reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties. This administrative review and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 5, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–12386 Filed 5–9–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–827]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Collated Roofing Nails From Korea

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

EFFECTIVE DATE: May 12, 1997.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or Ellen Grebasch, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4194 or (202) 482–3773, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Preliminary Determination

We preliminarily determine that collated roofing nails (''CRN'') from Korea 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 Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Duty Investigations: Collated Roofing Nails from the People's Republic of China, the Republic of Korea, and Taiwan* (61 FR 67306, December 20, 1996)), the following events have occurred:

On January 17, 1997, the United States International Trade Commission (''ITC'') issued an affirmative preliminary injury determination in this case (see ITC Investigation Nos. 731–TA–757–759).

During November 1996 through January 1997, the Department obtained information from various sources identifying producers/exporters of the subject merchandise. (*See* Memo to the File, dated May 5, 1997, for a detailed explanation of the Department's search for producers/exporters of the subject merchandise.) During January, based on this information, the Department issued antidumping questionnaires to Kabool Metals (''Kabool''), Koram Steel Co., Ltd (''Koram''), Rewon Metals (''Rewon''), Jisco Steel, Han Duk Industrial Co. (''Han Duk''), New Korea, Jeil Steel, and Senco Korea (''Senco''). The questionnaire is divided into four sections: Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production (''COP'') of the foreign like product and constructed value (''CV'') of the subject merchandise.

The Department received responses to Section A of the questionnaire during February and March 1997. On March 13, 1997, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters/producers of the subject merchandise, it would limit the number of mandatory respondents in this investigation. The Department determined that the resources available to it for this investigation and the two companion investigations limited our ability to analyze any more than the responses of the two largest exporters/producers of the subject merchandise in this investigation. Based on Section A questionnaire responses, the Department chose Kabool and Senco as mandatory respondents. (For detailed information regarding this issue, see memo to Lou Apple from the CRN team, dated March 13, 1997.)

Kabool and Senco submitted questionnaire responses in February and March 1997. We issued supplemental requests for information in March and April 1997, and received supplemental responses to these requests in April 1997.

On March 28, April 21 and 23, 1997, the Paslode Division of Illinois Tool Works Inc. (''Petitioner'') filed comments on the Kabool and Senco questionnaire responses.

Postponement of Final Determination and Extension of Provisional Measures

On May 1, 1997, Senco requested that, pursuant to section 735(a)(2)(A) of the Act, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of publication of the affirmative preliminary determination in the **Federal Register**. In accordance with section 735(a)(2)(A) of the Act and 19 CFR 353.20(b), inasmuch as our preliminary determination is affirmative, Senco accounts for a significant proportion of exports of the subject merchandise under investigation, and we are not aware of the existence of any compelling reasons for denying the request, we are granting Senco's request and postponing the final determination. Suspension of liquidation will be extended accordingly. *See Preliminary Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan* (61 FR 8029, March 1, 1996).

Scope of Investigation

The product covered by this investigation is CR nails made of steel, having a length of 13/16 inch to 1 13/16 inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.

CR nails within the scope of this investigation are classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 7317.00.55.05. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of this investigation (''POI'') comprises each exporter's four most recent fiscal quarters prior to the filing of the petition. In this case, the POI for both companies is October 1, 1995, through September 30, 1996.

Fair Value Comparisons

Kabool and Senco

To determine whether sales of the subject merchandise by Kabool and Senco to the United States were made at less than fair value, we compared the Export Price (''EP'') or Constructed Export Price (''CEP'') to the Normal Value (''NV''), as described in the EP, CEP, and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs or CEPs to weighted-average NVs.

Kabool reported that it had no viable home market or third country sales during the POI. Therefore, we made no price-to-price comparisons for Kabool. See the ''Normal Value'' section of this notice, below, for further discussion.

For certain U.S. sales Senco had no appropriate third country matches. For purposes of calculating a unit margin for these sales, as the ''facts available'' we are applying the highest rate calculated in Senco's margin calculations for a control number.

(i) Physical Characteristics

In accordance with section 771(16) of the Act, we considered all products covered by the description in the ''Scope of Investigation'' section of this notice, above, produced in Korea and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales 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 the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): head size, type of collation (used to connect the wire to the nail), shank size, length of the nail, steel type, number of nails packed into a box or carton, type of coating, coating thickness (in ounces per foot), and coating thickness (in microns).

(ii). Level of Trade and CEP Offset

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (''SAA'') at 829–331, to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the U.S. sales. When the Department is unable to find sales in the comparison market at the same level of trade as the U.S. sale (s), the Department may compare sales in the U.S. and foreign markets at different levels of trade. Section 773(a)(7)(A) provides that if we compare a U.S. sale with a home market sale made at a different level of trade, when appropriate, we will adjust NV to account for this difference. When NV is based on CV, the level of trade is that of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profit.

For comparisons to CEP sales, section 773(a)(7)(B) of the Act provides for making a CEP offset when two conditions are met. First, the NV is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP, and second, the data available do not establish an appropriate basis for calculating a level of trade adjustment.

In this case, however, Senco, the only respondent with a viable home or third country market, did not claim that sales are made at different levels of trade. Additionally, the information on the record does not demonstrate that there are any differences in levels of trade. We therefore preliminarily determine that all of Senco's sales are made at a single level of trade. Because U.S. sales are at the same level as home market sales, no level of trade adjustment or CEP offset is warranted.

We have not applied a level of trade adjustment or CEP offset for Kabool because Kabool did not claim a level of trade adjustment and we are unable to determine whether the NVs are calculated at different levels of trade than the U.S. sales. As explained below in the ''Normal Value'' section of this notice, we calculated the NV for Kabool based entirely on CV. We derived SG&A and profit from data from the profitable companies' most recent financial statements contained in the Section A responses (*see* memorandum to the file dated May 5, 1997, for the CV profit rate calculation). This data does not permit an appropriate level of trade analysis because we are unable to isolate the particular selling expenses associated with the selling functions for Kabool's NV. Therefore, we find insufficient evidence on the record to justify a level of trade adjustment or CEP offset.

Export Price and Constructed Export Price

Kabool

We used EP in accordance with section 772(a) of the Act because the subject merchandise was sold to unaffiliated customers before importation and the CEP methodology was not indicated by the facts of record. We calculated EP based on packed prices, either CIF or CNF to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for inland freight—plant/warehouse to port of exit, brokerage and handling in Korea, international freight, and marine insurance. We added to EP reported duty drawback amounts.

Senco

We used EP in accordance with section 772(a) of the Act where the subject merchandise was sold to unaffiliated customers prior to importation and the CEP methodology was not indicated by the facts of record. We used CEP in accordance with section 772(b) of the Act where the subject merchandise was sold to unaffiliated customers after importation. We calculated both EP and CEP, as appropriate, based on packed prices, to the first unaffiliated purchaser in the United States. For both EP and CEP sales we made deductions from the starting price (gross unit price) for foreign inland freight, brokerage and handling, U.S. inland freight from port to warehouse, U.S. inland freight from warehouse to the unaffiliated customer, international freight (including U.S. customs duties), marine insurance (including U.S. inland insurance), and other price adjustments (*see* memorandum to the file dated May 5, 1997), where appropriate. With respect to foreign inland freight and brokerage and handling expenses, Senco reported that it incurred these expenses but did not report any amounts for these expenses in its sales listing. As the ''facts available,'' for foreign inland freight we are using the same freight amount reported for U.S. inland freight from the warehouse to the unaffiliated customer, and for brokerage and handling expenses we are using the brokerage and handling expenses from a sample sales document supplied by Senco in its Section A response and applying that amount to all U.S. sales.

For CEP sales, we made additional deductions, in accordance with section 772(d) (1) and (2) of the Act, for credit expenses, advertising expenses, other direct selling expenses, indirect selling expenses, and inventory carrying costs incurred in the United States. Pursuant to section 772(d)(3) of the Act, the price was further reduced by an amount for profit, to arrive at the CEP. The amount of profit deducted was calculated in accordance with section 772(f) of the Act. Because we did not have cost information for Senco, that would permit us to calculate total expenses (and total actual profit) under paragraph 772(f)(2)(C) (i) or (ii) we used the total

expenses incurred (and total actual profit earned) with respect to the narrowest category of merchandise sold in all countries which includes the subject merchandise, in accordance with paragraph 772(f)(2)(C)(iii). We have calculated profit as a percentage of the cost of production as recorded in Senco's most recent financial statement and applied that ratio to the CEP selling expenses to arrive at an amount for CEP profit.

Normal Value

In order to determine whether there is 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 five percent of the aggregate volume of U.S. sales), we compare each respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Senco

Senco reported that it had no home market sales during the POI. Therefore, in accordance with section 773(a)(1)(B)(ii), we based normal value for Senco on sales to its largest third country market, Canada. We calculated NV based on packed prices, to unaffiliated customers. In accordance with section 773(a)(6) of the Act, we deducted third country packing costs and added U.S. packing costs. However, we note that Senco failed to report packing amounts in its sales listings. Therefore, in accordance with section 776(a) of the Act, as the ''facts available'' we are applying the ratio of packing costs to gross unit price as supplied in the petition. Where appropriate, we made deductions from the starting price (gross unit price) for inland freight. With respect to foreign inland freight expenses, Senco reported that it incurred these expenses but did not report any amounts for these expenses in its sales listing. As the ''facts available'' for foreign inland freight we are using the same freight amount reported for U.S. inland freight from the warehouse to the unaffiliated customer. In addition, where appropriate, we adjusted for differences in circumstances of sale for imputed credit expenses.

Kabool

Kabool reported that it had no viable home or third country sales during the POI. Therefore, in accordance with section 773(a)(4) of the Act, we based normal value for Kabool on CV. In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the costs of materials and fabrication, selling, general, and administrative expenses (''SG&A''), profit and U.S. packing costs. We used Kabool's costs of materials, fabrication and packing as reported in the U.S. sales databases. In this case, Kabool had no home market selling expenses or home market profit upon which to base CV.

Section 773(e)(2)(B) of the Act sets forth three alternatives for computing profit and SG&A without establishing a hierarchy or preference among the alternative methods. We did not have the necessary cost data for methods one (calculating SG&A and profit incurred by the producer on the sales of merchandise of the same general type as the exports in question), or two (averaging SG&A and profit of other producers of the foreign like product for sales in the home market). The third alternative (section 773(e)(2)(B)(iii) of the Act) provides that profit and SG&A may be computed by any other reasonable method, capped by the amount normally realized on sales in the foreign country of the general category of products. The SAA states that, if the Department does not have the data to determine amounts for profit under alternatives one and two or a profit cap under alternative three, it still may apply alternative three (without the cap) on the basis of the ''facts available.'' SAA at 841. As the facts available, we are calculating an average SG&A and profit rate from the most recent financial statements of the profitable companies from which we received Section A responses. We note that some financial statements were unreadable; we did not include these numbers in our calculation. We preliminarily determine this data to be a reasonable surrogate for SG&A and profit of the subject merchandise. However, we will consider the issue of appropriate SG&A and profit information further for the final determination and invite comment on this issue.

Price to CV Comparisons

Because we based SG&A for CV on the financial statements of each individual company, where we compared CV to EP, we did not make any circumstance of sale adjustments for direct expenses, as we were unable to split out from total SG&A the direct selling expenses.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to convert foreign currencies based on the dollar exchange rate in effect on the date of sale of the subject merchandise, except if it is established that a currency transaction on forward markets is directly linked to an export sale. When a company demonstrates that a sale on forward markets is directly linked to a particular export sale in order to minimize its exposure to exchange rate losses, the Department will use the rate of exchange in the forward currency sale agreement.

Section 773A(a) also directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, *Policy Bulletin 96–1: Currency Conversions* (61 FR 9434, March 8, 1996)). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because neither the Korean Won nor the Canadian Dollar underwent a sustained movement.

Critical Circumstances

The petition contained a timely allegation that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise. Section 733(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that critical circumstances exist if: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported

knows or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

To determine that there is a history of dumping of the subject merchandise, the Department normally considers evidence of an existing antidumping duty order on CRN in the United States or elsewhere to be sufficient. *See e.g., Preliminary Determinations of Critical Circumstances: Brake Drums and Rotors from the People's Republic of China,* 61 FR 55269 (Oct. 25, 1996); *Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Rotors from the People's Republic of China,* 62 FR 9160 (Feb. 28, 1997). Currently, no countries have outstanding antidumping duty orders on CRN from Korea. The petitioner alleged a history of dumping based upon antidumping orders on steel wire nails from Korea and the People's Republic of China, both of which covered CRN. *See Certain Steel Wire Nails From Korea; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order,* 50 FR 40045 (Oct. 1, 1985); *Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order; Certain Steel Wire Nails from The People's Republic of China,* 52 FR 33463 (Sept. 3, 1987). We preliminarily determine that these antidumping orders are not a sufficient basis to find a history of dumping because both orders were revoked many years ago. However, we will consider this issue further for the final determination and we invite interested parties to comment on the issue.

In determining whether an importer knew or should have known that the exporter was selling subject merchandise at less than fair value and thereby causing material injury, the Department normally considers margins over 15% for EP sales and 25% for CEP sales to impute knowledge of dumping and of resultant material injury. *Brake Drums and Rotors,* 62 FR at 9164–65. When a company has both EP and CEP sales, we normally weight-average the 15% and 25% benchmarks using the volume of EP and CEP sales, respectively, to arrive at a weighted-average benchmark percentage for imputing knowledge of dumping. In this investigation, of the exporters/manufacturers has a margin over 15% for EP sales or 25% for CEP sales. Based on these facts, we determine that the first criterion for ascertaining whether or not critical circumstances exist is not satisfied. Therefore, we have not analyzed the shipment data for any of these companies to examine whether imports of CRN have been massive over a relatively short period. Thus, because neither alternative of the first criterion has been met, we preliminarily determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to exports of CRN from Korea by Kabool or Senco.

Regarding all other exporters, because we do not find that critical circumstances exist for any of the investigated companies, we also determine that critical circumstances do not exist for companies covered by the ''All Others'' rate.

We will make a final determination concerning critical circumstances when we make our final determination in this investigation, if that final determination is affirmative.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise—except those exported by Kabool—that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Kabool	0
Senco	5.53
All Others	5.53

Pursuant to section 735(c)(5)(A) of the Act, the Department has excluded the zero margin from the calculation of the ''All Others Rate.''

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than July 29, 1997, and rebuttal briefs, no later than August 5, 1997. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on August 6, at 9:00 a.m. in Room 1412 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(d) of the Act.

Dated: May 5, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–12393 Filed 5–9–97; 8:45 am]

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