This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 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 preliminary results of review are issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act and 19 CFR 353.22.

Dated: March 31, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98–9091 Filed 4–6–98; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–580–810]**

## Certain Welded Stainless Steel Pipe From Korea; Final Results of Antidumping Duty Changed Circumstances Review

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

**ACTION:** Notice of final results of antidumping duty changed circumstances review.

**SUMMARY:** On February 6, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its antidumping duty changed circumstances review on certain welded stainless steel pipe from Korea (63 FR 6153) to examine whether SeAH Steel Corporation (SeAH) is the successor to Pusan Steel Pipe (PSP), the successor to Sammi Metal Products Co. (Sammi), or neither. We have now completed this review and determine that, for purposes of applying the antidumping duty law, SeAH is the successor to PSP, and as such, should be assigned the antidumping deposit rate applicable to PSP.

**EFFECTIVE DATE:** April 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Lesley Stagliano or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0648, (202) 482–3020.

**SUPPLEMENTARY INFORMATION:**

### Background

On February 6, 1998, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its antidumping duty changed circumstances review on certain welded stainless steel pipe from Korea (63 FR 6153). We have now completed this changed circumstances review in accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act).

### Scope of Review

Imports covered by the review are shipments of welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications of the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of this order also includes WSSP made according to the standards of other nations which are comparable to ASTM A–312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines. Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedules of the United States (HTSUS) subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5065, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of this review is limited to welded austenitic stainless steel pipes. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

This changed circumstances administrative review covers SeAH and any parties affiliated with SeAH.

### Successorship

According to SeAH, PSP legally changed its name to SeAH on December 28, 1995, which change became effective on January 1, 1996. SeAH claims that its name change from PSP was a change in name only, and that the legal structure of the company, its management, and ownership were not affected by the name change. SeAH also claims that it is a part of a larger group of related companies, certain members of which had SeAH in their names prior to January 1, 1996.

In its request for a changed circumstances review, SeAH indicated that PSP had acquired certain production assets formerly owned by Sammi Metal Products Co. (Sammi). SeAH asserts that the acquisition, which occurred more than a year before the name change and was effective January 3, 1995, is not related to the name change. SeAH claims that its acquisition of the products and facilities of Sammi is functionally no different from PSP expanding its existing facilities or contracting a new manufacturing facility.

Based on the information submitted by SeAH, petitioners have argued that SeAH is, at a minimum, a hybrid of PSP and Sammi.

In determining whether one company is the successor to another for purposes of applying the antidumping duty law, the Department examines a number of factors including, but not limited to, changes in (1) management, (2) production facilities, (3) suppliers, and (4) customer base. See, *e.g.*, Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, (57 FR 20460, May 13, 1992); Steel Wire Strand for Prestressed Concrete from Japan; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, (55 FR 7759, March 5, 1990); and Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Changed Circumstances Review (59 FR 6944, February 14, 1994). While no one or several of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be a successor to a second if its resulting operation is essentially the same as that of its predecessor. See Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, (55 FR 20460, 20461, May 13, 1992). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity, the Department will assign the new company the cash deposit rate of its predecessor.

The record in this review, as demonstrated by the following factors, indicates that SeAH is the successor to PSP for the production of subject

merchandise, and is not a successor to Sammi, nor a new hybrid entity.

**Analysis of Comments Received**

*Comment 1*

Petitioners argue that it is not the change in name from PSP to SeAH that supports a finding of changed circumstances but rather the acquisition of the production operations for WSSP from Sammi in Changwon, and the closure of the PSP Seoul facility. Consequently, petitioners state that whether or not PSP ever changed its name, the fundamental changes in PSP that resulted from acquiring Sammi's WSSP Changwon facility justify a finding of changed circumstances in this review. Petitioners point out that the agency must recognize that although changes in names provide grounds for a changed-circumstances review, the law does not require that a name change occur in order to support a finding of changed circumstance. In support of this statement, petitioners cite Industrial Phosphoric Acid from Israel, (59 FR 6944, 6945, (1994)). Petitioners state that in its preliminary analysis, the Department erroneously focused on whether there was a change in factors such as production facilities, customers, suppliers and management following the name change, not following the acquisition. Thus, petitioners argue that the Department focused on the wrong time period with respect to this analysis. Instead of comparing PSP's operations in 1995 to SeAH's operations in 1996, petitioners argue that the Department should examine the operations of PSP in 1994 as contrasted with PSP's operations in 1995 and SeAH's operations in 1996.

Respondents maintain that the Department correctly applied the successorship test used in Brass Sheet and Strip from Canada, (57 FR 20460, 20461, May 13, 1992), Sugar and Syrups from Canada, (61 FR 51275, October 1, 1996), Large Power Transformers from Italy, (52 FR 46806, December 10, 1987), and Industrial Phosphoric Acid from Israel, (59 FR 6944, February 14, 1994), to the facts of this review in order to conclude that SeAH's business operation for production of the subject merchandise was that of its predecessor PSP. Furthermore, respondents argue that petitioners ignore that the administrative record includes multiple questionnaire responses which focused on PSP's acquisition of the Changwon plant and cover over three years of information regarding PSP and SeAH's (1) management, (2) production facilities, (3) suppliers, and (4) customer base. In addition, respondents assert that the Department's conclusion in the Preliminary Results does indeed address the effects of the plant acquisition.

*Department's Position:* The Department disagrees with petitioners' argument that the Department did not inquire about or consider the successorship factors following the acquisition of the Changwon plant. While our preliminary results may not have detailed the breadth of our inquiry, the Department did, in fact, consider the effects of the acquisition of the Changwon plant including: (1) The changes in production facilities at the Changwon plant after January 1, 1995. See August 27, 1997 Response; (2) all documentation pertaining to the acquisition of the Changwon plant (i.e., contracts, sales agreements, non-compete agreements, deeds of transfer, meeting notes, articles of incorporation, etc.); (3) whether Sammi's employees were transferred to PSP as a result of the acquisition of the Changwon plant. See October 3, 1997 Response; (4) the number of workers that are currently employed at the Changwon facility, (5) the percentage that the transferred employees make up of the total employees at the Changwon plant, (6) the functions that are performed by the ninety employees that were transferred from Seoul to work in the Changwon facility. See December 2, 1997 Response; (7) the process through which PSP acquired the Changwon plant, the negotiation process time-line, and all documents associated with the negotiation, (8) the factory layouts of the Seoul plant before and after the relocation, as well as the factory layouts of the Changwon plant before and after PSP acquired it, and (9) marketing practices and marketing changes after PSP acquired the Changwon plant. In addition, the Department analyzed information from 1994, 1995 and 1996 with respect to the customers and suppliers of PSP/SeAH. As a result of the Department's analysis of the effects of the acquisition of the Changwon plant, the Department stated in its preliminary results:

> We preliminarily find that SeAH is not the successor to Sammi as suggested by the petitioner. While the plant is a former Sammi facility, the plant was overhauled and redesigned. Further, none of Sammi's former managers work for SeAH, with the exception of two plant managers, who ceased working for Sammi long before the plant acquisition, and, therefore, were not hired as a result of that acquisition. PSP's suppliers did not change in a way that would be attributed to PSP's acquisition of the Changwon plant, and PSP did not acquire a significant number of new customers or substantial new business from such customers as a result of the Changwon acquisition.
>
> (63 FR 6155; February 6, 1998)

Thus, the record establishes that the Department thoroughly considered PSP's acquisition of the Sammi facility and the effect of that acquisition on PSP's operations.

*Comment 2*

Petitioners argue that the Department impermissibly shifted focus of the inquiry to a change in the corporation as a whole rather than a change solely with respect to production of subject merchandise by focusing on the change in the name rather than on the acquisition of Sammi's Changwon facility. Petitioners cite Industrial Phosphoric Acid from Israel, (59 FR 6945), when arguing that the successor company question must be resolved ''in terms of the operations that produce the subject merchandise.'' Petitioners also cite Brass Sheet and Strip from Canada, (57 FR 20460, 20461, (1992)), which states that ''the point of comparison is the type of business, not the legal entity itself.'' Moreover, petitioners argue that by focusing on the company name change, the Department has departed from its legal precedent requiring that successorship inquiries analyze changes at the level of production of subject merchandise, not based on an overall corporate entity.

*Department's Position:* The Department agrees with petitioners that the focus of the changed circumstances should be the production of subject merchandise. However, both the name change and the acquisition of the Sammi facility relate to the production of the subject merchandise. Thus, the Department correctly considered the name change as a changed circumstance giving rise to the issue of successorship. As stated in response to Comment 1, the Department considered both the name change and the effects of the acquisition of Changwon as they relate to the successorship factors.

*Comment 3*

Petitioners argue that the Department has failed to examine whether SeAH is a hybrid of PSP and Sammi. Petitioners contend that at a minimum, SeAH must be viewed as a combination of PSP and Sammi with respect to the production of WSSP and, thus, should be subject to the ''all others'' cash deposit rate. Petitioners assert that the additional information obtained at verification provides further support for the conclusion that SeAH is a hybrid of PSP

WSSP production and Sammi WSSP production.

Although petitioners acknowledge that overhauling of the Changwon facility may support the Department's conclusion that SeAH is not the successor to Sammi, petitioners argue that these facts do not support the conclusion that SeAH is the successor to PSP. Petitioners' arguments focus on the change in production facilities that since (1) PSP's WSSP operations were physically relocated from Seoul and integrated with Sammi production lines, in Sammi's pre-existing Changwon facility, and (2) SeAH shut down the Seoul facility, SeAH is not the successor to PSP with respect to WSSP production facilities. Petitioners argue that the acquisition of raw materials, supplies and inventory, and retention of certain production lines in addition to physical facilities at Changwon prove that the resulting WSSP production at the Changwon facility is now a combination of PSP and Sammi.

Petitioners argue that evidence on the record indicates that the production facilities of PSP are not the same as those of SeAH. Petitioners argue that instead of focusing on the March 26, 1996 shut down of the WSSP facility in Seoul, the agency focused on differences that exist at the Changwon facility today in comparison to the Changwon facility when it was run by Sammi.

Respondents argue that many companies frequently buy equipment, occasionally expand and/or move their facilities, and sometimes they increase production and grow. Thus, none of the changes that accompanied PSP's acquisition of Sammi's Changwon plant were extraordinary. Respondents note that the only difference between this case and the normal changes that most companies experience is that PSP purchased the physical assets of a company that also produced subject merchandise and had its own company-specific rate. Respondents argue that there is no difference with respect to equipment purchased from Sammi or any other source because no equipment nor a specific facility has an antidumping deposit rate inviolably attached to it. While SeAH's production facility at Changwon may be a combination of equipment from Sammi and PSP's Seoul plant, it does not logically follow that in purchasing the plant and equipment from Sammi that PSP became something other than itself.

*Department's Position:* The Department disagrees with petitioners. The Department considers the acquisition of the Changwon facility and the above mentioned materials as asset acquisitions and nothing more. Although the hybrid issue may not be detailed in the preliminary results, the Department addressed it in its analysis of the management, production facilities, customers and suppliers. We collected and analyzed PSP/SeAH information regarding these factors for 1994, 1995, and 1996. After reviewing these four factors, the Department determined that with the purchase of the Changwon plant, PSP remained PSP. Contrary to petitioners' argument, the Department's findings did resolve the hybrid issue. Specifically, we found that (1) PSP did not change into a new corporate entity, (2) the management team remained the same, and (3) even though PSP's production facility changed with the acquisition of the Changwon plant and the relocation of the Seoul facility, the new Changwon facility came under the PSP corporate structure. With the exception of the acquisition of the new facility, PSP (and hence SeAH) continued to operate essentially as it had prior to the acquisition. Subsumed in the Department's conclusion that SeAH operates essentially the same as PSP is the conclusion that it is not a hybrid operation.

*Comment 4*

Petitioners claim that although SeAH has attempted to focus on the fact that it did not ''transfer'' production workers from Sammi's Changwon facility as part of its contractual agreements, the agency didn't ask whether there was a contractual agreement to transfer workers. In addition, petitioners argue that the agency incorrectly focused on whether the number of people employed at the Changwon plant changed after PSP changed its name to SeAH and not whether the number of people in Changwon's facility changed after PSP acquired Changwon and shifted employees from Seoul to Changwon. Moreover, petitioners state that the agency fails to contrast the number of newly-hired workers with the number of transferred workers.

Respondents contend that the number of newly-hired employees and the proportion of total workers at Changwon that these employees represent are stated on the record.

*Department's Position:* At verification, the Department analyzed the original contract to buy the Changwon plant and found no evidence of an agreement to transfer workers from Sammi to PSP. Moreover, as mentioned in the preliminary determination, at verification the Department looked at personnel files of current SeAH employees at the Changwon plant and found only one new hire who had worked for Sammi prior to 1989, and for an unaffiliated entity between 1989 and 1996, before coming to Changwon. There was no evidence that any other employees had worked for Sammi. Thus, the Department finds no reason to suspect that any Changwon employees were transferred to PSP. As this issue contains proprietary information, refer to the Memorandum to the File from Lesley Stagliano, dated March 30, 1998 for further information.

*Comment 5*

Petitioners argue that facts on the record contradict the agency's conclusion that SeAH is the successor to PSP with respect to the domestic customer base. Petitioners cite SeAH as stating ''that the majority of its customers are small customers'' and ''that it is likely that most of its (SeAH's) new smaller customers were customers of Sammi.'' Based on these two statements, petitioners assert that SeAH's operations in Changwon served not only the home market customer base of PSP but also the home market customer base of Sammi, thus, proving that SeAH is not the successor to PSP.

Respondents maintain that the Department's findings regarding the change in customers was correct. Respondents argue that with Sammi's disappearance from the market, the new small customers would be just as likely to seek material from any of the several other producers of subject merchandise in Korea.

*Department's Position:* At verification, the Department did not find any evidence of customer lists or contracts transferring customers from Sammi to PSP. We believe PSP's addition of customers who were former customers of Sammi is a normal consequence of Sammi's departure from the market. For further discussion of this issue, refer to the Memorandum to the File from Lesley Stagliano, dated March 30, 1998.

*Comment 6*

Petitioners state that SeAH has never submitted for the record either PSP's or SeAH's list of United States customers even though the Department asked SeAH to report data on ''all'' customers, see Request for Information from SeAH Steel Corp., dated July 24, 1997, question 12. Petitioners assert that because the focus of a changed-circumstances review is on whether the company (PSP) that was subject to the antidumping finding by the Department in its original order is the same as the company (SeAH) now requesting successorship status, it is critical that the Department examine the U.S. customer base, for it was on the basis of

U.S. sales to U.S. customers at particular prices that the dumping findings were made. Furthermore, petitioners state that the weighted-average margins resulting from the case reflect that Sammi accounted for the majority of U.S. sales of WSSP from Korea; therefore, petitioners argue that as the only other exporter of WSSP to the United States previously identified, SeAH is now supplying Sammi's former U.S. customer base. Thus, petitioners conclude that SeAH is not the successor to PSP.

Respondents state that PSP/SeAH sells the vast majority of its subject merchandise in the domestic market, and that petitioners have no basis for claiming that ''SeAH is now supplying Sammi's former U.S. customer base.'' Moreover, respondents argue that Sammi did not, and could not, transfer its U.S. customers to PSP. In addition, respondents contend that it is unreasonable to assume that, among all of the potential suppliers to the U.S. customer, both domestic and foreign, that all of Sammi's former customers would choose PSP/SeAH.

*Department's position:* As noted above, PSP purchased only Sammi's production assets. PSP did not succeed to any rights or obligations Sammi had with its U.S. or domestic customers. With Sammi's absence from the market, it is natural that U.S. customers would seek business from other suppliers of subject merchandise in order to fill the void that was created. Further, as noted by respondents, PSP's/SeAH's U.S. sales consist of a small percentage of the total sales of WSSP, a fact admitted by petitioners as well.

*Comment 7*

Petitioners disagree with the agency's conclusion that the changes in suppliers were not ''significant''.

*Department's Position:* The Department maintains its position that the changes in suppliers were not significant. For further elaboration of the Department's position, as it contains proprietary information, refer to the Memorandum to the File from Lesley Stagliano, dated March 30, 1998.

*Comment 8*

Petitioners argue that the Department incorrectly focused on the change in management following the name change and not on the acquisition of Changwon. In addition, petitioners assert that respondents' statement that ''management dictates and controls the production of subject merchandise, and, most important, sets prices'' is an unfounded overemphasis of just one factor and that production facilities, suppliers, and customers are relevant factors as well.

Respondents argue that not only did the Department address the issue of management specifically with respect to the Changwon acquisition, but that it also analyzed management on a corporate-wide level. Consequently, respondents state that the Department verified all of the information pertaining to the period before and after the acquisition of Sammi's Changwon plant, and that such information is reflected in the verification report. Respondents quote the Department's verification report which states that there were ''no significant organizational changes after the acquisition of the Changwon plant.'' See Verification Report at 5.

*Department's Position:* The Department agrees with respondents. The Department did address the relevant changes in management. In the Memorandum to Joseph Spetrini from Edward Yang, dated January 29, 1998, the Department states, ''[a]ll of the managers of the Changwon plant were transferred from PSP plants after the January 1, 1995 acquisition of the Changwon plant.'' In addition, the Department states, ''(t)he headquarters for the sales and marketing division remained at the head office in Seoul, and very little changed with respect to the individuals holding these management positions.'' See Preliminary Results, (63 FR 6154). In its analysis, the Department specifically looked at the period following the acquisition as well as the name change with respect to management. Thus, the Department maintains its original position in the preliminary results regarding this issue.

*Comment 9*

Petitioners argue that SeAH attempted to circumvent the antidumping duty laws by combining operations with another company (Sammi) subject to a higher dumping rate, but nonetheless continued to produce and export subject merchandise to the United States without divulging this information and relying instead on the lower (PSP's) rate.

Respondents argue that PSP could in no way improve its position vis-a-vis the applicable cash deposit rate by purchasing Sammi's Changwon plant, a company with a higher deposit rate than PSP. Furthermore, respondents argue that for PSP to try to circumvent the antidumping order by purchasing the production facilities of the company with the highest cash deposit rate, when PSP already had the lowest cash deposit rate of any company subject to the antidumping order, would defy logic.

*Department's position:* The Department disagrees with petitioners. Petitioners cite to no evidence on the record to support their contention. The Department has thoroughly reviewed the facts on the record and did not find that Respondent has intentionally attempted to mislead the Department.

*Final Results of the Review*

After reviewing the comments received, we determine that SeAH is the successor to PSP for antidumping duty cash deposit purposes.

SeAH will, therefore, be assigned the PSP antidumping deposit rate of 2.67 percent.

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(c) of the Act: The case deposit rate for the reviewed company will be as outlined above.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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 subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with section 777(i)(1) of the Act and 19 CFR 353.22(f).

Dated: March 30, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98–8973 Filed 4–6–98; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–815]**

### Certain Welded Stainless Steel Pipe From Taiwan; Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

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