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May 29, 2019

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Issues and Decision Memorandum for the Final Results of  
Antidumping Duty Administrative Review of Certain Cut-to-  
Length Carbon-Quality Steel Plate Products from the Republic of  
Korea; 2017-2018

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### **Summary**

We 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, 2017, through January 31, 2018. We recommend that you approve the position described in the “Discussion of the Issue” section of this memorandum. Below is the issue for which we have received comments and rebuttal comments from interested parties:

*Comment: Constructed Export Price Offset*

### **Background**

On December 20, 2018, the Department of Commerce (Commerce) published the preliminary results of this review.<sup>1</sup> We invited interested parties to comment on the *Preliminary Results*. We received case and rebuttal briefs from interested parties.<sup>2</sup> Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.<sup>3</sup> The final results of this administrative review are currently due on May 29, 2019.

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<sup>1</sup> See *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 83 FR 65348 (December 20, 2018) (*Preliminary Results*).

<sup>2</sup> See Nucor Corporation’s Case Brief, “Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Case Brief,” dated March 4, 2019 (Nucor Case Brief), and Dongkuk Steel Mill Co., Ltd.’s Rebuttal Brief, “Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Rebuttal Brief,” (Dongkuk Rebuttal Brief) dated March 11, 2019.

<sup>3</sup> See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and



## **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 steel plate are currently classified in the HTSUS under subheadings 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045,

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Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. The deadlines in this segment of the proceeding were affected by the partial federal government closure and are extended by 40 days. If the new deadline falls on a non-business day, in accordance with Commerce’s practice, the deadline will become the next business day. *See Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, and 7226.99.0000.

The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the order is dispositive.

### **Changes to the Preliminary Results**

For Hyundai Steel Company (Hyundai Steel), we corrected a preliminary margin calculation error involving U.S. billing adjustments in response to Nucor Corporation's (Nucor) timely-submitted case brief. However, Hyundai Steel's margin remains unchanged.<sup>4</sup> There are no changes to the preliminary margin calculation for Dongkuk Steel Mill Co., Ltd. (Dongkuk).

### **Discussion of the Issue**

*Comment: Constructed Export Price Offset*

#### **Nucor**

- Nucor requests that Commerce deny the constructed export price (CEP) offset to Dongkuk. Nucor argues that the information on the record does not support Commerce's preliminary decision to grant a CEP offset to Dongkuk. Nucor contends that Dongkuk's home market selling activities do not demonstrate significant and substantial differences compared to those selling activities performed at the U.S. CEP level of trade.
- Based on Dongkuk's indirect selling expenses calculation indicating advertising expenses for the export market, Nucor estimates that Dongkuk incurred sales promotion and advertising at a medium level of intensity. Because Dongkuk reported neither outside warehouse expenses nor transportation to a warehouse, Nucor questions Dongkuk's claim that Dongkuk's inventory maintenance was performed at a certain level of intensity.

#### **Dongkuk**

- Dongkuk requests that Commerce continue to grant the CEP offset for the final results of this review. Dongkuk argues that it has fully satisfied its burden to support a CEP offset by identifying the full range of selling and marketing activities that it performed for home market sales, but not for CEP sales to its U.S. subsidiary, Dongkuk International, Inc. (DKA). Dongkuk claims that Nucor concedes that Dongkuk provided at least four selling functions to home market customers, but not to DKA. Dongkuk explains that it provided no fewer than six selling functions at a higher level of intensity for home market sales than for CEP sales. Dongkuk contends that, even if Nucor's characterization of Dongkuk's selling functions is accepted, 10 of Dongkuk's 17 selling functions were provided either to the home market at a higher level than to the CEP sales to DKA, or to

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<sup>4</sup> See Memorandum, "Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results Analysis Memorandum for Hyundai Steel Company," dated concurrently with this Issues and Decision Memorandum. Because all of the relevant details of Nucor's comment on this issue are business proprietary, our analysis is contained in the final analysis memorandum; see also Nucor Case Brief at 6-7. Hyundai Steel did not submit a rebuttal brief.

the home market without the same selling functions being provided to the CEP sales to DKA. Dongkuk contends further that, even based on Nucor's understated description of the differences in selling activities between home market sales and CEP sales to DKA, there were substantial differences in selling functions between the two levels of trade.

- Dongkuk argues that it described in detail its selling activities such as sales promotion and advertising, credit extension, inventory maintenance, and warranty services. Dongkuk claims that it performed sales promotion and advertising activities at a certain level of intensity for home market sales. Dongkuk contends that, because DKA is Dongkuk's wholly-owned subsidiary, Dongkuk did not advertise or conduct any sales promotion activities to DKA. Dongkuk explains that it incurred advertising or other promotional expenses for export markets in general but not specifically for its U.S. sales to DKA. Dongkuk reiterates that, because it does not compete with any other supplier for DKA's business, advertisement and sales promotion to DKA are not necessary.
- Dongkuk argues that, for CTL plate produced without customers' orders and CTL plate overruns, it maintains home market inventory in its factory warehouse. Dongkuk explains that it does not maintain U.S. sales inventory, because all U.S. sales are made to order. Dongkuk argues that Nucor does not dispute the fact that Dongkuk provided warranty services and various credit periods to its home market customers but not to DKA.
- Dongkuk lists additional selling activities that it performs at a higher level of intensity for its home market sales than it does for U.S. sales to DKA. Dongkuk explains that the level of intensity for its customer negotiation and contract activities is lower for CEP sales to DKA than for sales to home market customers. Dongkuk claims that, unlike its sales to DKA, it conducts all home market negotiations directly with its customers. Dongkuk states that, because it does not use price lists, it must negotiate each aspect of the home market sales on a sale-by-sale basis. Dongkuk claims that the sale-by-sale nature of its negotiations with home market customers intensifies the negotiation and contract activities for home market sales. Dongkuk contends that, in contrast, Dongkuk simply receives a purchase order from DKA for CEP sales in a routine order process. Dongkuk explains that the ordering process is more complex and varied for home market sales than for CEP sales to DKA.
- Likewise, Dongkuk claims that its invoicing activities are significantly more complex and varied for its home market sales than for CEP sales to DKA. Dongkuk explains that it must generate and monitor a variety of invoices covering different periods based on the customer's preference, which increases the complexity and intensity of the invoicing process for home market sales, whereas the invoicing process for CEP sales to DKA requires only a single commercial invoice.
- Dongkuk argues that the collection of payment from the home market customers requires more efforts than the collection of payment from DKA, because the number and form of payment varies for home market customers. Similarly, according to Dongkuk, the order input and processing process is more complex for home market sales due to the variety of

forms of orders and Dongkuk's sales staff's need to review and approve the order prior to processing, whereas Dongkuk's processing of orders from DKA is streamlined.

- Dongkuk explains that DKA performed substantial selling activities to market Dongkuk's products in the United States and incurred additional indirect selling expenses in the United States. Dongkuk asserts that, if DKA were not involved, Dongkuk itself would need to fill the gap and perform the selling activities that DKA performed. Consequently, according to Dongkuk, after disregarding the selling activities performed by DKA for CEP sales in comparing the home market and CEP levels of trade, the home market level of trade is clearly more advanced than the CEP level of trade. Dongkuk argues that, to uphold the statutory requirement to make a fair comparison between CEP and normal value, a CEP offset must be made.

**Commerce's Position:** For the final results of this review, we continue to make a CEP-offset adjustment in accordance with section 773(a)(7)(B) of the Act. In the *Preliminary Results*, we explained our reasons for granting a CEP offset to Dongkuk.<sup>5</sup> For the final results of this review, we find that Dongkuk provided documentary support for its claim of a much greater level of effort for home market sales in the areas such as sales and marketing, inventory maintenance, and after-sale warranty services.<sup>6</sup> We find that the difference in the level of intensity in these areas between home market sales and CEP sales to DKA justifies the finding of different levels of trade and granting the CEP offset to Dongkuk.<sup>7</sup> Dongkuk performed a range of sales, marketing, and warranty services for its home market customers that it did not perform for its CEP sales to DKA at all or at the same level of intensity. Because DKA directly purchased CTL plate from its parent company, Dongkuk, Dongkuk did not need to actively market its products or provide sales support to DKA, which performed these selling activities itself in connection with its sales to unaffiliated U.S. customers, using its sales and marketing staff based in the United States.<sup>8</sup> We verified that Dongkuk made export sales of CTL plate to various third countries without involving DKA in these export sales transactions.<sup>9</sup> Accordingly, Nucor's comparison of Dongkuk's indirect selling expenses that it incurred for all markets, the home market, and the export market in general is not a proper basis to claim that Dongkuk's levels of trade are similar between the home market sales and the CEP sales to DKA.

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<sup>5</sup> See *Preliminary Results* and accompanying Preliminary Decision Memorandum at 8-9.

<sup>6</sup> See Memorandum, "Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Analysis Memorandum for Dongkuk Steel Mill Co., Ltd.," dated concurrently with this Issues and Decision Memorandum for more details that contain Dongkuk's business proprietary information.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*; see also Dongkuk's section A response dated June 12, 2018, at 9, 17-28, Exhibits A-3, A-17, A-18, and Attachment A-3.

<sup>9</sup> See "Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Home Market Sales Verification of Dongkuk Steel Mill Co., Ltd." dated December 14, 2018, at 11-12 and Verification Exhibit 10.

## 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 this review and the final dumping margins for all the reviewed companies in the *Federal Register*.



Agree



Disagree

5/29/2019

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Signed by: JEFFREY KESSLER

Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance