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MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

FROM: Gary Taverman  
Senior Advisor   
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty  
Administrative Review of Certain Cut-to-Length Carbon-Quality  
Steel Plate Products from the Republic of Korea for the Period of  
Review February 1, 2011, through January 31, 2012

#### Summary

We have analyzed the comments filed in the administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea) for the period of review (POR) February 1, 2011, through January 31, 2012. We recommend that you approve the position described in the Discussion of the Issue section of this memorandum. The sole issue in this administrative review for which we received comments and rebuttal comments by parties is related to a targeted dumping allegation.

#### Background

On January 22, 2013, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on CTL plate from Korea. *See Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 4385 (January 22, 2013) (*Preliminary Results*).

We invited interested parties to comment on the *Preliminary Results*. On February 21, 2013, we received a case brief from Nucor Corporation (Nucor). On March 5, 2013, we received a rebuttal brief from Dongkuk Steel Mill Co., Ltd. (DSM).

#### Scope of the Order

The products covered by the antidumping duty order are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to length (not in coils) and without patterns in relief), of iron or non-alloy quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual



thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products included in the scope of the order are of rectangular, square, circular, or other shape and of rectangular or non-rectangular cross section where such non-rectangular 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. Steel products that meet the noted physical characteristics that are painted, varnished, or coated with plastic or other non-metallic substances are included within the scope. Also, specifically included in the scope of the order are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products included in the scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

Imports of CTL plate are currently classified in the HTSUS under subheadings 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.53.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00, 7225.40.30.50, 7225.40.70.00, 7225.50.60.00, 7225.99.00.90, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the order is dispositive.

#### Final Determination of No Reviewable Entries

For the final results of this review, we determine that Daewoo International Corp., Dongbu Steel Co., Ltd., GS Global Corp., and Hyundai Steel Co. had no reviewable entries during the POR.

#### Changes Since the Preliminary Results

We have made no changes from the *Preliminary Results*.

## Discussion of the Issue

### *Targeted Dumping Allegation*

Comment: For the first time in this administrative review, Nucor raises in its case brief a targeted dumping allegation against DSM. Nucor argues that the Department has clearly indicated its intention to use the targeted dumping methodology in administrative reviews and the record indicates that DSM's sales were targeted. Nucor requests that the Department take into account DSM's alleged targeted dumping and use the average-to-transaction methodology.

DSM requests that the Department reject Nucor's targeted dumping allegation as untimely filed and prejudicial to the Department and DSM. DSM asserts that, although there was no set deadline for the submission of a targeted dumping allegation in this review, the allegation is untimely because Nucor first raised it in its case brief. DSM argues that the Department has no legal authority to apply a targeted dumping analysis in administrative reviews. DSM argues further that, even if the Department finds that it has the legal authority to apply targeted dumping in administrative reviews, it cannot use it to continue zeroing. DSM contends that the Department violated the Administrative Procedures Act by (1) withdrawing its targeted dumping regulations without notice and comment, and (2) making substantive changes to its *Nails*<sup>1</sup> test without further notice and comment. According to DSM, the Department cannot apply the average-to-transaction methodology with zeroing to DSM's entire sales. Finally, DSM describes the Department's methodology for determining the existence of targeted dumping as arbitrary and flawed.

Department's Position: Nucor first raised its targeted dumping allegation with respect to DSM in its February 21, 2013, case brief, 38 days after the Department issued the *Preliminary Results* on January 14, 2013. Although we have not established specific deadlines for when we will accept targeted dumping allegations in administrative reviews, we find that Nucor's targeted dumping allegation is untimely. Nucor does not explain why it has put forth a targeting dumping allegation, for the first time, at this late stage of the proceeding. Given the elapsed time between the receipt of the respondent's questionnaire responses and the issuance of the *Preliminary Results*, we find that Nucor had ample opportunity to have filed its targeted dumping allegations prior to January 14, 2013, and certainly prior to its case brief.

For example, in *Ball Bearings and Parts Thereof From France, Germany, and Italy: Preliminary Results of Antidumping Duty Administrative Reviews and Rescission of Antidumping Duty Administrative Reviews in Part*, 77 FR 33159 (June 5, 2012), the petitioners submitted a targeted dumping allegation for several respondents prior to the issuance of the preliminary results. This allowed us to issue a post-preliminary analysis and receive and analyze comments from interested parties prior to issuing final results.<sup>2</sup> In contrast, we find in the instant case, that Nucor's filing of its targeted dumping allegation in its case brief did not provide DSM or other

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<sup>1</sup> See *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008).

<sup>2</sup> See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012), and the accompanying Issues and Decision Memorandum at Comment 1.

interested parties with sufficient time to adequately review and comment on such an allegation. The timing of Nucor's filing of its targeted dumping allegation within its case brief did not provide sufficient time for us to analyze the allegation and any potential comments, and issue a post-preliminary analysis for comment within the statutory deadlines for completion of this review.


Accordingly, we are not examining Nucor's targeted dumping allegation in this review and have continued to apply the average-to-average methodology from the *Preliminary Results* for DSM. Because we find Nucor's targeted dumping allegation untimely, we are not addressing DSM's additional arguments.

#### Recommendation

Based on our analysis of the comments received, we recommend adopting the above position. If this recommendation is accepted, we will publish the final results of the review and the final dumping margin for DSM in the *Federal Register*.

Agree ✓

Disagree \_\_\_\_\_

  
Paul Piquado  
Assistant Secretary  
for Import Administration

13 MAY 2013  
(Date)