

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 12, 1995.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

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[A-580-815]

Certain Cold-Rolled Carbon Steel Flat Products From Korea: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests by two respondents, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain cold-rolled carbon steel flat products from Korea. The review covers two manufacturers/exporters of the subject merchandise to the United States during the period of review ("POR") from August 18, 1993, through July 31, 1994.

We have preliminarily determined that sales have been made below the foreign market value ("FMV"). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price ("USP") and the FMV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: December 19, 1995.

FOR FURTHER INFORMATION CONTACT: Alain Letort or Linda Ludwig, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482-3793 or fax (202) 482-1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references

to the provisions as they existed on December 31, 1994.

Background

On July 9, 1993, the Commerce Department published in the Federal Register (58 FR 37176) the final affirmative antidumping duty determination on certain cold-rolled carbon steel flat products from Korea, for which we published an antidumping duty order on August 19, 1993 (58 FR 44159). On August 3, 1994, the Department published the "Notice of Opportunity to Request an Administrative Review" of this order for the period August 18, 1993 through July 31, 1994 (59 FR 39543). We received a request for an administrative review from Dongbu Steel Co., Ltd. ("Dongbu") and Union Steel Manufacturing Co., Ltd. ("Union"). We initiated the administrative review on September 8, 1994 (59 FR 46391).

In a letter dated February 1, 1995, petitioners formally requested that the Department consider Union and Dongkuk Industries Co., Ltd. ("DKI"), which was not a respondent initially, as related parties and "collapse" them as a single producer of cold-rolled carbon steel flat products.

In accordance with section 771(13) of the Tariff Act of 1930, as amended ("the Act"), the Department, in determining whether parties are related, considers whether the alleged related party:

1. Is an agent or principal of the exporter, manufacturer, or producer;
2. Owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer or producer;
3. Is a party in whose business the exporter, manufacturer, or producer owns or controls, directly or indirectly, any interest, through stock ownership or control or otherwise; or
4. Owns or controls, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, 20 percent or more in the aggregate of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 percent or more of such power or control in the business of the exporter, manufacturer or producer.

Factual information provided on the record by Union, and supplemented by petitioners, indicates that DKI and Union are both affiliated with Dongkuk Steel Mill ("DSM"). The record shows that DSM holds, directly or indirectly, a controlling share in Union's equity. DSM is in turn controlled by the Korean family which owns the largest block of shares in the company. That same family controls, directly or indirectly, a majority of DKI's equity. The

Department therefore determined that Union and DKI are related to each other by virtue of their common affiliation with the same "parents." (See the Department's internal memorandum from Joseph A. Spetrini to Susan G. Esserman, dated May 22, 1995, and entered onto the record of this proceeding on September 28, 1995—hereinafter referred to as "the collapsing memo").

It is the Department's practice to collapse related parties when the facts demonstrate that the relationship is such that there is a strong possibility of manipulation of prices and production decisions that would result in circumvention of antidumping law. In determining whether to collapse related parties, the Department considers the following factors:

1. The level of common ownership;
2. Whether there are interlocking officers and directors, (e.g., whether managerial employees or board members of one company sit on the board(s) of directors of the other related party(ies));
3. The existence of production facilities for similar or identical products that would not require retooling either plant's facilities to implement a decision to restructure either company's manufacturing priorities; and
4. Whether the operations of the companies are intertwined (e.g., sharing of sales information; involvement in production and pricing decisions; sharing of facilities or employees; transactions between companies).

With respect to the first factor, the Department has determined that there is a significant level of common ownership of both Union and DKI through DSM and the family that controls it. As noted above, factual information provided on the record by Union, and supplemented by petitioners, indicates that DKI and Union are both affiliated with the DSM group. The same family owns by far the largest block of shares in DSM and is listed in DSM's annual filing to the Korean Securities and Exchange Commission ("KSEC") as "controlling" the company. DSM, in turn, directly and indirectly (through its affiliated companies), own a majority of the equity in Union. The same family also owns, directly and indirectly, a controlling share of DKI's equity.

With respect to the second factor, evidence on the record demonstrates that Union, DSM and DKI have interlocking officers and directors. Two of DKI's board are family members and members of DSM's board. Five of Union's 18 board members are members of DSM's board; of those five, one is a member of the family in question. The president of DKI sits on the boards of both DKI and Union. These interlocking