



This document is scheduled to be published in the Federal Register on 11/19/2013 and available online at <http://federalregister.gov/a/2013-27577>, and on FDsys.gov

BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-869]

Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that diffusion-annealed, nickel-plated flat-rolled steel products (certain nickel-plated, flat-rolled steel) from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are listed in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination.

Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we intend to make our final determination not later than 135 days after publication of this preliminary determination in the *Federal Register*.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Dena Crossland or David Cordell, AD/CVD Operations, Office 6, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3362 or (202) 482-0408, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The diffusion-annealed, nickel-plated flat-rolled steel products included in this investigation are flat-rolled, cold-reduced steel products, regardless of chemistry; whether or not in coils; either plated or coated with nickel or nickel-based alloys and subsequently annealed (*i.e.*, “diffusion-annealed”); whether or not painted, varnished or coated with plastics or other metallic or nonmetallic substances; and less than or equal to 2.0 mm in nominal thickness. For purposes of this investigation, “nickel-based alloys” include all nickel alloys with other metals in which nickel accounts for at least 80 percent of the alloy by volume.

Imports of merchandise included in the scope of this investigation are classified primarily under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7212.50.0000 and 7210.90.6000, but may also be classified under HTSUS subheadings 7210.70.6090, 7212.40.1000, 7212.40.5000, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.90.0010, 7220.90.0015, 7225.99.0090, or 7226.99.0180. The foregoing HTSUS subheadings are provided only for convenience and customs purposes. The written description of the scope of this investigation is dispositive.¹

Tolling of Deadlines for Preliminary Determination

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16,

¹ See *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Initiation of Antidumping Duty Investigation*, 78 FR 23905 (April 23, 2013).

2013.² Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary determination of this investigation is now November 8, 2013.

Methodology

The Department has conducted this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772 of the Act. Normal value has been calculated in accordance with section 773 of the Act. Because one of the selected mandatory respondents, Nippon Steel & Sumitomo Metal Corporation, failed to respond to the Department's questionnaire, we have preliminarily determined to apply adverse facts available to this respondent.

For a full description of the methodology underlying our conclusions, *see* Decision Memorandum for Preliminary Determination of the Antidumping Duty Investigation of Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan" (Preliminary Decision Memorandum) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of

² *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination

The preliminary weighted-average dumping margins are as follows:

Producer or Exporter	Weighted-Average Dumping Margin (percent)
Toyo Kohan Co., Ltd.	47.80
Nippon Steel & Sumitomo Metal Corporation	77.70
All Others	47.80

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of certain nickel-plated, flat-rolled steel from Japan, as described in the “Scope of the Investigation” section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit³ equal to the preliminary weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above, as follows: (1) the rate for Toyo Kohan Co., Ltd. (Toyo Kohan) and Nippon Steel & Sumitomo Metal Corporation will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but

³ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 47.80 percent, as discussed in the “All Others Rate” section, below. These suspension of liquidation instructions will remain in effect until further notice.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “all others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Toyo Kohan is the only respondent in this investigation for which the Department calculated a company-specific margin that is not zero, *de minimis*, or determined entirely under section 776 of the Act. Therefore, pursuant to section 735(c)(5)(A) of the Act, we are applying the dumping margin calculated for Toyo Kohan, 47.80 percent, as the “all others” rate.

Disclosure

The Department intends to disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1)

and 19 CFR 351.309(d)(2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Interested parties who wish to comment on the preliminary determination must file briefs electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time.

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See also* 19 CFR 351.310. 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 Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS, as noted above. An electronically filed request must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On October 28, 2013, Toyo Kohan requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (135 days after publication of the preliminary determination), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period.⁴ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting producer/exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of this notice in the *Federal Register*. Suspension of liquidation will be extended accordingly. We are also extending the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period.

⁴ See Letter from Toyo Kohan to the Department, dated October 28, 2013 and Letter from Petitioner dated October 29, 2013.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at less than fair value. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain nickel-plated, flat-rolled steel from Japan before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: November 8, 2013.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Investigation
3. Respondent Selection
4. Discussion of Methodology
 - a. Fair Value Comparisons
 - b. Product Comparisons
 - c. Date of Sale
 - d. Determination of Comparison Method
 - e. Results of the DP Analysis
 - f. Export Price
 - g. Normal Value
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 - m. Calculation of Normal Value based on Comparison Market Prices
 - n. Price to CV Comparison
 - o. Constructed Value
 - p. Currency Conversion
5. Application of Facts Available and Adverse Inferences
6. Recommendation
- 7.
- 8.
9. [FR Doc. 2013-27577 Filed 11/18/2013 at 8:45 am; Publication Date: 11/19/2013]