

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-533-845]

**Glycine from India: Postponement of Final Determination of Antidumping Duty Investigation**

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

**EFFECTIVE DATE:** December 7, 2007.

**FOR FURTHER INFORMATION CONTACT:**

George Callen or Kristin Case, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0180 and (202) 482-3174, respectively.

**SUPPLEMENTARY INFORMATION:****Postponement of Final Determination**

On April 19, 2007, the Department of Commerce (the Department) initiated the antidumping duty investigations of Glycine from India, Japan, and the Republic of Korea. See *Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations*, 72 FR 20816 (April 26, 2007). The notice of initiation stated that the Department would issue its preliminary determinations for these investigations no later than 140 days after the date of initiation (*i.e.*, September 6, 2007), unless postponed, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act). On August 23, 2007, in response to a timely request from the petitioner, Geo Speciality Chemicals, Inc., we postponed the preliminary determination to October 26, 2007. See *Glycine from India: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 72 FR 48257 (August 23, 2007). On October 26, 2007, and November 1, 2007, we issued our affirmative preliminary and amended preliminary determinations in this investigation, respectively. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine from India*, 72 FR 62827 (November 7, 2007), and *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Glycine from India*, 72 FR 62826 (November 7, 2007).

On November 2, 2007, and November 9, 2007, Paras Intermediates Pvt. Ltd. (Paras), the only respondent that received a calculated rate in the preliminary determination of this investigation, made timely requests for a postponement of the final

determination pursuant to section 735(a)(2) of the Act and extension of provisional measures with respect to glycine from India. See also 19 CFR 351.210(b)(2)(ii) and 19 CFR 351.210(e)(2). Paras requested postponement of the final determination in order to allow sufficient time to prepare for verification and to ensure the Department adequate time to conduct its verification, which was scheduled originally during a period which coincided with an important Indian holiday.

For the reasons identified by Paras and because there are no compelling reasons to deny the request, the Department is postponing the deadline for the final determination with respect to India under section 735(a)(2) of the Act to 135 days after the date on which the preliminary determination was published. The date of the final determination will be no later than March 21, 2008. The Department is also extending the provisional measures accordingly.

This notice is issued and published pursuant to sections 735(a)(2) and 771(i)(1) of the Act and 19 CFR 351.210(g).

Dated: November 30, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-549-817]

**Certain Hot-Rolled Carbon Steel Flat Products From Thailand: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission**

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

**SUMMARY:** In response to requests from United States Steel Corporation (petitioner), Nucor Corporation (Nucor), and G Steel Public Company Limited (G Steel), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from Thailand. With regard to the two Thai companies that are subject to this administrative review, G Steel and Nakornthai Strip Mill Public Company Limited (NSM), we preliminarily determine that sales of

subject merchandise produced by G Steel have not been made at less than normal value (NV) and that NSM did not have any shipments, entries, or sales of subject merchandise during the period of review (POR). Therefore, this administrative review covers imports of subject merchandise produced and exported by G Steel, and we are preliminarily rescinding the review with respect to NSM. For a full discussion of the intent to rescind with respect to NSM, see the "Notice of Intent to Rescind in Part" section of this notice below. We invite interested parties to comment on these preliminary results. Parties that submit comments are requested to submit with each argument (1) a statement of the issue(s), (2) a brief summary of the argument(s), and (3) a table of authorities.

**EFFECTIVE DATE:** December 7, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Dena Crossland or Stephen Bailey, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3362 or (202) 482-0193, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On November 29, 2001, the Department published the antidumping duty order on hot-rolled steel from Thailand. See *Notice of Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 59562 (November 29, 2001) (*Hot-Rolled Steel Order*). On November 1, 2006, the Department published the opportunity to request administrative review of, *inter alia*, the order on hot-rolled steel from Thailand for the period November 1, 2005, through October 31, 2006. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 64240 (November 1, 2006).

In accordance with 19 CFR 351.213(b)(1), on November 28, 2006, petitioner requested that we conduct an administrative review of NSM's sales of subject merchandise. On November 30, 2006, Nucor, a domestic interested party, requested an administrative review of NSM's or NSM's affiliate's sales of subject merchandise, and G Steel requested an administrative review of its sales of subject merchandise. On December 27, 2006, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period November 1,

2005, through October 31, 2006. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 77720 (December 27, 2006).

On January 3, 2007, the Department issued its antidumping duty questionnaire to G Steel and NSM. G Steel submitted its section A questionnaire response (section A response) on February 7, 2007, and its section B and C questionnaire responses on February 21, 2007 (section B&C responses). On January 4, 2007, the Department informed G Steel by telephone that it was not required to submit a Section D response at that time. See the Department's Memorandum to the File, dated January 4, 2007. On January 11, 2007, NSM stated in a letter that it did not have any U.S. sales, shipments or entries of subject merchandise during the above-referenced administrative review, and requested that the Department rescind the administrative review with respect to NSM. On March 5, 2007, G Steel submitted additional information in response to section B of the Department's antidumping duty questionnaire with regard to its resale information, and provided its sales reconciliation in the same submission. On April 19, 2007, G Steel submitted its revised sales reconciliation.

On March 26, 2007, petitioner and Nucor requested that the Department initiate a sales-below-cost investigation of home market (HM) sales made by G Steel, which the Department did on May 30, 2007. See the Department's Memorandum to the File from Sheikh Hannan, Office of Accounting, and Stephen Bailey and Dena Crossland, Analysts, to Richard Weible, Office Director, regarding Petitioners' Allegation of Sales Below the Cost of Production for G Steel Public Company Limited (Cost Initiation Memorandum), dated May 30, 2007. In the Cost Initiation Memorandum, the Department requested that G Steel respond to section D of the Department's antidumping duty questionnaire.

On June 20, 2007, the Department issued its first sections A through C supplemental questionnaire to G Steel, and received G Steel's response (first sections A through C supplemental response) on July 11, 2007.

On June 27, 2007, in response to the Department's Cost Initiation Memorandum, G Steel submitted its section D questionnaire response.

On August 1, 2007, the Department issued its first section D supplemental questionnaire to G Steel, and received G Steel's response on August 15, 2007

(first section D supplemental response). On August 9, 2007, the Department issued its second sections A through C supplemental questionnaire to G Steel, and received G Steel's response on August 27, 2007 (second sections A through C supplemental response). In the first and second sections A through C supplemental questionnaires, the Department requested information about G Steel's relationship with NSM.<sup>1</sup> On September 19, 2007, the Department issued its second section D supplemental questionnaire to G Steel, and received G Steel's response on October 3, 2007 (second section D supplemental response).

On July 24, 2007, the Department extended the due date for the preliminary results 120 days from August 2, 2007, until November 30, 2007. See *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 72 FR 40274 (July 24, 2007).

#### Period of Review

The POR is November 1, 2005, through October 31, 2006.

#### Scope of the Order

For purposes of this order, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*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 thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included within the scope of this order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels

of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: i) iron predominates, by weight, over each of the other contained elements; ii) the carbon content is 2 percent or less, by weight; and iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 2.25 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
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded.

The following products, by way of example, are outside or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AIS) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).

-Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of

<sup>1</sup> While the Department determines that G Steel and NSM became affiliated at the end of the POR, it does not find that the requirements are met in this review for collapsing the two companies, but may revisit this issue, if necessary, in any subsequent reviews.

articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this order is currently classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90.

Certain hot-rolled carbon steel flat products covered by this order, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.01.80. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and CBP purposes, the written description of the merchandise under review is dispositive.

#### Notice of Intent To Rescind Review in Part

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. *See, e.g., Stainless Steel Plate in Coils from Taiwan: Notice of Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789, 5790 (February 7, 2002), and *Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review*, 66 FR 18610, 18611–12 (April 10, 2001). On January 11, 2007, NSM stated in a letter that it did not have any U.S. sales, shipments or entries of subject merchandise during the above-referenced administrative review, and requested that the Department rescind

the administrative review with respect to NSM. The Department conducted a U.S. Customs and Border Protection (CBP) data inquiry. CBP only responds to the Department's inquiry when CBP finds that there have been shipments. CBP did not respond to the Department's inquiry, and no party submitted comments. Based on this information, the Department determined that there were no identifiable entries of hot-rolled steel during the POR manufactured or exported by NSM. *See Memorandum to the File*, through Angelica Mendoza, Program Manager, from Dena Crossland: Nakornthai Strip Mill Public Company Limited – No Shipments of Certain Hot-Rolled Carbon Steel Flat Products from Thailand Pursuant to U.S. Customs and Border Protection Inquiry, dated June 6, 2007. Therefore, the Department concludes that during the POR, NSM did not have any entries, exports, or sales of subject merchandise to the United States, and accordingly we are preliminarily rescinding the review with respect to NSM.

#### Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.307, we conducted sales and cost verifications of the questionnaire responses of G Steel, using standard verification procedures. Our sales verification results are outlined in the following memorandum: 1) Memorandum to the File, through Angelica Mendoza, Program Manager, and Richard O. Weible, Office Director, regarding the Verification of the Sales Response of G Steel Public Company Limited in the Antidumping Review of Certain Hot-Rolled Carbon Steel Flat Products from Thailand, dated October 15, 2007 (G Steel Sales Verification Report). The Department's cost verification results will be outlined in a forthcoming memorandum. A public version of the G Steel Sales Verification Report is on file in the Department's Central Records Unit (CRU) located in Room B-099 of the main Department of Commerce Building, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230.

#### Fair Value Comparisons

To determine whether sales of subject merchandise were made in the United States at less than fair value, we compared the export price (EP) to the NV, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated EP and compared these prices to weighted-

average normal values or constructed values (CVs), as appropriate.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by G Steel covered by the descriptions in the "Scope of the Order" section of this notice to be foreign like products for the purpose of determining appropriate product comparisons to G Steel's U.S. sale of the subject merchandise.

We have relied on the following eleven criteria to match U.S. sales of the subject merchandise to sales in Thailand of the foreign like product: paint, quality, carbon, yield strength, thickness, width, cut-to-length vs. coil, temper rolled, pickled, edge trim, and patterns in relief. We noted at the sales verification that the yield strength data reported in the HM and U.S. sales databases did not accurately reflect the minimum yield strengths for a certain sample of HM and U.S. sales that we examined. *See G Steel Sales Verification Report*, dated October 15, 2007, at page 2. G Steel stated that it reported yield strengths based on a theoretical basis pursuant to the product's specifications. *Id.* at 35. Based on our findings at verification, and in reviewing the record, we find that G Steel's reporting of yield strengths, which it claimed was on a theoretical basis, is not consistent with the minimum yield strength specified by the grade specifications (where applicable). The record shows that G Steel classified yield strength the same for all models, but at verification, we found that the actual yield strength was not the same for all models. Because G Steel's yield strength information could not be verified, the Department determines that the application of partial facts available (FA) within the meaning of 776(a)(2)(D) of the Act is warranted. Additionally, the Department concludes that G Steel did not cooperate to the best of its ability to provide yield strength information, and as such, the Department determines that the use of partial FA with an adverse inference is warranted pursuant to section 776(b) of the Act. *See the "Price-to-Price Comparisons" section below for further discussion.*

#### Export Price

In accordance with section 772 of the Act, we calculate either an EP or a constructed export price (CEP), depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold by the foreign exporter or producer before the date of

importation to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. We have preliminarily determined that G Steel's U.S. sale during the POR was an EP sale.

We calculated EP based on prices charged to the first unaffiliated U.S. customer. We used the contract date as the date of sale.<sup>2</sup> We based EP on the packed prices to the first unaffiliated purchaser outside Thailand. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including foreign inland freight, foreign brokerage and handling, international freight, marine insurance, and U.S. Customs duties.

## Normal Value

### A. Home Market Viability

To determine whether there is a sufficient volume of sales in the HM to serve as a viable basis for calculating NV, we compared G Steel's volume of HM sales of the foreign like product to the volume of the U.S. sale of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Because G Steel's aggregate volume of HM sales of the foreign like product was greater than five percent of its aggregate volume of the U.S. sales for the subject merchandise, we determined the HM was viable. See section A response at A-2 through A-3, and exhibit A-1.

### B. Arm's-Length Test

G Steel reported that it made sales in the HM to affiliated and unaffiliated customers. G Steel reported downstream sales to certain affiliated customers. See G Steel's section A questionnaire response at A-3 and exhibit A-1.

Sales to affiliated customers in the HM for which G Steel did not report a downstream sale that were not made at arm's length were excluded from our analysis. See 19 CFR 351.403(c). To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all billing adjustments, movement charges, imputed credit, direct selling expenses, and packing expenses. Where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade, we determined that the sales made to the affiliated party

were at arm's length. See *Antidumping Proceedings - Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

### C. Cost of Production Analysis

On May 30, 2007, after a request from petitioner and Nucor, the Department initiated a sales-below-cost investigation of G Steel because both petitioner and Nucor provided a reasonable basis to believe or suspect that G Steel is selling hot-rolled steel in Thailand at prices below the cost of production (COP). See the Department's Cost Initiation Memorandum, dated May 30, 2007. Based on the Department's findings in the Cost Initiation Memorandum, there was a reasonable basis to believe or suspect that G Steel is selling hot-rolled steel in Thailand at prices below COP, and in accordance with section 773(b)(1) of the Act, we examined whether G Steel's sales in the HM were made at prices below the COP.

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP for each model based on the sum of G Steel's material and fabrication costs for the foreign like product, plus amounts for selling expenses, general and administrative (G&A) expenses, interest expenses and packing costs.

We relied on the COP information provided by G Steel except for the following adjustments:

1. We recalculated G Steel's skin pass costs (KVOH) to account for the skin passing done at G Steel's own plant during the POR.
2. We recalculated G Steel's scrap offset (TOTSCRAP) based on the net production quantity.
3. We revised G Steel's G&A expense ratio (GNA) by excluding service fees and a reversal of accrued interest.

For further details regarding these adjustments, see the Memorandum from Sheikh Hannan to Neal Halper entitled, "Cost of Production and Constructed Value Adjustments for the Preliminary Results - G Steel Public Limited Company," dated November 30, 2007, on file in the Department's CRU.

We compared the weighted-average COP figures to the HM sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below COP. On a product-specific basis, we compared COP to HM prices, less any applicable billing adjustments, movement charges, direct and indirect selling expenses, and packing expenses.

In determining whether to disregard HM sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made in substantial quantities within an extended period of time, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of G Steel's HM sales of a given model were made at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time in "substantial quantities." Where 20 percent or more of G Steel's HM sales of a given model were at prices less than COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our cost test for G Steel revealed that for HM sales of certain models, less than 20 percent of the sales of those models were made at prices below the COP. We therefore retained all such sales in our analysis and used them as the basis for determining NV. Our cost test also indicated that for certain models, more than 20 percent of the HM sales of those models were sold at prices below COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

### D. Price-to-Price Comparisons and the Use of Partial Facts Available with an Adverse Inference

As stated above in the "Product Comparisons" section, we find that pursuant to section 776(b) of the Act, the use of AFA is appropriate because we were unable to verify G Steel's reported yield strength data in either its HM or U.S. sales databases. Further, we find that G Steel did not act to the best of its ability in providing these data. Section 776(a)(2) of the Act provides that if an interested party: (A) withholds information that has been requested by

<sup>2</sup> See the Analysis Memorandum for the Preliminary Results of Administrative Review of Certain Hot-Rolled Carbon Steel Flat Products from Thailand: G Steel Public Company Limited, dated November 30, 2007 (Analysis Memo) for a further discussion of this issue.

the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of the administrative review. Section 782(e) of the Act states that the Department shall not decline to consider information determined to be "deficient" under section 782(d) if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting from among the facts otherwise available. In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1, at 870 (1994) (SAA), establishes that the Department may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate to the best of its ability than if it had cooperated fully."

In sections B and C of the Department's antidumping duty questionnaire, dated January 3, 2007, we requested that G Steel report the yield strengths (STRENGTH/U) in its U.S. and HM databases based on the minimum specified yield strength for the particular specification/grade. Furthermore, we requested that for sales

to a particular specification/grade in which there is no minimum specified yield strength, G Steel classify the product in an appropriate yield strength category based on some reasonable methodology incorporating chemistry (*i.e.*, carbon level), heat treatment, *etc.*, and for G Steel to explain the methodology it used. In its section B&C responses, dated February 21, 2007, G Steel stated that it reported yield strength as directed. However, as described above, at verification G Steel could not support or substantiate how it reported the STRENGTH/U data in either the U.S. or HM databases. G Steel classified yield strength the same for all models in its questionnaire responses, but at verification we found that the actual yield strength was not the same for all models. For a detailed discussion with respect to these discrepancies, *see* the Analysis Memo, dated November 30, 2007. Therefore, it was not possible to verify all of the product characteristic information that we had identified as part of our examination in the verification agenda, dated August 28, 2007. Accordingly, pursuant to section 776(a)(2)(D) of the Act, partial FA is justified.

As noted above, section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting from among the facts otherwise available. A showing of bad faith is not required for imposition of an adverse inference. Rather, the question is whether the respondent put forth its maximum effort to produce the information requested. Inattentiveness or carelessness can be a basis for use of an adverse inference. *See Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003).

G Steel had the documents necessary to report complete and correct information in the necessary and requested manner and format. We find that G Steel did not put forth its maximum efforts in reporting yield strength. Rather, it simply classified all yield strengths the same. Accordingly, we find that G Steel did not act to the best of its ability in reporting necessary and accurate information. Therefore, we find it appropriate to use an inference that is adverse to G Steel's interest in selecting from among the facts otherwise available. Further, section 782(d) of the Act is inapplicable here because this is a situation where the respondent's information could not be verified. We did not discover the deficient response until verification.

Moreover, G Steel did not meet all the criteria of section 782(e) of the Act.

As AFA, we matched net U.S. price to the highest individual HM NV with the most similar control number (CONNUM) to the U.S. sale. We calculated NV based on prices to unaffiliated customers and affiliated customers that passed the arm's-length test. We adjusted U.S. gross unit price for billing adjustments. We made deductions, where appropriate, for foreign inland freight and international freight pursuant to section 773(a)(6)(B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411, as well as for differences in circumstances of sale (COS) as appropriate, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted the HM packing cost and added the U.S. packing cost in accordance with sections 773(a)(6)(A) and (B) of the Act.

For a detailed analysis of the Department's application of AFA, *see* the Analysis Memo, dated November 30, 2007.

#### *E. Price-to-CV Comparisons*

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a contemporaneous comparison market match for the U.S. sale. We calculated CV based on the cost of materials and fabrication employed in producing the subject merchandise, SG&A expenses, interest expense and profit. We made the same adjustments to CV as outlined in the "Cost of Production Analysis" section above. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses, interest and profit on the amounts G Steel incurred and realized in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in Thailand. For selling expenses, we used the weighted-average HM selling expenses. Where appropriate, we made COS adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 351.410.

#### **Level of Trade**

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP transaction or CEP transaction. *See also* 19 CFR 351.412. The LOT in the comparison market is the LOT of the starting-price sales in the comparison

market or, when NV is based on CV, the LOT of the sales from which we derive SG&A expenses and profit. With respect to U.S. price for EP transactions, the LOT is also that of the starting-price sale, which is usually from the exporter to the importer. For CEP, the LOT is that of the constructed sale from the exporter to the importer. As noted in the "Export Price" section above, we preliminarily find that G Steel's U.S. sale to an unaffiliated U.S. customer is appropriately classified as an EP sale.

To determine whether comparison market sales are at a different LOT than U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT than EP sales, and the difference affects price comparability, as manifested in a pattern of consistent price differences between sales on which NV is based and comparison market sales at the LOT of the export transaction, where possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In analyzing the differences in selling functions, we determine whether the LOTs identified by the respondent are meaningful. *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997). If the claimed LOTs are the same, we expect that the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain-on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000) and accompanying Issues and Decision Memorandum at Comment 6.

To determine whether the comparison market sales were at different stages in the marketing process than the U.S. sale, we reviewed the channels of distribution in each market, including selling functions, class of customer ("customer category"), and the level of selling expenses for each type of sale. In this review, we obtained information from G Steel regarding the marketing stages involved in sales to the reported home and U.S. markets. G Steel reported one LOT with two channels of distribution in the HM: (1) sales to affiliated and unaffiliated trading companies and (2) sales to unaffiliated end users. *See G Steel's section A questionnaire response at A-17.*

We examined the selling activities reported for each channel of distribution in the HM and we organized the reported selling activities into the

following four selling functions: sales process and marketing support, freight and delivery, inventory maintenance and warehousing, and warranty and technical services. We found that G Steel's level of selling functions to its HM customers for each of the four selling functions did not vary significantly by channel of distribution. *See G Steel's section A questionnaire response at exhibit A-6.* For example, G Steel provides similar levels of marketing and technical services to trading companies and end users. Because channels of distribution do not qualify as separate LOTs when the selling functions performed for each customer class or channel are sufficiently similar, we determined that one LOT exists for G Steel's HM sales.

In the U.S. market, G Steel made sales of subject merchandise through one channel of distribution and it claimed only one LOT for its sales in the United States. *See G Steel's section A questionnaire response at A-15 through A-16, and exhibit A-6.* The U.S. sale was an EP transaction between G Steel and an unaffiliated U.S. trading company. *Id.* Therefore, we preliminarily determine that G Steel's U.S. sale constitutes a single LOT.

We then compared the selling functions performed by G Steel on its EP sale to the selling functions provided in the HM. We found that G Steel provides significant selling activities in the HM related to the sales process and marketing support selling functions, as well as warranty and technical service selling functions, which it does not provide for the U.S. market customer. For instance, G Steel stated that it regularly undertakes sales forecasting and market research for the HM, but there was no sales forecasting or marketing research done for the U.S. market during the POR. *See section A response at A-19 and A-21.* G Steel further stated that it provided technical assistance to HM customers, but did not provide technical assistance (and there were no warranty claims submitted) for U.S. sales during the POR. *Id.* at A-21 and A-22.

Based upon our analysis, we preliminarily determine that the EP and the starting price of HM sales differ significantly with respect to sales process and marketing support selling functions (e.g. sales forecasting and market research), as well as warranty and technical service selling functions, and are thus at different LOTs. Therefore, when we compared the EP sale to the comparison market sales, we examined whether an LOT adjustment may be appropriate. In this case, because G Steel sold at one LOT in the

HM, there is no basis upon which to determine whether there is a pattern of consistent price differences between LOTs. Further, we do not have the information which would allow us to examine the price patterns of G Steel's sales of other similar products, and there is no other record evidence upon which a LOT adjustment could be based. Therefore, no LOT adjustment was made.

#### Currency Conversion

We made currency conversions pursuant to 19 CFR 351.415 based on the exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period November 1, 2005, through October 31, 2006, to be as follows:

Manufacturer / Exporter	Margin (percent)
G Steel Public Co., Ltd. ....	0.00

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of issuance of the Memorandum to the File, through Peter Scholl, Lead Accountant, and Neal Halper, Office Director, Verification of the Cost Response of G Steel Public Company Limited (G Steel Cost Verification Report). *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of issuance of the G Steel Cost Verification Report. *See* 19 CFR 351.309(d). Parties who submit argument in these proceedings are requested to submit with the argument: 1) a statement of the issues, 2) a brief summary of the argument, and (3) a table of authorities. *See* 19 CFR 351.309(c). An interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held two days after the scheduled date for submission of

rebuttal briefs. See 19 CFR 351.310(d). The Department will issue the final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon completion of this review the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003 (68 FR 23954). See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by G Steel or by any of the companies for which we are rescinding this review, and for which G Steel or each no-shipment respondent did not know its merchandise would be exported by another company to the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be the rate listed in the final results of review; (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 this review, a prior review, or the original less-than-fair-value (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 rate for all other manufacturers

or exporters will continue to be the all-others rate of 3.86 percent, which is the all-others rate established in the LTFV investigation. See *Hot Rolled Steel Order*, 66 FR 59562 (November 29, 2001). These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: November 30, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E7-23806 Filed 12-6-07; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-833]

#### Certain Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review

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

**SUMMARY:** On June 6, 2007, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain polyester staple fiber from Taiwan. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and an examination of our calculations, we have made certain changes for the final results. The final weighted-average dumping margin for Far Eastern Textile Limited is listed below in the "Final Results of the Review" section of this notice.

**DATES:** *Effective Dates:* December 7, 2007.

**FOR FURTHER INFORMATION CONTACT:** Devta Ohri or Brandon Farlander, Office 1, AD/CVD Operations, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3853 and (202) 482-0182, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 6, 2007, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of the sixth administrative review of the antidumping duty order on certain polyester staple fiber ("PSF") from Taiwan. See *Certain Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 31283 (June 6, 2007). We invited interested parties to comment on the preliminary results.

On October 24, 2007, we received case briefs from Wellman, Inc. and Invista, S.a.r.l. (collectively, "the petitioners"), and Far Eastern Textile Limited ("FET" or "respondent"). On November 6, 2007, we received rebuttal briefs from the FET and Fibertex Corporation ("Fibertex" or "importer"), an importer of subject merchandise.

##### Period of Review

The period of review ("POR") is May 1, 2005, through April 30, 2006.

##### Scope of the Order

For the purposes of this order, the product covered is certain polyester staple fiber ("PSF"). PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to this order may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 5503.20.00.25<sup>1</sup> is specifically excluded from this order. Also specifically excluded from this order are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from this order. Low-melt

<sup>1</sup> The most current edition of the Harmonized Tariff Schedule of the United States (2006)—Supplement 1 (Rev 1) (August 1, 2006) incorporates the revision of HTSUS number 5503.20.00.20 to 5503.20.00.25.