounts, inland freight (offsets, where applicable, by freight revenue), inland insurance, and packing. Additionally, we made adjustments to NV, where appropriate, for credit expenses (offset, where applicable, by interest income), warranty expenses, post-sale warehousing, and differences in weight basis. We also made adjustments, where appropriate, for home market indirect selling expenses and inventory carrying costs to offset U.S. commissions.

We also increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in difference-in-merchandise adjustments exceeding 20 percent of the cost of manufacturing (COM) of the U.S. product, we based NV on constructed value (CV). See 19 CFR 351.411.

#### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the CEP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT. When NV is based on CV, the NV LOT is that of the sales from which we derive selling expenses, general, and administrative expenses (SG&A), and profit.

Pursuant to section 351.412 of the Department's regulations, to determine whether comparison market sales were at a different LOT, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's-length) customers. If the comparison-market sales were at a different LOT and the differences affect 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 will make an LOT adjustment under section 773(a)(7)(A) of the Act.

Finally, if the NV LOT is more remote from the factory than the CEP LOT and

there is no basis for determining whether the differences in LOT between NV and CEP affected price comparability, we will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732-33 (November 19, 1997). Specifically in this review, we did not make an LOT adjustment for any respondent. We are preliminarily granting a CEP offset for the POSCO Group and Dongbu. However, we did not grant a CEP offset for Union or HYSCO because we determined that NV LOT was not more advanced than the CEP LOT.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, see the company-specific calculation memoranda, all on file in the CRU.

#### Cost of Production/Constructed Value

As explained above, at the time the questionnaires were issued in the administrative review, the seventh administrative review was the most recently completed segment of this proceeding. In accordance with section 773(b)(2)(A)(ii) of the Act, and consistent with the Department's practice, because we disregarded certain below-cost sales by Dongbu, the POSCO Group, and Union in the seventh review, we found reasonable grounds to believe or suspect that these respondents made sales in the home market at prices below the cost of producing the merchandise. See the *7th Review of CORE from Korea* and the *Preliminary Results of the 7th Review of CORE from Korea*, 66 FR at 47168. We, therefore, initiated cost investigations with regard to Dongbu, the POSCO Group, and Union in order to determine whether these respondents made home market sales during the POR at prices below their COP within the meaning of section 773(b)(2)(A)(ii) of the Act. As stated above, we have also initiated a COP investigation of HYSCO.

Before making concordance matches, we conducted the COP analysis described below.

##### A. Calculation of COP

We calculated a company-specific COP for Dongbu, the POSCO Group, Union, and HYSCO based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home-market selling expenses, SG&A, and packing costs in accordance with section 773(b)(3) of the Act. We relied on Dongbu's, the POSCO

<sup>8</sup> See *Issues and Decision Memorandum for the Final Results of Antidumping Administrative Review of Cold-Rolled ("CR") and Corrosion-Resistant ("CORE") Carbon Steel Flat Products from Korea*, from Joseph A. Spetrini to Faryar Shirzad, Comment 1, (March 11, 2002), on file in the CRU.

Group's, and Union's information as submitted.

#### B. Test of Home-Market Prices

For Union, we used each respondents' weighted-average COP, as adjusted (see "Calculation of COP" above), for the period July 1, 2002, to June 30, 2003, as reported. The COP and CV figures for the POSCO Group and Dongbu were calculated based on costs incurred by the companies during the period July 1, 2002, through June 30, 2003, as reported, for CORE products. We calculated HYSCO's COP and CV based on HYSCO's actual costs of manufacturing the subject merchandise for the POR, August 2002 through July 2003.

We compared the weighted-average COP figures to home-market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, as required under sections 773(b)(1)(A) and (B) of the Act, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home-market prices (not including VAT), less any applicable movement charges, discounts, and rebates.

#### C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determined that sales of that model were made in "substantial quantities" for an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act, and were not 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. In such cases, we disregarded the below-cost sales in accordance with section 773(b)(1) of the Act.

Therefore, for Dongbu, Union, the POSCO Group, and HYSCO, for purposes of these preliminary results, we disregarded below-cost sales of a given product of 20 percent or more and used the remaining sales as the basis for

determining NV, in accordance with section 773(b)(1) of the Act. See the company-specific calculation memoranda, the public versions of which are on file in the CRU.

#### D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, SG&A, including interest expenses, U.S. packing costs, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the actual 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 the foreign country. For selling expenses, we used the weighted-average home-market selling expenses. We also made adjustments, where appropriate, for home-market indirect selling expenses to offset U.S. commissions in CEP comparisons.

#### Arm's Length Sales

The POSCO Group reported sales of the foreign like product to an affiliated reseller/service center. Dongbu and HYSCO also reported that they made sales in the home market to affiliated parties. The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at arm's length. See 19 CFR 351.403(c).

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 movement charges, direct selling expenses, discounts and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's-length prices. See 19 CFR 351.403(c). Conversely, where sales to the affiliated party did not pass the arm's-length test, all sales to that affiliated party have been excluded from the NV calculation. *Id.*

#### Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales as published by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs

the Department to use a daily exchange rate in effect on the date of sale of subject merchandise in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined, as a general matter, that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. See, *e.g.*, *Certain Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 8915, 8918 (March 6, 1996) and Policy Bulletin 96-1: *Currency Conversions*, 61 FR 9434, (March 8, 1996). The benchmark is defined as the rolling average of rates for the past 40 business days.

#### Preliminary Results of the Review

As a result of these reviews, we preliminarily determine that the following weighted-average dumping margins exist:

Producer/Manufacturer	Weighted-Average Margin
Dongbu .....	0.27 (De Minimis)
Union .....	0.27 (De Minimis)
The POSCO Group .....	0.41 (De Minimis)
HYSCO .....	0.00 (De Minimis)

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). Interested parties may submit case and rebuttal briefs. The Department will announce the due date of the case briefs at a later date. Rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Further, parties submitting written comments are requested to provide the Department with an additional copy of the public version of any such comments on diskette. An interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs. 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 comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

#### Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment

rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (i.e., at or above 0.5 percent), the Department will issue appraisal instructions directly to CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer. Where appropriate, to calculate the entered value, we subtracted international movement expenses (e.g., international freight) from the gross sales value.

#### Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of these reviews, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (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 final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original less than fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous review conducted by the Department, the cash deposit rate will be 17.70 percent, the "All Others" rate established in the underlying investigation. *See Orders on Certain Steel from Korea*.

These cash deposit requirements, when imposed, shall remain in effect

until publication of the final results of the next administrative review.

#### Notification to Importers

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 administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 30, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4-2085 Filed 9-3-04; 8:45 am]

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### DEPARTMENT OF COMMERCE

#### International Trade Administration

[A-485-803]

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

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

**SUMMARY:** In response to a request from a domestic interested party (International Steel Group, Inc.), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Romania. The period of review is August 1, 2002, through July 31, 2003. With regard to two Romanian companies, producer Ispat Sidex, S.A. (Sidex) and exporter Metalexportimport, S.A. (MEI), we preliminarily determine that sales have been made below normal value (NV). With regard to CSR SA Resita (CSR) and MINMET, S.A. (MINMET), we are giving notice that we intend to rescind this review based on record evidence that there were no entries into the United States of subject merchandise during the period of review (POR). For a full discussion of the intent to rescind with respect to CSR and MINMET, see the "Notice of Intent

to Rescind in Part" section of this notice below.

We invite interested parties to comment on these preliminary results. Parties that submit comments are requested to submit with each argument (1) a statement of the issue(s), and (2) a brief summary of the argument(s).

**EFFECTIVE DATE:** September 7, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ann Barnett-Dahl, Brandon Farlander, and Abdelali Elouaradia at (202) 482-3833, (202) 482-0182, and (202) 482-1374, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 1, 2003, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Romania, 68 FR 45218 (August 1, 2003). On August 29, 2003, the Department received a timely request from the International Steel Group, Inc. (ISG), a domestic interested party, requesting that the Department conduct an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate shipments exported to the United States from the following Romanian plate producers/exporters during the period of August 1, 2002, through July 31, 2003: (1) Sidex, (2) MEI, (3) CSR, and (4) MINMET. On September 30, 2003, the Department initiated an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Romania, for the period covering August 1, 2002, through July 31, 2003, to determine whether merchandise imported into the United States is being sold at less than NV with respect to these four companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Review*, 68 FR 56262 (September 30, 2003) (*Administrative Review Initiation*).

On October 24, 2003, the Department issued antidumping duty questionnaires to the four above-referenced Romanian companies. Because Romania graduated to market economy status on January 1, 2003, the POR is divided into both a non-market economy (NME) portion (August 1, 2002, through December 31, 2002) and a market economy (ME) portion (January 1, 2003, through July