

Department's regulations. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 12, 2001.

**Timothy J. Hauser,**

*Acting Under Secretary for International Trade.*

## Appendix I—Issues in Decision Memorandum

### Comments and Responses

#### TAMSA

1. Revocation
2. Export Price and Constructed Export Price Sales

#### Hylsa

1. Export Credit Insurance
2. Value Added Taxes—Raw Material
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  - A. Double-Counted
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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-841]

### Structural Steel Beams From Korea: Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

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

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

**SUMMARY:** In response to a request by Northwestern Steel & Wire Company, Nucor-Yamato Steel Company, and TXI-Chaparral Steel, Inc. ("Petitioners"), interested parties in this proceeding and the petitioners in the less-than-fair value investigation of structural steel beams from Korea, the Department of Commerce ("Department") is conducting a changed circumstances administrative review of the antidumping duty order on structural steel beams from Korea to determine the successor-in-interest to the merger of two respondent companies, Inchon Iron

& Steel Co., Ltd. ("Inchon") and Kangwon Industries, Ltd. ("Kangwon"). For the purpose of administering an antidumping duty, the Department examined whether the resulting company, which operates under the name of Inchon, should be considered as the pre-merger Inchon, pre-merger Kangwon or a new entity altogether, and whether as such, the post-merger Inchon should be assigned the antidumping duty deposit rate of pre-merger Inchon, pre-merger Kangwon or a new rate. As a result of this review, the Department preliminarily finds that Inchon is the successor-in-interest to the merger of Inchon and Kangwon as post-merger Inchon operates in a manner that is not substantially different from pre-merger Inchon. Thus, Inchon should retain the deposit rate assigned by the Department in the investigation for all entries of subject merchandise produced or exported by the post-merger entity.<sup>1</sup>

**EFFECTIVE DATE:** March 21, 2001.

#### FOR FURTHER INFORMATION CONTACT:

Stephen Shin or Laurel LaCivita, Office of CVD/AD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0413 or (202) 482-4243, respectively.

#### SUPPLEMENTARY INFORMATION:

### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as set forth at 19 CFR 351 (2000).

### Background

On August 18, 2000, the Department published in the **Federal Register** an antidumping duty order on structural steel beams from Korea. *See Structural Steel Beams from Korea: Notice of Antidumping Duty Order*, 65 FR 50502 (August 18, 2000). In an August 30, 2000 letter to the Department, petitioners requested that the Department conduct a changed circumstances administrative review pursuant to section 751(b) of the Act to determine the successor-in-interest of the merger between Inchon and

Kangwon, two companies involved in the structural steel beams investigation ("Investigation") from South Korea, and what cash deposit rate the post-merger company should be assigned. *See Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Korea*, 65 FR 41437 (July 5, 2000) (as amended 65 FR 50501 (August 18, 2000)). We published a notice of initiation of a changed circumstance review on September 15, 2000 to determine whether the post-merger Inchon is the successor company to the merger of Inchon and Kangwon. *See Initiation of Changed Circumstance Antidumping Duty Administrative Review: Structural Steel Beams from Korea*, 65 FR 55944 (September 15, 2000). The Department issued questionnaires on September 29, 2000 and December 1, 2000 and received responses on November 6, 2000 and December 15, 2000. As provided in section 782(i) of the Act, from January 17-19, 2001, the Department conducted an on-site verification of the information on the record. *See* January 29, 2001 Verification Report (a public version of which is located in room B-099 of the main Department of Commerce building).

The Department is conducting this changed circumstance review in accordance with 19 CFR 351.216.

### Scope of Review

The products covered by this review are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000,

<sup>1</sup>For the purpose of this notice, the Department will distinguish between pre and post-merger Inchon when necessary. References to "Inchon" represent both the pre and post-merger company.

7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

### Successorship

Inchon and Kangwon began informal discussions of merging their two operations in July of 1999. Shareholders of both Inchon and Kangwon approved the merger respectively on January 7, 2000 and December 14, 1999. On March 15, 2000, Inchon and Kangwon finalized the merger of their two companies, effective on that date. According to the terms of the merger, Inchon acquired all of Kangwon's assets and liabilities, and production would continue under Inchon's name. Furthermore, Kangwon ceased to exist as a corporate entity as a result of the merger. Though the Department sought and received information concerning the merger during the course of investigation, Inchon and Kangwon did not initiate discussions of, nor complete, the merger until after the period of investigation.

In making a successor-in-interest determination, the Department examines several factors including, but not limited to, the following changes: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review ("Canadian Brass")* 57 FR 20460 (May 13, 1992); *Steel Wire Strand for Prestressed Concrete from Japan, Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 55 FR 28796 (July 13, 1990); and *Industrial Phosphorous 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 to succession, the Department will generally consider one company to be a successor if its resulting operation is essentially the same as that of its predecessor. *See Canadian Brass* at 20461. 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.

On the basis of the record developed in this proceeding, as demonstrated by the following factors, we preliminarily determine that Inchon is the successor-in-interest to the merger of Inchon and

Kangwon as post-merger Inchon operates in a manner that is not substantially different from pre-merger Inchon.

### Management and Corporate Structure

In analyzing this criterion, the Department has focused on three aspects: management, the post-merger company's board of directors (BOD), and the post-merger company's corporate structure.

#### Management

In reporting managerial changes since the merger to the Department, Inchon has concentrated on what it classifies as upper-level management personnel, which includes presidents, vice-presidents, executive directors, and directors. Additionally, the Department has obtained information regarding other lower-level management changes since the merger (*i.e.* the positions of general managers, assistant general managers, senior managers, and managers). Next, the Department analyzed information concerning Inchon's pre and post-merger Board of Directors ("BOD"). Finally, the Department examined whether the corporate structure has changed and which level(s) of management is most responsible for determining policies prevalent to the operation of the company.

With regard to lower-level management positions (those below that of director), there has been greater retention of management personnel formerly employed by Kangwon, and correspondingly, at these lower levels of management, the post-merger scheme is more reflective of a mixture of the former Inchon and Kangwon. An examination of the record reveals that, with respect to the upper-level management, as defined by Inchon, these positions are predominantly occupied by the same persons who had occupied these positions prior to the merger. Hence, the overall upper-level management scheme is reflective of the pre-merger Inchon. Because the exact figures are proprietary in nature, please see the proprietary version of the *Decision Memorandum to Bernard T. Carreau from Edward Yang, Preliminary Determination of Changed Circumstances Antidumping Duty Administrative Review: Structural Steel Beams from South Korea ("Decision Memo")*, pp. 2–4, March 14, 2001, for further details.

The Department has also examined the constitution of Inchon's board of directors. We note that Inchon's BOD has in fact undergone significant change solely because of the merger. As a result

of the merger, Inchon's asset value rose to a level that legally required an expansion of the BOD. Prior to the consummation of the merger, Kangwon converted the debt owed to creditor banks into outstanding shares of Kangwon. This stake in Kangwon resulted in a certain percentage of ownership of Inchon by Kangwon's creditor banks as a result of the merger agreement, and consequently resulted in the appointment to the BOD of representatives of the creditor banks. *See Decision Memo* at page 4. Evidence on the record also reveals that the BOD consists of two general groups of directors: active and non-active. In this regard, the current president and chairman of the company are both active members of the BOD, and both were employed by Inchon prior to the merger. *See Decision Memo* at pp. 4–5.

#### Corporate Structure

According to Inchon, all lower-level managers at Inchon make recommendations relating to the firing of employees and possess budget allocation authority. In terms of sales policies regarding customers and supplier policies, lower-level management personnel often prepare policy recommendations which must subsequently be reviewed and approved by upper-level management personnel (director level or higher). *See* January 29, 2001 Verification Report at 6 and 16. Thus, though lower-level management personnel possess some responsibility (*i.e.* allocation of budget and promotional recommendations) after the merger, policies which would significantly alter the pricing and production practices of Inchon would not be decided by management personnel below the position of director, but by the upper-level management hierarchy reported by Inchon throughout this review.

After the merger, Inchon reorganized to assimilate the Pohang facility within the company's corporate structure. Because the exact nature of this reorganization is proprietary and therefore cannot be discussed here, see *Decision Memo* at pp. 3–4. We note that these changes have primarily dealt with the addition of personnel, and not a shift of responsibility in Inchon's managerial hierarchy. Certainly, the acquisition of an entirely new production facility must necessitate, and did in fact necessitate, an internal reorganization. However, the cumulative effect of this reorganization appears to have been primarily to incorporate the operations of the Pohang production facility and sales of merchandise produced at that facility. Thus, while Inchon employs a number

of former Kangwon lower-level management personnel, their responsibilities appear to be primarily devoted to the operational activities associated with the Pohang facility, and there is no indication that these lower-level managers possess significant policymaking responsibilities with regard to the operation of Incheon as a whole.

In determining Incheon's corporate structure, we have examined whether changes to the BOD have substantially altered the BOD's role within the company. In the case at hand, the BOD's role concerns the formulation of company strategy and the supervision of management. See January 29, 2001 Verification Report at 6. The evidence on the record indicates that the BOD primarily exercises this role by electing the president and the chairman of the company, both of whom are directly involved in the everyday operations of the company. Indeed, the BOD resulting from the merger has exercised this voting power twice. However, it is worth noting that the current president and chairman of the company were with Incheon prior to the merger, and in fact, evidence on the record supports the fact that certain policies, such as sales and supplier policies, have not changed from those applied by Incheon prior to the merger (see discussion below in "Suppliers" and "Customers"). Therefore, there is little evidence on the record which indicates that the BOD role within Incheon has changed significantly since the merger.

Based on the above reasons, the Department concludes that post-merger Incheon's management remains similar to Incheon's management and corporate structure prior to the merger and did not substantially change as the result of the merger. See *Decision Memo* at 5.

#### Production Facilities

Next, under the *Canadian Brass* analysis, we examined Incheon's production facility. The acquisition of the Pohang facility represents the major asset gained by Incheon through the merger. The record of this review indicates that through the Pohang facility, Incheon gained the ability to produce a new type of subject merchandise which Incheon could not produce prior to the merger. Though Incheon did gain the ability to produce a new product, this product does not comprise a large percentage of the company's total production quantity and value. Moreover, Incheon's production process largely remains similar to that prior to the merger. See *Decision Memo* at page 4. See *Certain Stainless Steel Pipe from Korea; Final*

*Results of Antidumping Duty Changed Circumstances Review*, 63 FR 16979, 16981 (April 7, 1998), where the Department determined that the acquisition of a new production facility could not, by itself, provide a reasonable basis for the Department to determine whether a company is a different business entity.

Based upon the reasons aforementioned, the Department concludes that Incheon's production facilities did not substantially change as a result of the merger.

#### Suppliers

Under the *Canadian Brass* analysis, the Department next examined changes to Incheon's supplier base. Prior to the merger, Incheon engaged in a specific supply policy that was qualitatively different from the policy Kangwon employed. Because the exact nature of these supply policies is proprietary and therefore cannot be discussed here, see *Decision Memo* at page 5. The Department notes that Incheon's "upper-management" structure reaffirmed the company's pre-merger supplier policies as the guideline for post-merger operation. See *Decision Memo* at page 5. An examination of a combined list of Incheon's and Kangwon's suppliers reflects that post-merger Incheon has not done business with a number of Kangwon's former suppliers. Post-merger Incheon has done business with largely the same supplier base as prior to the merger, as well as some new suppliers (i.e. suppliers from whom neither Incheon nor Kangwon purchased). See *Decision Memo* at pp. 5-6.

Therefore, we believe that the facts indicate that Incheon has retained its pre-merger supply policy, and to a significant degree has both retained its existing suppliers and has discontinued business with suppliers of the former Kangwon.

#### Customers

Lastly, under the *Canadian Brass* analysis, the Department examined changes to Incheon's customer base. A review of Incheon's customer lists from before and after the merger reflects an expanded customer base. Since the merger, Incheon gained a number of former Kangwon customers and customers to whom neither Incheon nor Kangwon sold prior to the merger. Post-merger Incheon's sales to former Kangwon customers, however, do not constitute a share of business commensurate with the volume and value of sales made by Kangwon to these customers. Instead, the Department notes that post-merger Incheon's core customer group continues

to be companies to whom Incheon sold prior to the merger. See *Decision Memo* at page 6.

The record evidence also indicates that Incheon and Kangwon had different sales policies in regards to conditions such as payment terms, payment guarantees, and credit policies. After the merger, Incheon's upper-level management has reaffirmed the pre-merger sales policy as the effective policy of the post-merger company. As a result of these sales policies, a number of former Kangwon customers did not do business with post-merger Incheon. Significantly, evidence on the record reveals that the former Kangwon customers to whom Incheon did sell after the merger had to conform to pre-merger Incheon's sales policy. See *Decision Memo* at page 7.

Therefore, the Department concludes that the record indicates that post-merger Incheon sells under the same sales policy and predominantly to the same customer base as prior to the merger. Moreover, to the extent that customers solely doing business with Kangwon prior to the merger wished to do business with post-merger Incheon, the record is clear that these customers have been required to accept Incheon's sales terms, and were not allowed to continue conducting business at the sales terms they had formerly been offered.

#### Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

Based on the above findings, the Department preliminarily determines post-merger Incheon is the successor to the merger of Incheon and Kangwon, and thus, if the Department upholds this determination in the final results, post-merger Incheon will retain the antidumping duty deposit rate assigned to Incheon by the Department in the investigation, which is 25.31 percent. While post-merger Incheon employs many former Kangwon employees and lower-level management personnel, post-merger Incheon's decision-making hierarchy largely remains unchanged in terms of corporate structure and personnel; the acquisition of the Pohang facility did not significantly expand Incheon's product range; and post-merger Incheon continues to operate with a similar supplier and customer base, and under the same sales and supply policies, as prior to the merger.

#### Public Comment

Pursuant to 19 CFR 351.310 and the Department's January 10, 2001 scheduling letter, any interested party may request a hearing within 10 days of

publication of this notice. Case briefs and/or written comments from interested parties may be submitted no later than 21 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those case briefs or comments, may be filed no later than 28 days after the publication of this notice. All written comments must be submitted in accordance with 19 CFR 353.31(e) and must be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g). Any hearing, if requested, will be held no later than 30 days after the date of publication of this notice, or the first working day thereafter. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish in the **Federal Register** a notice of final results of this changed circumstances antidumping duty administrative review, including the results of its analysis of any issues raised in any written comments.

This notice is in accordance with sections 751(b)(1) and (d) and 777(i) of the Act and 19 CFR 351.216.

Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of Assistant Secretary for Import Administration.

Dated: March 13, 2001.

**Bernard T. Carreau,**  
Deputy Assistant Secretary, Import  
Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-815]

#### **Sulfanilic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On September 14, 2000, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on sulfanilic acid from the People's Republic of China. The review covers the period August 1, 1998 to July 31, 1999, and two firms: Zhenxing

Chemical Industry Company (Zhenxing) and Yude Chemical Industry Company (Yude). The final results of this review indicate that the two responding parties, Zhenxing and Yude, failed to cooperate by not acting to the best of their ability in responding to our requests for information. Consequently, we continue to find the use of adverse facts available warranted, and have used the single margin "PRC rate" as adverse facts available with respect to Zhenxing and Yude, which is listed below in the "Final Results of the Review" section of this notice.

**EFFECTIVE DATE:** March 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** Sean Carey or Samantha Denenberg, Office of AD/CVD Enforcement VII, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3964 or (202) 482-1386, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Applicable Statute**

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930 (the Act), as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995. In addition, unless otherwise indicated, all citations to the Department's regulations are codified at 19 CFR part 351 (2000).

##### **Background**

On September 14, 2000, the Department published the preliminary results of the administrative review of the antidumping duty order on sulfanilic acid. *See Sulfanilic Acid from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 65 FR 55508 (September 14, 2000).

On September 18, 2000, the Department issued the verification report as a result of our on-site inspection of relevant sales and financial records. Zhenxing, Yude, and PHT International (hereafter, respondents) submitted comments on the verification report on September 28, 2000, and all interested parties filed case briefs with the Department on October 16, 2000. In a letter to respondents dated November 7, 2000, the Department determined that the respondents' comments on the verification report and their case brief contained certain untimely filed new factual information and argument based upon that information, and requested that they correct and re-file these

submissions. On November 9, 2000, respondents filed a request to the Department to consider retaining some of the information contained in the aforementioned submissions because they concerned events that transpired at verification that they claimed disputed certain statements made in the verification report. The Department granted this request, and on November 15, 2000, issued a revised corrections list to respondents and a schedule for submission of respondents' corrected case briefs and rebuttal briefs from all interested parties. Respondents submitted their corrected comments on the verification report and their revised case brief on November 20, 2000, in accordance with the Department's decision in this matter. All interested parties submitted rebuttal briefs to the Department on November 27, 2000.

Respondents submitted publicly available information to value factors of production on October 4, 2000. In addition, they filed a timely request for a hearing on October 17, 2000, and a hearing was held at the Department on December 13, 2000. The hearing was attended by both respondents and petitioner. Respondents also requested in a letter to the Department dated November 1, 2000, the right to revise their case brief in order to address the impact of the new law, H.R. 4461. The Department addressed this request in its aforementioned November 15, 2000, letter to respondents.

On January 4, 2001, the Department published a notice to extend the time limit for the final results of review from January 12, 2001 to March 13, 2001. *See Sulfanilic Acid from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty*, 66 FR 1952 (January 10, 2001).

The Department issued a preliminary determination to treat Zhenxing and Yude as a single producer for the 1998/1999 administrative review on January 9, 2001, and requested comments from interested parties. *See Department's Collapsing Memorandum* dated January 9, 2001. On January 22, 2001, respondents timely filed comments to this memorandum.

On December 22, 2000, the Department requested the U.S. Customs Service (Customs) to release to us certain documents that it had in its possession concerning possible sales of sulfanilic acid from Zhenxing to unaffiliated U.S. importers. In response to this request, Customs released to the Department on January 26, 2001, information relating to the possible sales. On February 2, 2001, the Department placed this information on the record of this review via a letter to