

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 New Shipper Review

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

SUMMARY: In response to a request by the respondent, Haewon MSC Co., Ltd. (Haewon), the Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on certain corrosion-resistant carbon steel flat products (CORE) from the Republic of Korea (Korea). This review covers one producer/exporter of the subject merchandise, Haewon. We preliminarily determine that Haewon did not make sales below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to liquidate entries subject to this review regard without regard to antidumping duties.

DATES: *Effective Date:* January 23, 2008.

FOR FURTHER INFORMATION CONTACT: Victoria Cho or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone at (202) 482-5075, or (202) 482-1167, 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) (*Order*). On February 28, 2007, during the semi-annual anniversary month of the *Order*, the Department received a timely request for a new shipper review of the *Order* from Haewon, in accordance with 19 CFR 351.214(c). On March 27, 2007, the Department published a notice of initiation of a new shipper review of the antidumping duty order on CORE from Korea covering the period August 1, 2006, through January 31, 2007. *See Corrosion-Resistant Carbon Steel Flat Products from Korea: Notice of Initiation of Antidumping Duty New Shipper Review for the period August 1,*

2006, through January 31, 2007, 72 FR 14260 (March 27, 2007).

On August 30, 2007, the Department published a notice extending the time period for issuing the preliminary results of the new shipper review from September 17, 2007, to January 15, 2008. *See Corrosion-Resistant Carbon Steel Flat Products from Korea: Extension of Time Limits for the Preliminary Results of Antidumping Duty New Shipper Review*, 72 FR 50099 (August 30, 2007).

On June 21, 2007, United States Steel Corporation¹ submitted an allegation that Haewon's home market sales were made at prices below the cost of production (COP). The Department analyzed the information referenced in petitioners' letter of June 21, 2007, and determined that the COP allegation was company-specific, employed a reasonable methodology, provided evidence of below-cost sales, and included models which are representative of the broader range of CORE sold by Haewon. Therefore, we determined that the petitioners' COP allegation provided a reasonable basis to initiate a new shipper COP investigation. *See* the Department's July 6, 2007, COP memorandum (COP memo). As a result, the Department issued a Section D questionnaire to Haewon on July 6, 2007. The Department subsequently issued three supplemental questionnaires regarding Sections A-C of the Department's initial questionnaire to Haewon on June 29, 2007, September 14, 2007, and October 17, 2007, respectively. The Department also issued two supplemental questionnaires regarding Section D of the Department's initial questionnaire on September 14, 2007, and October 17, 2007, respectively.

Period of Review

The period of review (POR) is August 1, 2006, through April 10, 2007.²

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

¹ Petitioners are the United States Steel Corporation (U.S. Steel) and Nucor Corporation (Nucor) (collectively, petitioners). Mittal Steel USA ISG, Inc. (Mittal Steel USA) is a domestic interested party.

² Note that the Department extended the POR until April 10, 2007 in order to include HMSC's U.S. sale, which entered on this particular date. *See* Department's letter to Haewon, dated May 23, 2007.

have preliminarily determined that there is no reason to depart from the Department's treatment of invoice date as the date of sale for Haewon.

Petitioners' Comments

On October 15, 2007, November 5, 2007, and December 10, 2007, the petitioners submitted a series of comments calling into question the bona fide nature of Haewon's U.S. sale and suggesting an affiliation between Haewon and the final customer of its U.S. sale. Haewon submitted comments rebutting petitioners' allegations. The Department issued an importer questionnaire to both Haewon and its U.S. importer on November 9, 2007. Based on the Department's analysis of the November 9, 2007, questionnaire response, and the information on the record, we determined that Haewon's U.S. sale is a bona fide transaction. For a discussion of these issues, *see* Memorandum from Victoria Cho, through James Terpstra to Melissa G. Skinner, regarding the bona fide nature of Haewon's sale to the United States, dated January 15, 2008.

Verification

The Department conducted a verification of Haewon's sales from November 5 through November 8, 2007, and a verification of Haewon's COP from November 9 through November 15, 2007. As provided in section 782(i)(3) of the Tariff Act of 1930, as amended (the Act), we verified the information provided by Haewon. We used standard verification procedures, including an examination of the relevant sales and financial records. Our verification results are detailed in the company-specific verification report placed in the case file in the Central Records Unit (CRU), Department of Commerce, HCHB Building, at Room 1117. *See* Haewon's Sales Verification Report and Haewon's Cost Verification Report, dated January 15, 2008.

Scope of the Order

This order covers 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 (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.49.0091, 7210.49.0095, 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, and 7217.90.5090. Included in the order are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process including products which have been beveled or rounded at the edges (*i.e.*, products which have been “worked after rolling”). Excluded from this order 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 this order 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 this order 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 HTSUS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all CORE products produced by Haewon, covered by the scope of the order, 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 Appendix V physical characteristics reported by Haewon. Haewon reported both its home market and U.S. sales on an actual weight basis; therefore, no conversions of the weight field were necessary in making our fair-value comparisons.

Normal Value Comparisons

To determine whether sales of CORE by the respondent to the United States were made at less than NV, we compared the Export Price (EP) to the NV, as described in the “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.

Export Price

Haewon sold subject merchandise directly to the first unaffiliated purchaser in the United States prior to importation, and constructed export price methodology was not otherwise warranted based on the record facts of this review. Therefore, in accordance with section 772(a) of the Act, we applied the Department’s EP methodology to Haewon’s sales.

We calculated EP using, as the starting price, the packed, delivered price to the unaffiliated purchaser in the United States. In accordance with section 772(c)(2)(A) of the Act, we made the following deductions from the starting price (gross unit price), where appropriate: foreign inland freight from the mill to warehouse to port, foreign brokerage and handling, international freight, marine insurance, and other related charges.

Normal Value

A. Selection of Comparison Market

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, we compared Haewon’s volume of home-market sales of the foreign like product to its respective volume of the U.S. sale of the subject merchandise, in accordance with section 773(a)(1) of the Act.

Haewon’s aggregate volume of home-market sales of the foreign like product was greater than five percent of its respective aggregate volume of U.S. sales of the subject merchandise. Therefore, we determined that Haewon’s home market was viable. We calculated NV as noted in the “Calculation of NV Based on Comparison Market Prices” and “Calculation of NV Based on Constructed Value” sections of this notice.

B. COP Analysis

As referenced in the background section, the Department conducted an analysis of U.S. Steel’s allegation that Haewon’s home market sales were made below the COP. We found that there were reasonable grounds to believe or suspect that Haewon’s sales of the foreign like product in the home market were made at prices below their respective COP. Accordingly, pursuant to section 773(b)(1) of the Act, we initiated a new shipper COP investigation to determine whether Haewon’s sales were made at prices below their COP. *See* COP Memo.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of Haewon’s costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and the cost of all expenses incidental to packing and preparing the foreign like product for shipment. We relied on the COP data submitted by Haewon.

2. Test of Comparison Market Sales Prices

We compared the weighted-average COP figures to home-market sales of the foreign like product as required by section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to the home-market prices, less any applicable movement charges, rebates, discounts, packing, and direct 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 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.

For purposes of these preliminary results, we disregarded below-cost sales of a given product and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Calculation of NV Based on Comparison Market Prices

For Haewon, for those comparison products for which there were sales at prices above the COP, we based NV on home-market prices. We were able to match the U.S. sale to contemporaneous sales, made in the ordinary course of trade, of a similar foreign like product, based on the product matching characteristics. For Haewon, we calculated NV based on sales from its warehouse to unaffiliated customers or Haewon Steel Tech (Haewon ST),³ which were determined to be at arm's length (see discussion below regarding these sales). We made deductions, where appropriate, from the starting price for discounts, rebates, inland freight, and pre-sale warehouse expense. In accordance with section 773(a)(6) of the Act, we deducted home-market packing costs and added U.S. packing costs.

In addition to the aforementioned home market sales, Haewon acted as a toll producer of subject merchandise for another company in Korea. Haewon stated that under generally accepted accounting principles (GAAP) in Korea, these transactions are classified as sales of galvanizing services (*i.e.*, tolling transactions), and not as sales of merchandise. See Haewon's Section A Questionnaire Response dated May 17, 2007, at page 20, footnote 8. That is, the unaffiliated company supplied material inputs that Haewon processed into subject merchandise and shipped back to the company. However, Haewon reported that it included the quantity and value of these sales of galvanized coil in its reported home market sales figures. Because these are not sales of

subject merchandise produced by Haewon and sold to an unaffiliated party, but rather are sales for which Haewon acted as a toll producer, we did not include these transactions in our margin calculations. The basis for the price of the resales is considered business proprietary information. See Haewon's Preliminary Results Calculation Memorandum, dated January 15, 2008.

Arm's-Length Sales

We included in our analysis Haewon's home-market sales to affiliated customers only where we determined that such sales were made at arm's-length prices, *i.e.*, at prices comparable to prices at which Haewon sold identical merchandise to its unaffiliated customers. Haewon's sales to affiliates constituted less than five percent of overall home-market sales. To test whether the sales to affiliates were made at arm's-length prices, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. Where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties, we determined that the sales made 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).

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act, to the extent practicable, the Department calculates NV based on sales at the same level of trade (LOT) as U.S. sales, either EP or CEP. When the Department is unable to find sale(s) in the comparison market at the same LOT as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at different LOTs. The NV LOT is that of the starting-price of sales in the home market. To determine whether home-market sales are at a different LOT than U.S. 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 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 make an LOT adjustment pursuant to section 773(a)(7)(A) of the Act.

We compared Haewon's selling functions in the home market to the selling functions for its U.S. sale. Haewon provided a selling functions chart for both markets in Exhibit A-5 of its May 17, 2007, section A response (section A response). Haewon reported its U.S. sale as an EP sale and it reported one LOT based on one channel of distribution. Similarly, we confirmed during verification that Haewon has one channel of distribution in the home market. As described in Haewon's section A response and at verification, the selling functions performed by Haewon in connection with its home market sales do not vary by customer category or distribution channel. Haewon did not claim an LOT adjustment because Haewon's home market sales were made at one LOT. Haewon's home market and U.S. sales were made through direct shipments from Haewon's production facility to the destination designated by the customer. Therefore, we find Haewon's home market LOT comparable to its LOT in the U.S. market.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following margin exists for the period August 1, 2006 through April 10, 2007:

| | |
|--------------|------|
| Haewon | 0.00 |
|--------------|------|

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See CFR 351.224(b). Interested parties are invited to comment on the preliminary results. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication of this notice. 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, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on a diskette. Any interested party may request a hearing within 30 days of publication of this notice. See 19 CFR 351.310(c). If requested, a hearing will be held 44

³ Haewon sold a small amount of CORE to its affiliate, Haewon ST, a steel service center, in Korea. Haewon ST resold the CORE to end users in Korea.

days after the publication of this notice, or the first workday thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from publication of this notice.

Assessment Rates

Upon completion of the new shipper review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries in accordance with 19 CFR 351.212. The Department intends to issue liquidation instructions directly to CBP 15 days after the date of publication of the final results of this new shipper review. The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its 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(ies) 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 upon publication of the final results of this new shipper review for all shipments of CORE from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for subject merchandise manufactured and exported by Haewon will be the rate established in the final results of this new shipper review; except no cash deposit will be required if its weighted-average margin is *de minimis* (i.e., less than 0.5 percent); (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (LTFV) investigation, 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 previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash

deposit rate for all other manufacturers and/or exporters of this merchandise, shall be 17.70 percent, the all others rate established in the LTFV investigation. These requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during 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. We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 15, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

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BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-909]

Certain Steel Nails From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination

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

EFFECTIVE DATE: January 23, 2008.

SUMMARY: We preliminarily determine that certain steel nails ("nails") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination. We will make our final determination within 135 days after the date of this preliminary determination.

FOR FURTHER INFORMATION CONTACT:

Nicole Bankhead (respondent Paslode) or Matt Renkey (respondent Xingya

Group), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-9068 or 482-2312, respectively.

SUPPLEMENTARY INFORMATION:

Initiation

On May 29, 2007, the Department of Commerce ("the Department") received petitions on imports of nails from the PRC and United Arab Emirates ("UAE") filed in proper form by Mid Continent Nail Corporation, Davis Wire Corporation, Gerdau Ameristeel Corporation (Atlas Steel & Wire Division), Maze Nails (Division of W.H. Maze Company), Treasure Coast Fasteners, Inc., and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, "Petitioners"). These investigations were initiated on July 9, 2007. *See Certain Steel Nails from the People's Republic of China and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 38816 (July 16, 2007) ("Initiation Notice").

On July 31, 2007, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from the PRC and UAE of nails. The ITC's determination was published in the **Federal Register** on August 6, 2007. *See Certain Steel Nails From China and the United Arab Emirates* (Investigation No. 731-TA-1114 and 1115) (Preliminary), Publication 3939 (August 2007) ("ITC Preliminary Determination").

Scope Comments

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. (*See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) and *Initiation Notice* 72 FR at 38817.)

In this investigation and the concurrent investigation of nails from the UAE, we received three scope exclusion requests during the period July 2007 through January 2008.

On July 30, 2007, Stanley Fastening Systems, LP (Stanley), an interested party in this proceeding, requested that