all appropriate entries. The Department will issue appropriate appraisement instructions for the companies subject to these reviews directly to CBP within 15 days of publication of the final results of these reviews. For assessment purposes for companies with a calculated rate, where possible, the Department calculated importer-specific assessment rates for freshwater crawfish tail meat from the PRC on a per–unit basis. Specifically, the Department divided the total dumping margins (calculated as the difference between normal value and export price) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. The Department will direct CBP to assess importer–specific assessment rates based on the resulting per-unit (*i.e.*, per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. However, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or de minimis, no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed review; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 223.01 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These 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)(2) 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.

These administrative, new shipper reviews, and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: October 2, 2006.

Joseph A. Spetrini,

Acting Assistant Secretaryfor Import Administration.

[FR Doc. E6–16677 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–844]

Steel Concrete Reinforcing Bar From The Republic of Korea: Notice of Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review

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

SUMMARY: In response to requests by Dongkuk Steel Mill Co. Ltd. (DSM), a producer/exporter of the subject merchandise, and petitioners,[1] the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on steel concrete reinforcing bar (rebar) from the Republic of Korea (Korea). This review covers seven producers/exporters of the subject merchandise. The period of review (POR) is September 1, 2004, through August 31, 2005.

As discussed below, the Department has preliminarily determined to collapse DSM, Korea Iron and Steel Co., Ltd. (KISCO), and Hwanyoung Steel Industries Co. (HSI), into a single entity for purposes of this administrative review. We preliminarily determine that DSM/KISCO/HSI made sales at less than normal value (NV) during the POR. Further, as a result of our review, we preliminarily determine that three respondents had no sales or shipments of subject merchandise to the United States during the POR. Therefore, we are preliminarily rescinding the review with respect to these respondents. One remaining respondent, Dongil Industries Co. Ltd. (Dongil), failed to respond to our questionnaire. As a result, we are basing our preliminary results for Dongil on total adverse facts available (AFA). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results of review. Unless we extend the deadline, we will issue the final results of review no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* October 10, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5253, or (202) 482–4406, respectively.

Background

On September 7, 2001, the Department published an antidumping duty order on rebar from Korea. *See Antidumping Duty Orders: Steel Concrete Reinforcing Bars From Belarus, Indonesia, Latvia, Moldova, People's Republic of China, Poland, Republic of Korea and Ukraine,* 66 FR 46777 (September 7, 2001). On September 1, 2005, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on rebar from Korea. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 70 FR 52072 (September 1, 2005). On September 21, 2005, in accordance with 19 CFR 351.213(b)(2), DSM requested that the Department conduct an administrative review of its sales and entries of subject merchandise into the United States during the POR. Additionally, in accordance with 19 CFR 351.213(b)(1), on September 30, 2005, petitioners requested that the Department conduct a review of DSM, Dongil, Hanbo Iron & Steel Co., Ltd. (Hanbo), INI Steel (INI), Kosteel Co., Ltd (Kosteel), and KISCO. On October 25, 2005, the Department initiated an

[1] The petitioners are the Rebar Trade Action Coalition and its individual members-Gerdau Ameristeel, CMC Steel Group, Nucor Corporation, and TAMCO.

administrative review of Dongil, DSM, Hanbo, INI, Kosteel Co., and KISCO. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 70 FR 61601 (October 25, 2005).

On October 19, 2005, the Department issued its antidumping questionnaire to Dongil, DSM, Hanbo, INI, Kosteel, and KISCO. In December 2005, DSM and KISCO responded to the Department's antidumping questionnaire.[2] Additionally, KISCO's affiliate, HSI, responded to the Department's antidumping questionnaire in December 2005. Thereafter, the Department issued supplemental questionnaires to DSM, KISCO, and HSI, and received timely responses. The petitioners submitted comments regarding the respondents' supplemental questionnaire responses on May 26, 2006, and September 13, 2006.

On October 21, 2005, Hanbo and INI notified the Department that neither they nor any of their affiliates had any sales or exports of subject merchandise during the POR. On August 2, 2006, the Department sent a letter to Kosteel and Dongil informing these companies that we did not receive a response from them to the antidumping questionnaire. In the letter, the Department stated that, if they did not respond to the antidumping questionnaire because they had no shipments of subject merchandise to the United States during the POR, they should inform the Department of this fact; otherwise, the Department may conclude that these companies decided not to cooperate with the Department's review. In response, on August 8, 2006, Kosteel reported that it had no sales or shipments of subject merchandise to the United States during the POR. Dongil did not respond to the Department's August 2, 2006, letter.

Because it was not practicable to issue the preliminary results of this review within the normal time frame, on May 30, 2006, the Department published in the **Federal Register** a notice of the extension of time limits for these preliminary results. *See Steel Concrete Reinforcing Bars from the Republic of Korea: Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review,* 71 FR 30658 (May 30, 2006). This extension established the deadline for these preliminary results as September 30, 2006. The first business day after this deadline is October 2, 2006.

Period of Review

The POR is September 1, 2004, through August 31, 2005.

Scope of the Order

The product covered by this order is all rebar sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that has been further processed through bending or coating. The HTSUS subheading is provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Partial Rescission of Review

As noted above, Hanbo, INI, and Kosteel informed the Department that they had no shipments of subject merchandise to the United States during the POR. We obtained entry data from CBP and found that these data support the statements made by these respondents, that they had no shipments of subject merchandise during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are preliminarily rescinding our review with respect to Hanbo, INI, and Kosteel. (*See, e.g., Certain Welded Carbon Steel Pipe and Tube from Turkey; Final Results and Partial Rescission of Antidumping Administrative Review,* 63 FR 35190, 35191 (June 29, 1998); and *Certain Fresh Cut Flowers from Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 62 FR 53287, 53288 (October 14, 1997)).

Facts Available

Section 776(a)(2) of the Tariff Act of 1930, as amended (the Act), provides that if any interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information by the deadlines for submission of the information or in the form or manner requested; (C) significantly impedes a proceeding; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in making its determination.

If the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information submitted by an interested party and is necessary to the determination, but does not meet all of the Department's applicable requirements, if: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department, in reaching the applicable determination under this title, ''may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994).

Application of Facts Available

The evidence on the record of this review establishes that, pursuant to section 776(a)(2)(A) of the Act, the use of total facts available (FA) is warranted in determining the dumping margin for U.S. sales of rebar made by Dongil because it failed to provide any requested information to the Department. As stated above, on October 19, 2005, the Department issued the antidumping questionnaire to six manufacturers/exporters of the subject merchandise. Five companies responded to the questionnaire, with three of the five companies ultimately advising the Department that they did not have shipments or sales of subject merchandise to the United States during the POR. The remaining company, Dongil, failed to respond to the Department's antidumping questionnaire. On August 2, 2005, we

[2] KISCO and its affiliate, HSI, reported that they had no sales or shipments of subject merchandise to the United States during the POR. However, because DSM and KISCO were found to be affiliated and were collapsed in a prior review, the Department reviewed KISCO and HSI's submissions regarding, *inter alia,* their corporate structure and affiliations, home market sales, and cost of production.26, 2006, and September 13, 2006.

informed Dongil that, because it failed to respond to the Department's antidumping questionnaire, and had not informed the Department as to whether it had sales or shipments of subject merchandise to the United States during the POR, we may use AFA to determine its dumping margin. Dongil did not respond to the Department's August 2, 2005, letter.

Because Dongil failed to provide the necessary information requested by the Department, pursuant to section 776(a)(2)(A) of the Act, we must establish the margins for this company based on the facts otherwise available.

Use of Adverse Inferences

In selecting from among the facts otherwise available, pursuant to section 776(b) of the Act, an adverse inference is warranted when the Department has determined that a respondent has ''failed to cooperate by not acting to the best of its ability to comply with a request for information.'' Section 776(b) of the Act goes on to state that an adverse inference may include reliance on information derived from (1) The petition; (2) a final determination in the investigation under this title; (3) any previous review under section 751 or determination under section 753, or (4) any other information on the record.

Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870; *Timken Co. V, United States, 354 F.3d 1334, 1345 (Fed. Cir. 2004); Mannesmannrohren-Werke AG* v. *United States,* 77 F. Supp. 2d 1302 n.7 (CIT 1999). The Court of Appeals for the Federal Circuit (CAFC), in *Nippon Steel Corporation* v. *United States,* 337 F. 3d 1373, 1381 (Fed. Cir. 2003), provided an explanation of the ''failure to act to the best of its ability'' standard, holding that the Department need not show intentional conduct existed on the part of the respondent, but merely that a ''failure to cooperate to the best of a respondent's ability'' existed, *i.e.*, information was not provided ''under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.'' *Id.* at 1383. The CAFC did acknowledge, however, that ''deliberate concealment or inaccurate reporting'' would certainly be a reason to apply AFA, although it indicated that inadequate responses to agency inquiries ''would suffice'' as well. *Id.*

To examine whether the respondent ''cooperated'' by ''acting to the best of its ability'' under section 776(b) of the Act, the Department considers, *inter alia,* the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. *See Mannesmannrohren-Werke AG* v. *United States,* 120 F.Supp. 2d 1075,1096 (CIT 2000).

The record shows that Dongil failed to cooperate to the best of its ability, within the meaning of section 776(b) of the Act. In reviewing the evidence on the record, the Department finds that Dongil failed to provide requested information. Moreover, Dongil failed to offer any explanation for its failure to respond to our antidumping questionnaire or August 2, 2005, letter. As a general matter, it is reasonable for the Department to assume that Dongil possessed the records necessary to participate in this review; however, by not supplying the information the Department requested, Dongil failed to cooperate to the best of its ability. As Dongil has failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As AFA for Dongil, we have used a rate of 102.28 percent, which is the highest margin from any segment of the proceeding. Specifically, this rate was the highest margin alleged for any Korean company in the petition and is the rate used as AFA for Hanbo in the final determination of the less-than-fair-value (LTFV) investigation. *See Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the Republic of Korea,* 66 FR 33526 (June 22, 2001). This rate was also used as AFA for both Hanbo and Dongil in the last completed administrative review of this order. *See Steel Concrete Reinforcing Bars From the Republic of Korea: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 69 FR 54642 (September 9, 2004).

Corroboration of Information

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870 and 19 CFR 351.308(d).

The SAA further provides that the term ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. During the LTFV investigation, we examined the reliability of the 102.28 percent rate selected as AFA for Hanbo and found it to be reliable. *See* Memorandum to Troy H. Cribb, Assistant Secretary for Import Administration, from Holly A. Kuga, Acting Deputy Assistant Secretary for AD/CVD Enforcement, Group II, ''The Use of Facts Available for Hanbo Iron & Steel Co. Ltd., and Corroboration of Secondary Information,'' dated January 16, 2001, and placed on the record of this review concurrently with these preliminary results. There is no information on the record of this review to demonstrate that this rate is no longer reliable.

As to the relevance of the AFA rate, the CAFC has stated that Congress ''intended for an adverse facts available rate to be a reasonably accurate estimate of the respondent's actual rate, albeit with some built-in increase intended as a deterrent to non-compliance.'' *F.Lli De Cecco Di Filippo Fara S. Martino S.p.A.*, v. *U.S.*, 216 F.3d 1027, 1032 (Fed. Cir. 2000). The Department considers 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 AFA, the Department will disregard the selected margin and determine an appropriate margin. *See, e.g., Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996).

With respect to the rate selected for Dongil, we note that in determining the relevant AFA rate, the Department assumes that if an uncooperative respondent could have demonstrated that its dumping margin is lower than the highest prior margin, it would have provided information showing the margin to be less. *See Rhone Poulenc, Inc.* v. *United States*, 899 F.2d 1185, 1190–91 (Fed. Cir. 1990) (*Rhone Poulenc*). In *Rhone Poulenc*, the CAFC found that the presumption that, ''the highest prior margin was the best information of current margins'' was a permissible interpretation of 19 U.S.C. 1677e(c). *See Rhone Poulenc*, 899 F.2d at 1190. In upholding this presumption, the CAFC cited the rationale underlying the adverse inference rule, that the presumption ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *Id.* In other proceedings, the

Department has used the highest margin in the proceeding as AFA.

See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, 68 FR 19504, 19508 (April 21, 2003). In fact, the Department used the 102.28 percent rate as AFA in the final determination of the LTFV investigation with respect to Hanbo and, subsequently, applied it to both Dongil and Hanbo in the last completed administrative review. Therefore, Dongil had notice that the 102.28 percent rate may be used as the AFA rate that would be applied for its failure to cooperate. Consequently, in keeping with *Rhone Poulenc*, we consider the 102.28 percent rate to be the most probative evidence of current margin for Dongil because, if it were not so, Dongil, knowing 102.28 percent rate may be assigned as AFA, would have produced current information showing the margin to be less. Further, since Dongil's current margin is 102.28 percent, assigning a rate less than this amount as AFA would allow Dongil to benefit from its non-cooperation. Therefore, we consider the 102.28 percent rate to be relevant.

Accordingly, we have determined, to the extent practicable, that the rate selected as AFA are both reliable and relevant. Therefore, we have corroborated this rate in accordance with section 776(c) of the Act.

Affiliation

We preliminarily find that DSM, KISCO, HSI, and Dongkuk Industries Co., Ltd. (DKI) [3] are affiliated through to sections 771(33)(A) and 771(33)(F) of the Act. Pursuant to section 771(33)(A) of the Act, the following persons, among others, are affiliated: ''Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants. * * * '' *See* section 771(33)(A) of the Act. The record shows that certain senior executives of DSM, KISCO, HSI, and DKI are descendants of a common progenitor, the late Kyung-Ho Chang. These members of the Chang family are related as uncles, nephews, and first cousins. Since the details of these relationships are business proprietary information, please see the Memorandum from Thomas F. Futtner, Acting Office Director, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, ''Whether to Collapse Dongkuk Steel Mill Co., Ltd., Korea Iron and Steel Co., Ltd., and Hwanyoung Steel Ind. Co. Ltd. Into a Single Entity,'' dated October 2, 2006 (Collapsing Memorandum). Accordingly, consistent with the definition of ''family'' under section 771(33)(A) of the Act, the Department's prior practice, the controlling precedent (*see Ferro Union Inc.* v. *Wheatland Tube Co.*, 44 F. Supp. 2d 1310, 1325–1326 (CIT 1999) (*Ferro Union Inc.*)), our findings in the LTFV investigation (*see Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the Republic of Korea*, 66 FR 33526 (June 22, 2001) (*LTFV Final Determination*)), and the most recently completed review in which the Department calculated a dumping margin for DSM/KISCO (*see Steel Concrete Reinforcing Bar From The Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 69 FR 19399 (April 13, 2004)), the Department preliminarily determines that certain senior executives of DSM, KISCO, DKI, and HSI are members of the Chang family, and thus are affiliated. *See* Collapsing Memorandum.

Section 771(33)(F) of the Act states that, ''two or more persons directly or indirectly controlling, controlled by, or under common control with, any person,'' shall be considered to be affiliated. A person includes any interested party as well as any other individual, enterprise, or entity. *See* 19 CFR 351.102. The courts have agreed that a family group is an entity and thus is a ''person,'' for purposes of section 771(33)(F) of the Act. *See Ferro Union Inc.*, 44 F. Supp. 2d at 1326; *Dongkuk Steel Mill Co.*, v. *United States*, Slip Op. 05–75 at 13 (CIT June 22, 2005) (*Dongkuk*). As further defined by section 771(33) of the Act, ''a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.'' *See* section 771(33) of the Act. The record shows that certain members of the Chang family are senior executives of these companies. *See* Collapsing Memorandum. Additionally, these same members of the Chang family are the largest shareholders of DSM, KISCO, and DKI. *Id.* Further, KISCO is the largest shareholder of HSI. Accordingly, the Chang family's leadership positions within these companies, as well as the fact that they control the largest blocks of outstanding shares in DSM, KISCO, and DKI (and KISCO is the largest shareholder in HSI), puts the Chang family in a position to legally and/or operationally control DSM, KISCO, DKI, and HSI, thus satisfying the requirements of affiliation under section 771(33)(F) of the Act. The Court of International Trade (CIT) upheld the Department's similar finding of affiliation in the *2001–2002 Final Results*. *See Dongkuk*, Slip. Op 05–75 at 4.

In addition, section 771(33)(E) of the Act states that two or more persons shall be considered to be affiliated if any person directly or indirectly owns 5 percent or more of the outstanding voting shares of an organization. In this case, record evidence demonstrates that KISCO directly owns over 5 percent of HSI's outstanding shares. Therefore, we find that KISCO is affiliated with HSI pursuant to section 771(33)(E) of the Act. *See* Collapsing Memorandum.

Collapsing

Section 351.401(f)(1) of the Department's regulations states that in an antidumping proceeding the Department ''will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production.'' *See* 19 CFR 351.401(f)(1).

Section 351.401(f)(2) of the Department's regulations identifies factors to be considered to determine whether there is a significant potential for manipulation. These include: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

As discussed above, and in the accompanying Collapsing Memorandum, based on the evidence on the record in this review, we have preliminarily determined that DSM is affiliated with KISCO and HSI by virtue of common control by the Chang family. *See* sections 771(33)(A) and (F) of the Act. Accordingly, the Department preliminarily determines that the first of the three requirements for collapsing the companies has been met. The CIT upheld the Department's decision to collapse DSM and KISCO in the *2001–2002 Final Results. See Dongkuk,* Slip. Op 05–75 at 16–17.

[3] DKI is a manufacturer of cold-rolled steel, pickled and oiled coils, and hot-dip galvanized coil. DKI is also a trading company that exports various steel products. DKI does not produce subject merchandise.

Having determined that DSM, KISCO, and HSI are affiliated, the Department examines whether the producers have production facilities for similar or identical products that would not require ''substantial retooling * * * in order to restructure manufacturing priorities.'' *Cf. Notice of Preliminary Results of New Shipper Review of the Antidumping Duty Order on Certain Pasta From Italy*, 69 FR 319, 321 (January 5, 2004). Based on the questionnaire responses submitted by DSM, KISCO, and HSI, the Department has preliminarily determined that the three companies' production facilities would not require substantial retooling to restructure manufacturing priorities. *See* Collapsing Memorandum.

Further, based on the record of this proceeding, the Department preliminarily determines that significant potential for manipulation of price or production exists. In analyzing whether there exists a potential for price or production manipulation, the Department may consider the following factors: (1) The level of common ownership; (2) the extent to which managerial employees or directors of one firm also sit on the board of the other firm; and (3) whether operations are intertwined. *See* 19 CFR 351.401(f)(2). Based on information supplied by DSM, KISCO, and HSI, the Department preliminarily determines that each of these factors has been satisfied in this segment of the proceeding. *See* Collapsing Memorandum for a full discussion of the issues. As the CIT recognized in *Dongkuk*, the agency's concern is with the potential for manipulation, which continues to exist in this case. *See Dongkuk*, Slip. Op 05–75 at 17.

Based on these reasons, we find that DSM, KISCO, and HSI are affiliated producers with similar or identical production facilities that would not require substantial retooling of either facility in order to restructure manufacturing priorities. We also find that there exists a significant potential for the manipulation of price or production. Therefore, we have collapsed DSM, KISCO, and HSI, and are treating them as a single entity for purposes of these preliminary results.

Comparison Methodology

In order to determine whether the respondents sold rebar to the United States at prices less than NV, the Department compared the constructed export price (CEP) of individual U.S. sales to the monthly weighted-average NV of sales of the foreign like product made in the ordinary course of trade. *See* section 777A(d)(2) of the Act; *see also* section 773(a)(1)(B)(i) of the Act. Section 771(16) of the Act defines foreign like product as merchandise that is identical or similar to subject merchandise and produced by the same person and in the same country as the subject merchandise. Thus, we considered all products covered by the scope of the order, that were produced by the same person and in the same country as the subject merchandise and sold by respondents in the comparison market during the POR, to be foreign like products, for the purpose of determining appropriate product comparisons to rebar sold in the United States.

The Department compared U.S. sales to sales made in the comparison market within the contemporaneous window period, which extends from three months prior to the month in which the U.S. sale was made until two months after the month in which the U.S. sale was made. In making product comparisons, the Department selected identical foreign like products based on the physical characteristics reported by the respondents in the following order of importance: type of steel, yield strength, size, and coating. The Department reclassified the yield strength designation of certain merchandise based on its preliminary finding that the merchandise was weldable. For further information, see the analysis memorandum for DSM/KISCO/HSI, dated concurrently with this notice.

Duty Drawback

Before increasing a respondent's reported U.S. sales prices by the amount of duty drawback, pursuant to section 772(c)(1)(B) of the Act, the Department's practice is to examine whether: (1) Import duties and rebates are directly linked to, and are dependent upon, one another, or, in the context of a duty exemption, the exemption is linked to the exportation of subject merchandise and (2) the company claiming the adjustment can demonstrate that there are sufficient imports of raw materials to account for the duty drawback received on exports of the manufactured product. *See Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 61 FR 55965, 55968 (October 30, 1996); *see also, Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 68 FR 6889 (February 11, 2003) and accompanying *Issues and Decision Memorandum* at Comment 5.

DSM reported that it received duty drawback pursuant to Korea's Act on Special Cases Concerning the Refundment of Customs Duties, Etc., Levied on Raw Materials for Export (Duty Refund Program). DSM reported that it received certain ''drawback'' amounts associated with duties paid on imported inputs pursuant to the Korean Government's individual application system, where the duty is rebated based upon each applicant's use of the imported input. Since the applicable criteria have been met in this case, in calculating CEP for DSM/KISCO/HSI, the Department has preliminarily added an amount for duty drawback to the reported prices. We made additions to the starting price for duty drawback in accordance with section 772(c)(1)(B) of the Act.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the CEP sales. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative expenses and profit. For CEP sales, the U.S. LOT is the level of the constructed export sale from the exporter to its affiliate. The Department adjusts CEP, pursuant to section 772(d) of the Act, prior to performing the LOT analysis, as articulated in 19 CFR 351.412. *See Micron Technology, Inc.* v. *United States,* 243 F.3d, 1301, 1315 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than the CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Plate from South Africa,* 62 FR 61731, 61732 (November 19, 1997).

In determining whether the respondents made sales at separate LOTs, we obtained information from

DSM, HSI and KISCO regarding the marketing stages for the reported U.S. and comparison market sales, including a description of the selling activities performed by respondents for each channel of distribution. Generally, if the reported LOTs are the same, the functions and activities of the seller at each level should be similar. Conversely, if a party reports that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

In implementing these principles in this review, we asked DSM/KISCO/HSI to identify the specific differences and similarities in selling functions and support services between all phases of marketing in the home market and the United States. DSM/KISCO/HSI identified one channel of distribution in the home market: direct sales from its factory to its customers. DSM/KISCO/HSI also identified three types of home market customers: end-users, distributors or government entities. Regardless of the type of customer, DSM/KISCO/HSI performed the same type of selling functions in the home market. Because DSM/KISCO/HSI provided these services to each type of customer through one channel of distribution, we have determined that one level of trade exists for DSM/KISCO/HSI's HM sales.

For the U.S. market, DSM/KISCO/HSI reported one channel of distribution-sales to unaffiliated U.S. customers through Dongkuk International, Inc. (DKA), DSM's affiliated U.S. sales company.[4] All of DSM/KISCO/HSI's U.S. sales were CEP transactions and DSM/KISCO/HSI performed the same selling functions in each instance. Therefore, the U.S. market has one LOT.

When we compared CEP sales (after deductions made pursuant to section 772(d) of the Act) to HM sales, we determined that for CEP sales, DSM/KISCO/HSI's U.S. affiliate performed many services associated with its U.S. sales. The differences in selling functions performed for DSM/KISCO/HSI's home market and CEP transactions indicate that HM sales involved a more advanced stage of distribution than CEP sales. In the home market, DSM/KISCO/HSI provides services normally found further down the chain of distribution that are normally performed by the affiliated reseller in the U.S. market.

Based on our analysis, we determined that CEP and the starting price of HM sales represent different stages in the marketing process, and are thus at different LOTs. Therefore, when we compared CEP sales to HM sales, we examined whether a LOT adjustment may be appropriate. In this case, DSM/KISCO/HSI sold at one LOT in the home market; therefore, there is no basis upon which to determine whether there is a pattern of consistent price differences between levels of trade. Further, we do not have the information which would allow us to examine pricing patterns of DSM/KISCO/HSI's sales of other similar products, and there is no other record evidence upon which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a LOT adjustment, but the LOT in Korea for DSM/KISCO/HSI is at a more advanced stage than the LOT of the CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Act, as claimed by DSM/KISCO/HSI. Therefore, we applied the CEP offset to NV. *See* Memorandum to the File from the Team, Level of Trade Analysis: DSM/KISCO/HSI, dated concurrently with this notice.

Constructed Export Price

We based the price of DSM/KISCO/HSI's U.S. sales of subject merchandise on CEP, in accordance with section 772(b) of the Act, because DSM sold subject merchandise to unaffiliated purchasers in the United States after importation through its U.S. affiliate, DKA. We calculated CEP using prices, less discounts, for packed subject merchandise delivered to the first unaffiliated purchaser in the United States. In accordance with sections 772(c)(2)(A) and 772(d)(1) and (3) of the Act, we made deductions from the starting price, where appropriate, for the following expenses: foreign and U.S. inland freight, foreign and U.S. brokerage and handling, international freight, marine insurance, U.S. duties, U.S. warehousing expense, direct and indirect selling, to the extent these expenses are associated with economic activity in the United States, and CEP profit.

Normal Value

After testing home market viability, whether comparison market sales to affiliates were at arm's-length prices, and whether comparison market sales were at below cost prices, we calculated NV for DSM/KISCO/HSI as noted in the ''Price-to-Price Comparisons'' section of this notice.

A. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared the aggregate volume of DSM/KISCO/HSI's home market sales of the foreign like product to the aggregate volume of its U.S. sales of subject merchandise. Because the aggregate volume of DSM/KISCO/HSI's home market sales of foreign like product is more than five percent of the aggregate volume of its U.S. sales of subject merchandise, we based NV on sales of the foreign like product in the respondent's home market. *See* section 773(a)(1)(C)(ii) of the Act.

B. Affiliated Party Transactions and Arm's-Length Test

The Department may calculate 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 exporter or producer, *i.e.*, sales at arm's-length. *See* 19 CFR 351.403(c). Sales to affiliated customers for consumption in the home market that were determined not to be at arm's-length were excluded from our analysis. DSM/KISCO/HSI reported sales of the foreign like product to affiliated customers. To test whether these sales were made at arm's-length prices, the Department compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c), and in accordance with the Department's practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). DSM/KISCO/HSI's sales to its affiliated home market customers did not pass the arm's-length test. Therefore, we have excluded these sales from our analysis.

C. Cost of Production Analysis

In the most recently completed proceeding segment in which DSM/KISCO received a calculated dumping margin, the Department determined that these companies sold certain foreign

[4] As noted above, all U.S. sales were made by DSM.

like product at prices below the cost of producing the merchandise and excluded such sales from the calculation of NV. *See Steel Concrete Reinforcing Bar from The Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 57883, 57885 (October 7, 2003) (no change at final). Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that during the instant POR, DSM/KISCO/HSI sold foreign like product at prices below the cost of producing the merchandise. As a result, the Department initiated a cost of production (COP) inquiry with respect to DSM/KISCO/HSI.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, for each unique foreign like product sold by DSM/KISCO/HSI during the POR, we calculated a weighted-average COP based on the sum of the respondent's materials and fabrication costs, general and administrative expenses, interest expenses, and import duties normally associated with imported material. *See Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review* 68 FR 6889 (February 11, 2003). For further information, see the analysis memorandum for DSM/KISCO/HSI, dated concurrently with this notice.

2. Test of Comparison Market Sales Prices

In order to determine whether sales were made at prices below the COP on a product specific basis, we compared the respondent's weighted-average COP to the prices of its home market sales of foreign like product, as required under section 773(b) of the Act. In accordance with sections 773(b)(1)(A) and (B) of the Act, in determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time. We compared the COP to home market sales prices, less any applicable movement charges and direct and indirect selling expenses.

3. Results of the 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 are made at prices less than the COP, we do not disregard any below cost sales of that product because the below cost sales are not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are made at prices less than the COP during the POR, we determine that such sales are made in ''substantial quantities'' and within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act. In such cases, because we use POR average costs, we also determine, in accordance with section 773(b)(2)(D) of the Act, that such sales are not made at prices that would permit recovery of all costs within a reasonable period of time. In the instant review, based on this test, we did not disregard below cost sales for DSM/KISCO/HSI.

Price-to-Price Comparisons

Where it was appropriate to base NV on prices, we used the prices at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same LOT as the comparison U.S. sale. We calculated NV using prices, less any discounts or rebates, for packed foreign like product delivered to unaffiliated purchasers or, where appropriate, affiliated purchasers in the home market. In accordance with sections 773(a)(6)(A), (B), and (C) of the Act, where appropriate, we deducted from the starting price the following home market expenses: movement, packing, and credit. Additionally, we added interest revenue to the starting price. We added to the starting price the following U.S. expenses: Packing, credit, and other direct selling expenses. Finally, where appropriate, we made price adjustments for physical differences in the merchandise and made a reasonable allowance for other selling expenses where commissions were paid in only one of the markets under consideration.

See 773(a)(6)(C)(ii) of the Act and 19 CFR 351.410(e).

Currency Conversion

Pursuant to section 773A(a) of the Act, we converted amounts expressed in foreign currencies into U.S. dollar amounts based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist for the period September 1, 2004, through August 31, 2005:

Manufacturer/Exporter	Margin (percent)
Dongkuk Steel Mill Co. Ltd./ Korea Iron and Steel Co., Ltd./Hwanyoung Steel Ind. Co. Ltd.	0.00
Dongil Industries Co Ltd.	102.28

Public Comment

Within 10 days of publicly announcing the preliminary results of this review, we will disclose to interested parties any calculations performed in connection with the preliminary results. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. *See* 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice in the **Federal Register**, or the first workday thereafter. Interested parties are invited to comment on the preliminary results of this review. The Department will consider case briefs filed by interested parties within 30 days after the date of publication of this notice in the **Federal Register**. Also, interested parties may file rebuttal briefs, limited to issues raised in the case briefs. The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we request that parties submitting written comments provide the Department with a diskette containing an electronic copy of the public version of such comments. Unless the deadline for issuing the final results of review is extended, the Department will issue the final results of this administrative review, including the results of its analysis of issues raised in the written comments, within 120 days of publication of the preliminary results in the **Federal Register**.

Assessment Rates

In accordance with 19 CFR 351.212(b)(1), in these preliminary results of review we calculated importer-specific assessment rates because the importer is known for all of the sales made by the collapsed entity. Since the collapsed entity reported the entered value, we calculated *ad valorem* assessment rates for the collapsed entity by summing, on an importer-specific basis, the dumping margins calculated for all of the collapsed entity's sales to the importer and dividing this amount by the total quantity of those sales. If the

importer-specific assessment rate is above *de minimis* (*i.e.*, 0.50 percent *ad valorem* or greater), we will instruct CBP to assess the importer-specific rate uniformly, as appropriate, on all entries of subject merchandise during the POR that were entered by the importer or sold to the customer. The Department will issue appropriate assessment instructions based on the final results of review directly to CBP within 15 days of publication of those final results.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the companies examined in the instant review will be the rate established in the final results of this review (except that if the rate for a particular company is *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the 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 subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 22.89 percent, the ''all others'' rate made effective by the LTFV investigation. *See LTFV Final Determination.* These cash deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and countervailing 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 and countervailing duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: October 2, 2006.

Joseph A. Spetrini,

Acting Assistant Secretary, for Import Administration.

[FR Doc. E6–16678 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100306I]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee in October, 2006 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, October 25, 2006, at 9 a.m.

ADDRESSES: This meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300; fax: (781) 245–0842.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Research Steering Committee will review: three cod-tagging projects undertaken as part of the overall Northeast Regional Cod Tagging Program coordinated by the Gulf of Maine Research Institute (GMRI); the GMRI cod tagging program itself; two Northeast Consortium-funded cod projects and the National Marine Fisheries Service-sponsored cod industry-based survey that was the subject of a peer-review in August. Additionally, the committee will review the scientific basis for NMFS policies that guide the issuance of Exempted Fishing Permits in the Northeast Region.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 4, 2006.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–16638 Filed 10–6–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Technical Information Service

National Technical Information Service Advisory Board

AGENCY: National Technical Information Service, Commerce.

ACTION: Notice; solicitation of applications for NTIS Advisory Board membership.

SUMMARY: The National Technical Information Service (NTIS) is seeking a qualified candidate to serve as one of the five members of the NTIS Advisory Board. NTIS Advisory Board will meet at least semiannually to advise the Secretary of Commerce, the Under Secretary for Technology, and the Director of NTIS on NTIS's mission, general policies and fee structure.