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*Affected Public:* State, Local, or Tribal Government.

*Frequency:* On occasion, annual.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Forms Clearance Officer, (202) 482-3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: January 17, 2001

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 01-2121 Filed 1-23-01; 8:45 am]

**BILLING CODE 3510-08-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-823]

#### Final Determination of Circumvention of the Antidumping Order: Cut-to-Length Carbon Steel Plate From Canada

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

**ACTION:** Notice of final determination of circumvention of the antidumping order: Cut-to-length carbon steel plate from Canada.

**SUMMARY:** We have determined that imports of certain cut-to-length carbon steel plate products, known as grader blade and draft key steel, falling within the physical dimensions outlined in the scope of the order, and containing a minimum of both 0.0008 percent boron by weight and 0.55 percent carbon by weight, and produced by Co-Steel Lasco, Inc. ("CSL") and Gerdau MRM Steel ("MRM"), are circumventing the

antidumping duty order on cut-to-length carbon steel plate from Canada (58 FR 44162, August 19, 1993).

**EFFECTIVE DATE:** January 24, 2001.

**FOR FURTHER INFORMATION CONTACT:** Michael Panfeld, or Rick Johnson, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202-482-0172 (Panfeld) or 202-482-3818 (Johnson), fax 202-482-1388.

#### SUPPLEMENTARY INFORMATION:

##### Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("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 regulations at 19 CFR part 351 (2000).

##### Scope of the Order

The scope language contained in the final determination and antidumping duty order describes the covered merchandise as follows:

##### Certain Cut-to-Length Carbon Steel Plate

These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.000, 7208.32.000, 7208.33.1000, 7208.33.5000, 7208.41.000, 7208.42.000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this investigation is flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from this investigation is grade X-70 plate.

Although the Harmonized Tariff Schedule of the United States (HTS) subheadings are

provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

*See, e.g., Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada*, 58 FR 44162 (August 19, 1993).

#### Scope of the Anticircumvention Inquiry

The merchandise subject to this inquiry is certain cut-to-length plate, commonly known as grader blade and draft key steel, made of in-scope high carbon steel to which a small amount of boron (minimum 0.0008 percent boron by weight) has been added, falling within the physical dimensions outlined in the scope of the order. High carbon steel is defined as steel of AISI or SAE grades 1050, 1152, or 1552, or higher, i.e., carbon steels that may contain 0.55 percent or more carbon by weight. "Grader blade" steel is typically used in grading equipment such as bulldozers and snowplows. "Draft key" steel is used specifically to make locking mechanisms for railroad couplings. Unless otherwise indicated, the terms "boron-added grader blade and draft key carbon steel", "boron-added steel for use in grader blades and draft keys", and "boron-added steel" are synonymous for the purpose of this notice.

We also wish to correct an incorrect HTS number cited in the Preliminary Determination. The correct HTS numbers for this merchandise are: 7225.40.30.50 and 7226.91.50.00.

#### Court Holdings Relating to This Inquiry

In a prior scope decision, issued to the parties on January 16, 1998, the Department found that, based on statements in the petition, the scope of the original order did not cover grader blade steel and draft key steel produced with 0.0008 percent boron or more by weight ("boron-added carbon steel"), the merchandise in question in this inquiry. Respondents argued at initiation that by finding that the product is outside the scope of the order, the Department may not initiate a "minor alterations" anticircumvention inquiry, citing the decision of the CIT in *Wheatland Tube Co. v. United States*, 973 F.Supp. 149 (CIT 1997). *See, Initiation of Anticircumvention Inquiry on Antidumping Duty Order*, 63 FR 29179, 19181 (1998).

Since the time of initiation, the United States Court of Appeals for the Federal Circuit ("CAFC") has clarified the law in this area. In *Wheatland Tube Co. v. United States*, 161 F.3d 1365 (Fed. Cir. 1998) (*Wheatland*), the CAFC held that, under the facts of that case,

an anticumvention inquiry was not appropriate. However, the appellate court also determined that “(i)n essence, section 1677j(c) includes within the scope of an antidumping order products that are so insignificantly changed from a covered product that they should be considered within the scope of the order even though the alterations remove them from the order’s literal scope.” See *Wheatland*, 161 F.3d at 1371. Thus, under *Wheatland*, the Department may properly inquire whether, although the merchandise in question is outside the order’s literal scope, the merchandise has been altered from an in-scope product in such a minor way that it should be considered within the scope of the order.

Prior to this holding of the Court of Appeals in *Wheatland*, parties sought to enjoin this inquiry, arguing that the Department was prohibited from taking any action under the minor alterations provision in cases where the product fell outside of the scope of the relevant order as a result of the alteration. Additionally, after the issuance of the Court of Appeals decision in *Wheatland*, respondents argued before the CIT that the decision supported their interpretation of the minor alterations provision, and that the Department should be enjoined from conducting further proceedings. In response to these arguments, the CIT in this case issued a preliminary injunction on December 16, 1998, without opinion or other explanation, prohibiting further continuation of the inquiry. See *Co-Steel Lasco v. United States*, Court No. 98–08–02684. The CIT subsequently issued its findings of fact and conclusions of law in an unpublished order dated March 9, 1999. Petitioners appealed from this injunction.

At the same time that the Court of Appeals was considering this issue in this case, it was considering the same issue in *Nippon Steel Corp. v. United States (Nippon)*, a case involving a circumvention inquiry with virtually identical facts: an allegation of addition of minute amounts of boron to carbon steel,<sup>1</sup> and an injunction issued by the CIT based upon respondents’ reading of the *Wheatland* opinion. 219 F.3d 1348 (Fed. Cir., July 26, 2000). In *Nippon*, the Court of Appeals clarified the issue and rejected the injunction issued by the CIT. Specifically, the Court of Appeals clarified that the holding of *Wheatland* was limited to situations in which the

result of the alteration was a product which was well-known before the order was issued and which was explicitly excluded from the order. By contrast, the investigation in issue in *Nippon* (and similarly in this case) involves a product (boron-added carbon steel) which was not a well-known product prior to the order and was not “specifically excluded” from the original scope. Indeed, petitioners had alleged in *Nippon* that because the minute amounts of boron have no effect on the steel, the product does not appear to have any commercial or metallurgical justification other than circumvention of the order (an allegation which we have confirmed in this case). Thus, although the boron-added carbon steel was technically outside the order, the Court held that the circumvention inquiry could proceed.

Based upon the court’s opinion in *Nippon*, the Court of Appeals also rejected, without opinion, the injunction of the present inquiry. See *Co-Steel Lasco v. United States*, 99–1339 (September 22, 2000). As a result, the CIT dismissed the complaint of respondents on October 12, 2000, and the Department continued this inquiry.

#### Analysis of Comments Received

All issues raised in the case briefs by parties to this inquiry are addressed in the “Issues and Decision Memorandum” (“Decision Memo”) from Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration to Troy H. Cribb, Assistant Secretary for Import Administration, dated January 10, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. In addition, a complete version of the Decision Memo is accessible in B–099 and on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Final Ruling

As a result of our inquiry, we determine that exports of boron-added grader blade and draft key steel from Canada produced by CSL and MRM are circumventing the antidumping order on certain cut-to-length carbon steel plate from Canada. While carbon steel

plate products containing over 0.0008 percent boron by weight are, by definition, technically outside the literal scope of the antidumping duty order, we have determined that, pursuant to the “minor alterations” provision of the statute, it is appropriate to include the putatively out-of-scope boron-added steel, which is the subject of this inquiry, in the class or kind of merchandise subject to the order on cut-to-length carbon steel plate. See section 781(c) of the Act.

Boron-added steel is made by slightly altering carbon steel during its production process. With the exception of the presence of boron, boron-added steel has the same physical characteristics as carbon steel. There are no differences in the expectations of the ultimate users, uses of the merchandise, and channels of marketing between boron-added steel and the subject merchandise. Furthermore, the cost of adding boron in the course of production is negligible. Since the original investigation, the named respondents have shifted their entire production for U.S. customers away from in-scope carbon steel to out-of-scope boron-added steel. No similar shift has occurred in the home market, where the vast majority, if not all, of both respondents’ production is devoted to carbon grader blade and draft key steel without boron. The timing of this shift further indicates circumvention of the order by making a minor alteration. Taken as a whole, this evidence leads to our final determination that boron-added grader blade and draft key steel is being produced in circumvention of the antidumping law, undermining its intent, and eviscerating its effectiveness.

After a thorough analysis of the physical characteristics of the merchandise subject to this inquiry, the expectations of the ultimate users, the ultimate use of the merchandise, the cost of modification, and the additional factors listed above, we have determined that certain Canadian manufacturers/exporters of grader blade and draft key steel have made minor alterations in their in-scope merchandise within the meaning of section 781(c) of the Act, resulting in circumvention of the antidumping order covering certain cut-to-length carbon steel plate from Canada. This determination extends only to those products manufactured by CSL and MRM.

This notice also serves as the only reminder to parties subject to administrative protective orders (“APO”) of their responsibility concerning the return or destruction of proprietary information disclosed under

<sup>1</sup> See, *Corrosion-Resistant carbon Steel Flat Products from Japan; Initiation of Anticumvention Inquiry on Antidumping Duty Order*, 63 Fed. Reg. 58364 (Oct. 30, 1998).

APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: January 10, 2001.

**Troy H. Cribb,**

*Assistant Secretary for Import Administration.*

## Appendix

### Issues in Decision Memo

#### *Comments and Responses*

1. The Department should terminate this inquiry because the remedy would not bring relief to the U.S. industry.

2. The Department should terminate this inquiry because there is no longer an order which can be circumvented.

3. Continuation of this Inquiry would not serve the purposes of the Statute.

4. The Department cannot include boron-added carbon steel as within the class or kind of merchandise subject to this order.

5. The Department should recalculate the "All-Others" rate.

6. The addition of boron does not lead to an affirmative determination of circumvention.

[FR Doc. 01-2054 Filed 1-23-01; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-809]

#### **Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate From Mexico**

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

**ACTION:** Notice of Amendment to Final Results of Antidumping Duty Administrative Review.

**SUMMARY:** The Department of Commerce (the Department) is amending the final results of the administrative review of the antidumping duty order on certain cut-to-length (CTL) carbon steel plate from Mexico to correct a ministerial error. *See Certain Cut-to-Length Carbon Steel Plate From Mexico: Final Results of Antidumping Duty Administrative Review*, 65 FR 8338 (February 18, 2000), as amended, 65 FR 65830 (November 2, 2000) and 65 FR 77566 (December 12,

2000). This correction is in accordance with section 751(h) of the Tariff Act of 1930, as amended (the Tariff Act) and 19 CFR 351.224 of the Department's regulations. The period covered by these amended final results of review is August 1, 1997 through July 31, 1998.

**EFFECTIVE DATE:** January 24, 2001.

#### **FOR FURTHER INFORMATION CONTACT:**

Thomas Killiam or Robert James, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-5222 or (202) 482-0649, respectively.

#### **SUPPLEMENTARY INFORMATION:**

#### **Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (1998).

#### **Amended Final Results**

On February 18, 2000, the Department published in the **Federal Register** the final results of the 1997-1998 administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Mexico (65 FR 8338). This review covered one producer of the subject merchandise, Altos Hornos de Mexico S.A. de C.V. (AHMSA) and the period August 1, 1997 through July 31, 1998. Following timely ministerial error allegations by both AHMSA and petitioners,<sup>1</sup> the Department subsequently amended the final results of this administrative review. *See Notice of Amended Final Results of Antidumping Duty Administrative Review*, 65 FR 65830 (November 2, 2000).

On October 31, 2000, AHMSA submitted an allegation of an additional ministerial error relating to the calculation of raw material costs. We agreed that AHMSA's allegation constituted a ministerial error and, in addition, discovered a separate ministerial error during our analysis. Accordingly, we published a second amended final results on December 12, 2000 correcting both errors. *See Notice*

*of Amended Final Results of Antidumping Duty Administrative Review*, 65 FR 77566 (December 12, 2000).

On December 13, 2000, AHMSA timely alleged that the Department used an incorrect adjustment factor to implement the major input rule for direct material costs. We agree with AHMSA's allegation concerning our recalculation of AHMSA's direct material costs, and have corrected an apparent typographical error which dropped a zero from the factor, thus resulting in its overstatement. *See Memorandum to the File*, "Analysis of Data Submitted by Altos Hornos de Mexico, S.A. (AHMSA) for the Amended Final Results of Review of Cut-to-Length Carbon Steel Plate from Mexico (A-201-809)," dated January 12, 2001.

As a result of our analysis of AHMSA's allegations, we are again amending our final results of review to correct the error in implementing the major input rule identified by AHMSA, in accordance with 19 CFR 351.224(e). The amended weighted average dumping margin for AHMSA for the period August 1, 1997 through July 31, 1998 is 20.34 percent.

Accordingly, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service. Because there is only one importer of the subject merchandise, we have calculated an importer specific duty assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of sales. Furthermore, the following deposit requirements shall be effective upon publication of this notice of amended final results of review for all shipments of certain cut-to-length carbon steel plate from Mexico, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate stated above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews 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

<sup>1</sup> Petitioners are Bethlehem Steel Corporation, Geneva Steel, Gulf States Steel, Inc. of Alabama, Inland Steel Industries, Inc., Lukens Steel Company, Sharon Steel Corporation, and U.S. Steel Group (a unit of USX Corporation).