

such fabrics are fairly allocated to persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year. Presidential Proclamation 7383, of December 1, 2000, authorized the Secretary of Commerce to allocate the quantity of worsted wool fabric imports under the tariff rate quotas.

The Miscellaneous Trade Act also authorized Commerce to allocate a new HTS category, HTS 9902.51.16. This HTS refers to worsted wool fabric with average fiber diameter of 18.5 microns or less. The amendment further provides that HTS 9902.51.16 is for the benefit of persons (including firms, corporations, or other legal entities) who weave worsted wool fabric in the United States. For HTS 9902.51.16, the reduction in duty is limited to 2,000,000 square meters in 2009.

On January 22, 2001 the Department published interim regulations establishing procedures for applying for, and determining, such allocations (66 FR6459, 15 CFR 335). These interim regulations were adopted, without change, as a final rule published on October 24, 2005 (70 FR 61363). On September 4, 2008, the Department published a notice in the Federal Register (73 FR 51630) soliciting applications for an allocation of the 2009 tariff rate quotas with a closing date of October 6, 2008. The Department received timely applications for the HTS 9902.51.11 tariff rate quota from 8 firms. The Department received timely applications for the HTS 9902.51.15 tariff rate quota from 12 firms. The Department received timely applications for the HTS 9902.51.16 tariff rate quota from 1 firm. All applicants were determined eligible for an allocation. Most applicants submitted data on a business confidential basis. As allocations to firms were determined on the basis of this data, the Department considers individual firm allocations to be business confidential.

FIRMS THAT RECEIVED ALLOCATIONS:

HTS 9902.51.11, FABRICS, OF WORSTED WOOL, WITH AVERAGE FIBER DIAMETER GREATER THAN 18.5 MICRON, CERTIFIED BY THE IMPORTER AS SUITABLE FOR USE IN MAKING SUITS, SUIT-TYPE JACKETS, OR TROUSERS (PROVIDED FOR IN SUBHEADING 5112.11.60 AND 5112.19.95).

Amount allocated: 5,500,000 square meters.

Companies Receiving Allocation:

FIRMS THAT RECEIVED ALLOCATIONS: HTS 9902.51.11, FABRICS, OF WORSTED WOOL, WITH AVERAGE FIBER DIAMETER GREATER THAN 18.5 MICRON, CERTIFIED BY THE IMPORTER AS SUITABLE FOR USE IN MAKING SUITS, SUIT-TYPE JACKETS, OR TROUSERS (PROVIDED FOR IN SUBHEADING 5112.11.60 AND 5112.19.95).—Continued

Amount allocated: 5,500,000 square meters.

Adrian Jules LTD-Rochester, NY
Hartmarx Corporation--Chicago, IL
Hugo Boss Cleveland, Inc--Brooklyn, OH
JA Apparel Corp.--New York, NY
John H. Daniel Co.--Knoxville, TN
Saint Laurie Ltd--New York, NY
Sewell Clothing Company, Inc.--Bremen, GA
The Tom James Co.--Franklin, TN

HTS 9902.51.15, FABRICS, OF WORSTED WOOL, WITH AVERAGE FIBER DIAMETER OF 18.5 MICRON OR LESS, CERTIFIED BY THE IMPORTER AS SUITABLE FOR USE IN MAKING SUITS, SUIT-TYPE JACKETS, OR TROUSERS (PROVIDED FOR IN SUBHEADING 5112.11.30 AND 5112.19.60).

Amount allocated: 5,000,000 square meters.

Companies Receiving Allocation:

Adrian Jules LTD-Rochester, NY
Elevee Custom Clothing--Van Nuys, CA
Retail Brand Alliance, Inc. d/b/a Brooks Brothers--New York, NY
Hartmarx Corporation--Chicago, IL
Hugo Boss Cleveland, Inc.--Brooklyn, OH
JA Apparel Corp.--New York, NY
John H. Daniel Co.--Knoxville, TN
Martin Greenfield--Brooklyn, NY
Saint Laurie Ltd--New York, NY
Sewell Clothing Company, Inc.--Bremen, GA
Southwick Clothing L.L.C.--Lawrence, MA
The Tom James Co.--Franklin, TN

HTS 9902.51.16, FABRICS, OF WORSTED WOOL, WITH AVERAGE FIBER DIAMETER OF 18.5 MICRON OR LESS, CERTIFIED BY THE IMPORTER AS SUITABLE FOR USE IN MAKING MEN'S AND BOY'S SUITS (PROVIDED FOR IN SUBHEADING 5112.11.30 AND 5112.19.60).

Amount allocated: 2,000,000 square meters.

Company Receiving Allocation:

Warren Corporation--Stafford Springs, CT

Dated: December 18, 2008.

Janet E. Heinzen,

Acting Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries, Department of Commerce.

[FR Doc. E8-30692 Filed 12-23-08; 8:45 am]

BILLING CODE 3510-DS

DEPARTMENT OF COMMERCE

International Trade Administration

(A-580-810)

Certain Welded Stainless Steel Pipes from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain welded stainless steel pipes (WSSP) from the Republic of Korea (Korea) for the period of review (POR) December 1, 2006 through November 30, 2007. The review covers one respondent, SeAH Steel Corporation (SeAH).

The Department preliminarily determines that SeAH made sales to the United States at less than normal value (NV). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of SeAH's merchandise during the POR. The preliminary results are listed below in the section titled "Preliminary Results of Review."

EFFECTIVE DATE: December 24, 2008.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Douglas Kirby, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5255 or (202) 482-3782, respectively.

Background

The Department published the antidumping duty order on WSSP from Korea on December 30, 1992. See *Antidumping Duty Order and Clarification of Final Determination: Certain Welded Stainless Steel Pipes From Korea*, 57 FR 62301 (December 30, 1992).¹ On December 3, 2007, the Department published an "Opportunity To Request Administrative Review" of the antidumping duty order on WSSP from Korea. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity*

¹ The final determination was subsequently amended. See *Notice of Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe From the Republic of Korea*, 60 FR 10064 (February 23, 1995) (*Amended Final Determination and Order*).

To Request Administrative Review, 72 FR 67889 (December 3, 2007).

On December 28, 2008, the Department received a request for review of SeAH from Bristol Metals LLC, an interested party and one of the original petitioners. On January 28, 2008, the Department published, in the **Federal Register**, the notice of initiation of the administrative review of the antidumping duty order on WSSP from Korea for SeAH. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 73 FR 4829 (January 28, 2008).

On February 29, 2008, the Department issued sections A through E of the questionnaire to SeAH. SeAH timely submitted its section A response on April 4, 2008, and its sections B through D responses on April 22, 2008. The Department issued supplemental questionnaires on May 22, 2008; August 7, 2008; October 6, 2008; and November 10, 2008 and SeAH responded on June 18, 2008; September 4, 2008; October 21, 2008; and November 25, 2008, respectively.

On August 19, 2008, the Department, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2), extended the deadline for the preliminary results of this antidumping duty administrative review by 107 days from September 1, 2008 until no later than December 17, 2008. See *Welded ASTM A-312 Stainless Steel Pipe from South Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 48374 (August 19, 2008).

Period of Review

This review covers the period December 1, 2006 through November 30, 2007.

Scope of the Order

The merchandise subject to the antidumping duty order is welded austenitic stainless steel pipe that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A-312. The merchandise covered by the scope of the order also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A-312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major

applications for steel pipe include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines. Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5065, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of the antidumping duty order is limited to welded austenitic stainless steel pipes. The HTSUS subheadings are provided for convenience and customs purposes. However, the written description of the scope of the order is dispositive.

Less Than Normal Value Analysis

To determine whether sales of subject merchandise to the United States were made at less than NV, we compared the constructed export price (CEP) to NV, as described in the "U.S. Price" and "Normal Value" sections of this notice, below, in accordance with section 777A(d)(2) of the Act.

Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by the respondent that are covered by the description in the "Scope of the Order" section, above, and that were sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with sections 771(16)(B) and (C) of the Act, where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire. We preliminarily determine that product codes reported by SeAH do not result in comparisons of the most similar products. Therefore, for these preliminary results, we have recoded one of the product characteristics to yield more appropriate product comparisons of the most similar products between the home market and the U.S. market. For a more detailed discussion, see *Analysis Memorandum for SeAH Steel Corporation: Preliminary Results of Administrative Review (SeAH Preliminary Analysis Memorandum)*, dated concurrently with this notice, which is on file in the Central Records Unit of the main Department of Commerce building, Room 1117.

Date of Sale

The Department's regulations state that "in identifying the date of sale for the subject merchandise or foreign like product, the Secretary will normally use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of the sale." See 19 CFR 351.401(i). We examined the questionnaire responses and the sales documentation placed on the record by SeAH and determined that for the home market, invoice date is the appropriate basis for date of sale. We note that SeAH reported that it issues the invoice on shipment date, so these two dates are the same.

In the U.S. market, SeAH reported as date of sale the earlier of shipment or invoice date. According to SeAH, its U.S. subsidiary, Pusan Pipe America (PPA), prepares the commercial invoice after SeAH advises PPA that the merchandise is ready for shipment from SeAH to the customer. We preliminarily determine that shipment date may precede invoice date based upon the way in which SeAH described the sales process. Therefore, for U.S. sales, in accordance with the Department's practice, whenever shipment date precedes invoice date, we used shipment date as date of sale. See e.g., *Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 18074, 18079-18080 (April 10, 2006), unchanged in *Stainless Steel Sheet and Strip in Coils From the Republic of Korea; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 72 FR 4486 (January 31, 2007); and *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination Not to Revoke in Part*, 72 FR 62630 (November 6, 2007) and accompanying Issues and Decision Memorandum at Issue 2 ("it is appropriate to use the earlier of shipment or invoice date as Colakolgu's and Habas' U.S. date of sale in the instant review, consistent with the date-of-sale methodology established in the previous review").

U.S. Price

Pursuant to section 772(b) of the Act, for sales to the United States, we preliminarily determine that all of

SeAH's U.S. sales are CEP sales because all sales of subject merchandise to the United States were made by PPA, SeAH's U.S. sales subsidiary, to an unaffiliated customer in the United States. We based CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale. See SeAH's April 4, 2008 section A response.

The Department calculated PPA's starting price as its gross unit price to its unaffiliated U.S. customers, making adjustments, where necessary, for billing adjustments, pursuant to section 772(c)(1) of the Act. Where applicable, the Department made deductions for movement expenses (foreign inland freight, foreign inland brokerage, ocean freight, marine insurance, U.S. harbor maintenance charges and merchandise processing fees) in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In accordance with sections 772(d)(1) and (2) of the Act, we also deducted, where applicable, U.S. direct selling expenses, including warranty and credit expenses, indirect selling expenses, and inventory carrying costs incurred in the United States and in Korea, where such costs were associated with economic activities in the United States. We also deducted CEP profit in accordance with section 772(d)(3) of the Act.

Normal Value

In accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities, in the ordinary course of trade, and, to the extent practicable, at the same level of trade (LOT) as the CEP sale. See "Level of Trade/Constructed Export Price Offset" section, below. After testing home market viability and whether home market sales were at below-cost prices, we calculated NV for SeAH as discussed in the following sections.

Home Market Viability

In accordance with section 773(a)(1) of the Act, to determine whether there was sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared SeAH's volume of home market sales of foreign like product to the volume of U.S. sales of subject merchandise. Pursuant to section 773(a)(1) of the Act and 19 CFR 351.404(b), because the volume of SeAH's home market sales of foreign like product was greater than five percent of the volume of U.S. sales of the subject merchandise, we determine that the home market is

viable. Therefore, we used home market sales as the basis for NV in accordance with section 773(a)(1) of the Act.

Cost of Production (COP) Analysis

In the most recently completed administrative review of the antidumping duty order on WSSP from Korea, the Department determined that SeAH sold foreign-like product in its home market at prices below the cost of producing the product and excluded such sales from the calculation of NV. See *Certain Welded ASTM A-312 Stainless Steel Pipe from Korea: Preliminary Results of Antidumping Duty Administrative Review*, 64 FR 72645, 72647 (December 28, 1999), unchanged in *Certain Welded ASTM A-312 Stainless Steel Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 65 FR 30071 (May 10, 2000). Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department determined that there are reasonable grounds to believe or suspect that, during the current POR, SeAH sold the foreign like product at prices below the cost of producing the product and instituted a below cost inquiry regarding SeAH's sales in the home market.

We calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for selling, general and administrative expenses (SG&A), interest expenses, and home market packing costs, pursuant to section 773(b)(3) of the Act. We relied on the COP data submitted by SeAH in its October 21, 2008 supplemental section D response, except where noted. During the POR, SeAH purchased hot-rolled stainless steel coil from its Korean affiliate, POSCO. Hot-rolled stainless steel coil is considered a major input to the production of circular WSSP. In accordance with 19 CFR 351.407(b), we tested the affiliated transactions using all three elements of the major input rule (*i.e.*, transfer price, COP, and market price), where available.

For these preliminary results, we evaluated the transfer price between SeAH and its affiliated hot-rolled stainless steel coil supplier on a grade-specific basis. For one of the grades of hot-rolled stainless steel coil that SeAH purchased during the POR, all three elements of the major input analysis were available. This grade of hot-rolled stainless steel coil accounted for the majority of volume of hot-rolled stainless steel coil that SeAH purchased from POSCO during the POR. As such, we find these purchases provide a reasonable basis for the Department to measure the preferential treatment, if

any, given to SeAH for purchases of hot-rolled stainless steel coil during the POR. Therefore, we adjusted the reported costs to reflect the higher of transfer prices, COP, or market prices of hot-rolled stainless steel coil, where all three elements of the major input were available. See *Memorandum from Gina Lee to Neal Halper, Director, Office of Accounting, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - SeAH Steel Corporation (COP Preliminary Analysis Memorandum)*, dated concurrently with this notice.

For the other grades of stainless steel hot-rolled coil for which market prices were not available, the Department has constructed market prices in order to perform the major input analysis, consistent with its practice. See, *e.g.*, *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663 (December 10, 2007) and accompanying Issues and Decision Memorandum at Comment 5, and *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 27802 (May 17, 2007) and accompanying Issues and Decision Memorandum at Comment 3. In the instant case we have applied the results of our analysis of the grade for which market prices were available to those grades for which market prices were not available. We also find this approach to be reasonable because the grade for which market prices are available constitutes the majority of hot-rolled stainless steel coil purchased by SeAH from its affiliate. As such, these purchases provide a reasonable basis to determine the amount usually reflected in the sales of the major input in the market under consideration.

Furthermore, we analyzed the market prices and affiliated supplier's COP for hot-rolled stainless steel coil, and found that the prices and COPs changed significantly during the POR. Therefore, we have performed the major input analysis using quarterly COP and price averages. For a detailed discussion, see COP Preliminary Analysis Memorandum.

For the preliminary results, we relied on general and administrative and financial expense rates reported in SeAH's October 21, 2008 supplemental section D response. See *COP Preliminary Analysis Memorandum*.

Test Of Home Market Sales Prices

To determine whether SeAH's home market sales had been made at prices below the COP, we computed weighted-average COPs during the POR, and compared the weighted-average COP figures to home market sales prices of the foreign like product as required under section 773(b) of the Act. On a product-specific basis, we compared the COP to the home market prices, net of billing adjustments, any applicable movement charges, selling expenses and packing expenses.

Results of COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether, within an extended period of time, such sales were made in substantial quantities, 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. Where less than 20 percent of the respondent's home market sales of a given model were 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 and in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than the 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.

Home Market Price

For those product comparisons for which there were home market sales of like product in the ordinary course of trade, we based NV on home market prices to unaffiliated parties, in accordance with sections 773(a)(1)(A) and (B) of the Act. 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. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar

foreign like product. See section 771(16) of the Act. We preliminarily determine that the product codes that SeAH reported for the model matching criteria do not result in comparisons of the most similar products. Therefore, for these preliminary results, we have recoded one of the product characteristics to yield more appropriate product comparisons of the most similar products in the home market and the U.S. market. See *SeAH Preliminary Analysis Memorandum* for a detailed description of the revisions made by the Department.

When comparing SeAH's home market sales to its CEP sales, the Department calculated SeAH's NV based on its gross unit price to customers in its home market. Pursuant to section 773(a)(6)(B)(ii) of the Act, we made deductions for movement expenses (*i.e.*, inland freight), when appropriate. In accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we deducted home market direct selling expenses (*i.e.*, credit and warranty expenses). In accordance with sections 773(a)(6)(A) and (B) of the Act, we deducted home market packing costs and added U.S. packing costs.

We used constructed value (CV) as the basis for NV for sales for which there were no usable contemporaneous sales of the foreign like product in the home market, in accordance with section 773(a)(4) of the Act. We relied on the COP data submitted by SeAH in its October 21, 2008 supplemental section D response, except where noted. In accordance with section 773(e) of the Act, we calculated CV based on the sum of SeAH's material and fabrication costs, SG&A expenses, profit and packing costs. We calculated the COP component of CV as described above in the "Cost of Production (COP) Analysis" section above. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the home market.

Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales made in the comparison market at the same LOT as the CEP sales. The NV LOT is based on the starting price of the sales in the comparison market. In *Micron Technology, Inc. v. U.S.*, 243 F.3d 1301, 1315 (Fed. Cir. 2001) (*Micron Tech.*), the Court of Appeals for the Federal Circuit held that the statute

unambiguously requires the Department to remove the selling activities set forth in section 772(d) of the Act from the CEP starting price prior to performing its LOT analysis. As such, for CEP sales, the U.S. LOT is based on the starting price of the sales, as adjusted under section 772(d) of the Act.

To determine whether NV sales are at a different LOT than the CEP 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 different LOTs, and the difference in LOTs affects price comparability, as manifested in a pattern of consistent price differences, we make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997).

Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.* In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the channel of distribution),² including selling functions,³ class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for CEP and comparison market sales (*i.e.*, NV based on either home market or third country prices), we consider the starting prices

² The marketing process in the United States and in the comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale occurs.

³ Selling functions associated with a particular chain of distribution help us to evaluate the LOTs in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, technical service, freight and delivery, and inventory maintenance.

before any adjustments. Consistent with *Micron Tech.*, 243 F.3d at 1315, the Department will adjust the U.S. LOT, pursuant to section 772(d) of the Act, prior to performing the LOT analysis, as articulated by 19 CFR 351.412.

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the CEP sales, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing CEP sales to sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

In determining whether separate LOTs exist, we obtained information from SeAH regarding the marketing stages for the reported U.S. and home market sales, including a description of the selling activities performed for each channel of distribution. Generally, if the reported LOTs are the same, the functions and activities of the seller at each level should be similar. Conversely, if a party reports that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

In the current review, SeAH reported two channels of distribution in the home market. Sales in the home market were mostly made directly from SeAH to unrelated end-users and distributors. The information provided by SeAH in its April 4, 2008 section A response and in its June 18, 2008 supplemental section A response shows that the selling functions performed by SeAH in both home market channels of distribution were identical. As such, we preliminarily find that all of SeAH's sales in the home market were made at one LOT.

SeAH reported one channel of distribution for its sales made through PPA, its affiliated reseller in the United States. Therefore, we preliminarily find that SeAH made its U.S. sales at one LOT. SeAH claimed that once adjustments for PPA's activities for U.S. sales are made, pursuant to section 772(d) of the Act, the LOT in the U.S. market is less advanced than the home market LOT.

To determine whether NV is at a different LOT than the U.S. transactions, the Department compared SeAH's selling activities for the home market with those for the U.S. market. See SeAH's April 4, 2008 section A response at Exhibit A-16 and SeAH's June 18, 2008 section A response at Exhibit A-35. In accordance with *Micron Tech.*, we removed the selling activities set

forth in section 772(d) of the Act from the U.S. LOT prior to performing the LOT analysis. See *SeAH's Preliminary Analysis Memorandum*. After removing the appropriate selling activities, we compared the U.S. LOT to the home market LOT. Based on our analysis, we preliminarily find that the U.S. sales are at a less advanced LOT than the home market sales. The Department's complete analysis relies on SeAH's business proprietary information and is provided in *SeAH's Preliminary Analysis Memorandum* at Attachment III.

Therefore, because the sales in the home market are being made at a more advanced LOT than the sales to the United States, an LOT adjustment is appropriate for the home market sales in this review. However, as SeAH sold only through one LOT in the home market, there is not sufficient data to evaluate whether an LOT adjustment is warranted. Therefore, we made a CEP offset in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). This offset is equal to the amount of indirect selling expenses and inventory carrying costs incurred in the comparison market up to but not exceeding the sum of indirect selling expenses and inventory carrying costs from the U.S. price in accordance with section 772(d)(1)(D) of the Act.

Currency Conversion

In accordance with section 773A of the Act, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. See <http://www.ia.ita.doc.gov/exchange/index.html>. See also 19 CFR 351.415.

Preliminary Results of Review

As a result of this review, we preliminarily find that the following weighted-average dumping margin exists:

| Manufacturer/Exporter | Margin |
|------------------------------|--------|
| SeAH Steel Corporation | 4.10 % |

Cash Deposits

The following cash deposit rates will be effective with respect to all shipments of subject merchandise entered, or withdrawn from warehouse for consumption, on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) for SeAH, the cash deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate

established for the most recent period for the manufacturer of the merchandise; (3) if the exporter is not a firm covered in this review, a prior review, or the 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 subject merchandise; and (4) if neither the exporter nor the manufacturer of the subject merchandise is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate will continue to be the rate for all other manufacturers or exporters, which is 7.00 percent as established in the *Amended Final Determination and Order*. These deposit rates, when imposed, shall remain in effect until further notice.

Duty Assessment

Upon publication of the final results 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. In accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales and the total entered value of the examined sales. These rates will be assessed uniformly on all entries of the respective importers made during the POR if these preliminary results are adopted in the final results of review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification applies to entries of subject merchandise during the POR produced by companies included in the final results of review for which the reviewed companies did not know that the merchandise it sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for 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 intermediary involved in the transaction. See *Assessment Policy*

Notice for a full discussion of this clarification.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to any party to the proceeding the calculations performed in connection with these preliminary results within five days after the date of public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless extended by the Department, case briefs are to be submitted within 30 days after the date of the publication of this notice, and rebuttal briefs, limited to arguments raised in the case briefs, are to be submitted no later than five days after the time limit for filing case briefs. See 19 CFR 351.309(c) and (d). Parties who submit arguments in this proceeding 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 309(c)(2). Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the publication of this notice. Requests should contain: 1) the party's name, address and telephone number; 2) the number of participants; and 3) a list of issues to be raised. Issues raised in the hearing will be limited to those raised in the respective case briefs. Unless the Department specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. See 19 CFR 351.310(d)(1). Parties will be notified of the time and location of the hearing, if scheduled.

The Department will issue the final results of this administrative review within 120 days after the publication of this notice, unless extended. See section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Notification of 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.

The preliminary results of this administrative review and this notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 17, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8-30690 Filed 12-23-08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

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

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department received a request to revoke one antidumping duty order in part.

DATES: *Effective Date:* December 24, 2008.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-4697.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b) (2007), for administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on Fresh Garlic from the People's Republic of China with respect to one exporter.

Notice of No Sales

Under 19 CFR 351.213(d)(3), the Department may rescind a review where there are no exports, sales, or entries of subject merchandise during the respective period of review listed below.

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review, it should notify the Department within 30 days of publication of this notice in the **Federal Register**. The Department will consider rescinding the review only if the producer or exporter, as appropriate, submits a properly filed and timely statement certifying that it had no exports, sales, or entries of subject merchandise during the period of review. All submissions must be made in accordance with 19 CFR 351.303 and are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Six copies of the submission should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy of each request must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review (POR). We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of this initiation notice and to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within 10 calendar days of publication of this **Federal Register** notice.

Separate Rates

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each