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Dated: January 17, 2008.

**Jeffrey Anspacher,**

*Director, Export Trading Company Affairs.*

[FR Doc. E8-1122 Filed 1-22-08; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-801]

#### **Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Extension of Time Limit for Final Results of the Third Antidumping Duty Administrative Review**

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

**EFFECTIVE DATE:** January 23, 2008.

#### **FOR FURTHER INFORMATION CONTACT:**

Catherine Bertrand, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-3207.

#### **Background**

On August 31, 2007, the Department of Commerce ("Department") issued the preliminary results of this administrative review. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results of the Third Antidumping Duty Administrative Review*, 72 FR 53527 (September 19, 2007) ("Preliminary Results"). The final results are currently due on January 17, 2008.

#### **Extension of Time Limits for Final Results**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("Act"), and 19 CFR 351.211(b)(5) require the Department to issue the final results in an administrative review of an antidumping duty order 120 days after the date on which the preliminary results are published. The Department may, however, extend the deadline for completion of the final results of an administrative review to 180 days if it determines it is not practicable to complete the review within the foregoing time period. *See* section

751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

The Department finds that it is not practicable to complete the final results in the administrative review of certain frozen fish fillets from Vietnam within this time limit. Specifically, the Department needs additional time to consider Respondent East Sea Foods Joint Venture Co., Ltd.'s responses. Additionally, the Department is extending the deadline for the final results to accommodate parties' public hearing requests so parties may address all issues. For the reasons noted above, we are extending the time for the completion of the final results of this review by 60 days to March 17, 2008.

This notice is published in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations.

Dated: January 15, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E8-1107 Filed 1-22-08; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-520-802]

#### **Certain Steel Nails From the United Arab Emirates: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination**

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

**SUMMARY:** We preliminarily determine that certain steel nails (nails) from the United Arab Emirates (UAE) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act).

Interested parties are invited to comment on this preliminary determination. We will make our final determination within 135 days after the date of this preliminary determination.

**EFFECTIVE DATE:** January 23, 2008.

#### **FOR FURTHER INFORMATION CONTACT:**

David Goldberger or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-4136 or (202) 482-4929, respectively.

## Background

Since the initiation of this investigation (*see Certain Steel Nails from the People's Republic of China and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 38816 (July 16, 2007) (*Initiation Notice*)), the following events have occurred.

On July 30, 2007, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of nails from the UAE are materially injuring the United States industry. *See* ITC Investigation Nos. 731-TA-1114-1115 (Publication No. 3939).

On August 24, 2007, we selected Dubai Wire FZE (DW), the largest producer/exporter of nails from the UAE, as the mandatory respondent in this proceeding. *See* Memorandum to James Maeder, Director Office 2, from David Goldberger and Kate Johnson, Senior International Trade Compliance Analysts, regarding "Antidumping Duty Investigation of Certain Steel Nails from the United Arab Emirates—Selection of Respondents," dated August 24, 2007. We subsequently issued the antidumping questionnaire to DW and its affiliate Global Fasteners Ltd. (GFL) on August 27, 2007.

DW submitted its Section A and C questionnaire responses on October 9, 2007, and October 18, 2007, respectively. We received a response to Section D of the questionnaire on October 25, 2007. We issued and received responses to our supplemental questionnaires from December 2007 through January 2008.

On October 26, 2007, the petitioners<sup>1</sup> filed a targeted dumping allegation against DW under section 777A(d)(1)(B) of the Act. The Department requested additional information from the petitioners with respect to their targeted dumping allegation on November 30, 2007. The petitioners responded to this request on December 10, 2007. DW submitted comments to dispute the allegation on December 20, 2007. *See* "Targeted Dumping" section below for further discussion.

On November 1, 2007, pursuant to sections 733(c)(1)(B) and (c)(2) of the Act and 19 CFR 351.205(f), the petitioners requested that the Department postpone the preliminary determination due to the complexities

<sup>1</sup> The petitioners are Mid Continent Nail Corporation, Davis Wire Corporation, Gerdau Ameristeel Corporation (Atlas Steel & Wire Division), Maze Nails (Division of W.H. Maze Company), and Treasure Coast Fasteners, Inc. and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

of the investigation and the required analysis for it, and because the Department was still involved in gathering initial data from the respondent at that time. *See Certain Steel Nails from the People's Republic of China and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 72 FR 63558 (November 9, 2007).

On December 20, 2007, the petitioners submitted comments for the Department's consideration in the preliminary determination.

#### Postponement of Final Determination

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.

Pursuant to section 735(a)(2) of the Act, on December 27, 2007, DW requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**, and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the respondent accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and 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.

#### Period of Investigation

The period of investigation (POI) is April 1, 2006, through March 31, 2007. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2007).

#### Scope of Investigation

The merchandise covered by this investigation includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails subject to this proceeding are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65 and 7317.00.75.

Excluded from the scope of this proceeding are roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope of this proceeding are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of this proceeding are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of this proceeding are thumb tacks, which are currently classified under HTSUS 7317.00.10.00. Also excluded from the scope of this proceeding are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated

with adhesive or polyester film tape backed with a heat seal adhesive.<sup>2</sup>

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

#### Scope Comments

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) and *Initiation Notice* at 72 FR 38817.

In this investigation, and the concurrent investigation of nails from the People's Republic of China (PRC), we received three scope exclusion requests during the period July 2007 through January 2008.

On July 30, 2007,<sup>3</sup> Stanley Fastening Systems, LP (Stanley), an interested party in this proceeding, requested that banded brads and finish nails imported with a "nailer kit" or "combo kit"<sup>4</sup> as a single package be excluded from this investigation as being outside the "class or kind" of merchandise. Stanley conducted a *Diversified Products*<sup>5</sup> analysis in support of its position claiming that banded products imported in the same package as a pneumatic nailer and sold as a "nailer kit" or "combo kit" are not within the class or kind of merchandise covered in the scope of the instant investigation. In addition, Stanley states that, to the best of its information and belief, none of the petitioning companies in this investigation manufacture banded brads or finish nails.

On August 9, 2007,<sup>6</sup> the petitioners objected to this exclusion request, arguing that the scope of this proceeding is comprehensive and, while the scope

<sup>2</sup> See "Scope Comments" section below for further discussion.

<sup>3</sup> This submission was filed on the record of the PRC investigation on July 30, 2007, and on the record of the instant investigation on January 7, 2008.

<sup>4</sup> A "nailer kit" consists of a pneumatic nailer, a "starter box" of banded products and a carrying case. A "combo kit" consists of an air compressor, a pneumatic nailer, and a "starter box" of banded products and related accessories, such as an air hose.

<sup>5</sup> Prior to being codified in the regulations, these factors were identified by the Court of International Trade in *Diversified Products Corp. v. United States*, 572 F. Supp. 883 (CIT 1983), and therefore, they are also referred to as the "Diversified Products factors."

<sup>6</sup> This submission was filed on the record of the PRC investigation on August 9, 2007, and on the record of the instant investigation on January 7, 2008.

contains specific exclusions, it does not exclude any nails based on their importation in combination with one or more other articles. The petitioners claimed that it is their intention that the scope of this proceeding include all certain steel nails exhibiting the physical characteristics identified in the written scope description, regardless of how imported. Furthermore, according to the petitioners, a *Diversified Products* analysis requires a determination that collated steel finish nails remain scope merchandise, whether imported on their own or with a nail gun. Finally, the petitioners cite several cases<sup>7</sup> in support of their contention that Department precedent supports their argument that these finish nails are merchandise covered by the scope of investigation. According to the petitioners, these rulings address fundamentally different types of kits or sets of merchandise, in which the subject merchandise at issue is subsumed with a set of goods whose essential character is defined as something other than the merchandise itself.

On August 15, 2007,<sup>8</sup> Stanley responded to the petitioners' August 9, 2007, submission claiming that none of the petitioners' arguments supports a conclusion that banded products imported in nailer kits are within the subject class of kind of merchandise.

On December 12, 2007, Stanley revised its July 30, 2007, scope exclusion request arguing that its new request reflects a broader exclusion and is easily administered by U.S. Customs and Border Protection (CBP) because the description of the excluded brads and finish nails is framed solely in terms of their physical characteristics. On December 18, 2007, the petitioners filed a letter stating that they agree with Stanley's December 12, 2007, scope exclusion request.

Therefore, based on the scope exclusion request from Stanley, the fact that the petitioners are in agreement with this request, and there appears to

be no impediment to enforceability by CBP,<sup>9</sup> we preliminarily determine that the above-described products are not subject to the scope of this investigation.<sup>10</sup>

In addition, the petitioners requested that the Department modify the scope of these investigations to exclude certain trademarked products in submissions dated October 5, 2007, October 12, 2007, October 24, 2007, and November 1, 2007.<sup>11</sup> However, we found that the proposed scope modification language, which would exclude only specifically registered trademarked products, would provide an improper scope for this investigation because its effect would be to exclude only products of the parties controlling those trademarks, while the same products without the specified trademarks would be included, creating a scope that is neither impartial nor reasonable. Furthermore, the trademark requirement may cause significant administrability problems for CBP should an antidumping duty order be issued. Therefore, on November 15, 2007, we determined it inappropriate to modify the scope of this investigation in accordance with the petitioners' request. See Memorandum To David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, AD/CVD Operations regarding "Certain Steel Nails from the People's Republic of China ("PRC") and the United Arab Emirates ("UAE"): Scope Modification Request" dated November 15, 2007.

On January 3, 2008,<sup>12</sup> Hilti, Inc., an interested party in this investigation, requested that fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools be excluded

<sup>9</sup> See Memorandum to the File from Kate Johnson, Senior Case Analyst, to The File entitled "Proposed Scope Exclusion," dated January 15, 2008.

<sup>10</sup> On January 8, 2008, Illinois Tool Works Inc., an interested party, opposed the exclusion request filed by Stanley, arguing that it is the only U.S. producer of the products at issue. While the Department notes ITW's objection, it strives to craft a scope that both includes the specific products for which the petitioners have requested relief, and excludes those products which may fall within the general scope definition, but for which the petitioners do not seek relief. (This submission was filed on the record of the PRC investigation on January 8, 2008, and on the record of the instant investigation on January 11, 2008.)

<sup>11</sup> Each submission contained a revised version of the proposed scope modification.

<sup>12</sup> This submission was filed on the record of the PRC investigation on January 3, 2008, and on the record of the instant investigation on January 8, 2008.

from the scope of this investigation.<sup>13</sup> We received this request too late to consider for purposes of the preliminary determination, but will consider it for the final determination.

### Targeted Dumping

Based on our examination of the targeted dumping allegation filed on October 26, 2007, we have preliminarily determined that the petitioners' allegation indicates that there is a pattern of export prices for comparable merchandise that differs significantly, consistent with that accepted by the Department in Coated Free Sheet Paper from South Korea. (See *Issues and Decision Memorandum for the Final Determination of the Less-Than-Fair-Value Investigation of Coated Free Sheet Paper from the Republic of Korea*, dated October 17, 2007.) Therefore, based on the petitioners' allegation, for purposes of this preliminary determination, we have conducted an analysis to determine whether targeted dumping has occurred. For further discussion of the Department's preliminary targeted dumping analysis, see Memorandum to James Maeder, Director, AD/CVD Operations, Office 2, from Irene Darzenta Tzafolias, regarding "Antidumping Duty Investigation of Certain Steel Nails from the United Arab Emirates—Preliminary Analysis on Targeting," dated January 15, 2008.

We note, however, that the Department is in the process of re-assessing the framework and standards for both targeted dumping allegations and targeted dumping analyses. Accordingly, we intend to develop a new framework in the context of this proceeding and to apply it in time for parties to have an opportunity to comment before the final determination.

In formulating this new methodology the Department requests comments by February 15, 2008, regarding certain principles: (1) Whether it is appropriate to collapse into one test the assessment of patterns of low prices and of significant price differentials; (2) if so, whether the test for a pattern of low prices ought to be established on the basis of a simple comparison of the average price to the alleged target with an average non-targeted price; and (3) whether any test for a significant price difference ought to simply be based on an absolute, bright-line threshold or

<sup>13</sup> On January 8, 2008, Illinois Tool Works Inc., an interested party, opposed the exclusion request filed by Hilti, Inc., arguing that it is the only U.S. producer of the products at issue. On January 9, 2008, the petitioners filed a letter stating that they agree with Hilti's January 3, 2008, scope exclusion request.

<sup>7</sup> See, e.g., Memorandum from Wendy J. Frankel, Director, AD/CVD Operations, Office 8, to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, *Final Scope Ruling—Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China—Request by Fiskars Brands, Inc.* (June 3, 2005); Memorandum from Laurie Parkhill, Director, Office 8, AD/CVD Enforcement, To Jeffrey A. May, Deputy Assistant Secretary for Import Administration, *Final Scope Ruling—Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China—Request by Target Corporation Regarding "Hello Kitty Fashion Totes"* (September 29, 2004).

<sup>8</sup> This submission was filed on the record of the PRC investigation on August 15, 2007, and on the record of the instant investigation on January 7, 2008.

whether it should account for other aspects of the non-targeted group's data.

In preliminarily accepting the allegation of targeted dumping, we find that the price differences cannot be taken into account using the average-to-average comparison methodology for targeted sales because that methodology, by averaging the high prices with the low prices, has the effect of masking the extent of sales at LTFV. See section 777A(d)(1)(B) of the Act. Accordingly, we used the average-to-transaction methodology for these sales in accordance with 19 CFR 351.414(f)(1).

When calculating DW's weighted-average margin, we combined the margin calculated for the targeted sales using the average-to-transaction methodology with the margin calculated for the non-targeted sales using the average-to-average methodology. In combining the margins for the targeted and non-targeted U.S. sales databases, we have not offset any margins found among the targeted U.S. sales.

#### Collapsing of GFL With DW

For purposes of the preliminary determination, we have treated DW and GFL, an affiliate of DW that is involved in the production and sale of nails,<sup>14</sup> as one entity for dumping margin calculation purposes, pursuant to 19 CFR 351.401(f). DW and GFL are affiliated under section 771(33)(F) of the Act and 19 CFR 351.102 because both companies are under the common control of one individual, share identical board members, and the common company officers have the ability to exercise control over the companies (19 CFR 351.401(f)(1)). Furthermore, pursuant to 19 CFR 351.401(f)(1) and (2), DW and GFL have production facilities for substantially similar products at the same location that would not require substantial retooling of either facility to restructure manufacturing priorities, and there is significant potential for the manipulation of price or production if the two companies do not receive the same antidumping duty rate based on the level of common ownership and management, and intertwined operations. See Memorandum For Stephen J. Claeys, Deputy Assistant

Secretary for Import Administration, From The Team, regarding "Whether or Not to Collapse Dubai Wire FZE and Global Fasteners Ltd. in the Antidumping Duty Investigation of Certain Steel Nails from the United Arab Emirates," dated January 15, 2008.

#### Fair Value Comparisons

To determine whether sales of nails from the UAE were made at LTFV, we compared the export price (EP) to the normal value (NV), as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, for the non-targeted sales, we compared POI weighted-average EPs to NVs. For targeted sales, we used the average-to-transaction methodology in accordance with section 777A(d)(1)(B) of the Act and 19 CFR 351.414(f)(1). See "Targeted Dumping" section above for further discussion.

As discussed below under the "Home Market Viability and Comparison Market Selection" section, we determined that DW/GFL did not have a viable home or third country market during the POI. Therefore, as the basis for NV, we used constructed value (CV) when making comparisons in accordance with section 773(a)(4) of the Act.

#### Export Price

For DW's sales to the United States we used EP price methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States. We based EP on the packed C&F (cost and freight), CIF (cost, insurance and freight) or DDP (delivered, duty paid) prices to unaffiliated purchasers in the United States.

Where appropriate, we made adjustments to the starting price for billing adjustments and rebates. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, and U.S. customs duties.

DW reported invoice as the date of sale. However, our review of the sales data indicates that, in some cases, the reported shipment date precedes the reported invoice date. In such circumstances, the Department normally uses the earlier of invoice date or shipment date as the 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, 18079–80 (April 10, 2006), remaining 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). Accordingly, we used the earlier of the reported shipment date or reported sale date (i.e., invoice date) for determining the date of sale.

#### Normal Value

##### A. Home Market Viability and Comparison Market Selection

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared DW's/GFL's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

We determined that DW's/GFL's aggregate volume of home market and third country sales of the foreign like product were insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Therefore, we used CV as the basis for calculating NV, in accordance with section 773(a)(4) of the Act.

##### B. 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 or CEP. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses (SG&A) and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or 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 a different LOT, and the difference affects price comparability, as manifested in a

<sup>14</sup> GFL manufactures screws (non-subject merchandise) at the same location where DW is located and performs wire drawing (one of the manufacturing processes in nail making) and heat treatment (for heat treated nails) for DW. The equipment used by GFL for wire drawing and heat treatment is owned by DW and located at GFL's facility. During the POI, DW produced a very small quantity of nails for GFL. GFL then heat treated and phosphate coated these nails, packed the nails and sold them to home market and third-country customers.

pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, 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 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 Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (Nov. 19, 1997).

In the United States, DW made EP sales to original equipment manufacturers and other distributors through the same channel of distribution, performing the identical selling functions. Therefore, we determine that there is only one LOT for EP sales.

DW/GFL had no viable home or third country market during the POI. Therefore, we based NV on CV. When NV is based on CV, the NV LOT is that of the sales from which we derive SG&A expenses and profit. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Fresh Atlantic Salmon from Chile*, 63 FR 2664 (January 16, 1998). In accordance with 19 CFR 351.412(d), the Department will make its LOT determination under paragraph (d)(1) of this section on the basis of sales of the foreign like product by the producer or exporter. Because we based the selling expenses and profit for DW/GFL on GFL's home market sales of nails and screws, we could not determine the LOT of the sales from which we derived selling expenses and profit for CV, nor is there sufficient information on the record to determine whether an LOT adjustment is warranted. (*See* "Calculation of Normal Value Based on Constructed Value" section below for further discussion on the derivation of CV selling expenses and profit.). Therefore, we made no LOT adjustment to NV.

#### C. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A, profit, and U.S. packing costs. We relied on the respondent's submitted materials and fabrication costs, G&A expenses and U.S. packing costs. We made the

following adjustments to the reported CV information:

1. We revised the scrap offset to the total cost of manufacturing to reflect the value of the scrap quantities generated rather than the scrap quantities sold.

2. Because we collapsed DW and GFL for purposes of this investigation, we revised the total cost of manufacturing to reflect the actual cost of services provided by GFL, rather than using the transfer price paid by DW to GFL.

3. Because DW's 2007 fiscal year more closely correlates to the POI, we revised the company's reported G&A and financial expense rates by using the company's 2007 audited financial statements, rather than the 2006 financial statements.

4. We revised DW's financial expense rate to exclude the long-term interest income reported as an offset to financial expenses.

We calculated selling expenses and profit, in accordance with section 773(e)(2)(B)(i) of the Act, as detailed in the Memorandum to Neal Halper from Heidi Schrieffer, regarding "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination," dated January 15, 2008 (*Preliminary Determination Cost Calculation Memo*).

Because the Department has determined for purposes of this preliminary determination that DW/GFL does not have a viable comparison market, we could not determine selling expenses and profit under section 773(e)(2)(A) of the Act. Therefore, we relied on section 773(d)(2)(B) of the Act to determine these selling expenses and profit. Specifically, we used the selling expense and profit rates derived from GFL's home market sales of nails and screws, merchandise that is within the same general category of products as the subject merchandise. *See Preliminary Determination Cost Calculation Memo*. The statute does not establish a hierarchy for selecting among the alternative methodologies provided in section 773(e)(2)(B) of the Act for determining selling expenses and profit. *See Statement of Administrative Action Accompanying the URAA*, H.R. Rep. No. 103-316, vol. 1, at 840 (1994). Alternative (i) of section 773(e)(2)(B) of the Act specifies that selling expenses and profit may be calculated based on "actual amounts incurred by the specific exporter or producer \* \* \* on merchandise in the same general category" as the subject merchandise. DW and GFL, an affiliated screw producer, were collapsed into a single entity for purposes of this investigation. Therefore, we calculated DW's/GFL's selling expenses and profit based on

alternative (i) of section 773(e)(2)(B) of the Act, which is to use the respondent's expenses on sales of merchandise in the same general category, *i.e.*, GFL's home market sales of nails and screws.

We computed the selling expense and profit ratios based on GFL's home market sales of nails and screws, and applied the selling expense ratio to the sum of the cost of materials and fabrication to determine CV selling expenses, and applied the profit ratio to the sum of the cost of materials, fabrication, and general expenses to calculate an amount for profit.

#### D. Price-to-CV Comparisons

GFL's selling expenses related to its sales of nails and screws do not include direct selling expenses.<sup>15</sup> Accordingly, for comparisons to EP, we added DW's U.S. direct selling expenses without also deducting direct selling expenses derived from GFL's home market sales of nails and screws.

#### Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. *See Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 68 FR 47049, 47055 (August 7, 2003), remaining unchanged in *Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 68 FR 69379 (December 12, 2003). However, the Federal Reserve Bank does not track or publish exchange rates for the UAE dirham. Therefore, we made currency conversions from UAE dirhams to U.S. dollars based on the daily exchange rates from Factiva, a Dow Jones & Reuters Retrieval Service. Factiva publishes exchange rates for Monday through Friday only. We used the rate of exchange on the most recent Friday for conversion dates involving Saturday through Sunday, where necessary.

#### Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing CBP to suspend liquidation of all entries of nails from the UAE that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal**

<sup>15</sup> The direct selling expenses reported by the respondent in its January 3, 2008, submission are, in fact, movement and packing expenses.

**Register.** We are also instructing CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margins, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Dubai Wire FZE/Global Fasteners Ltd .....	4.47
All Others .....	4.47

### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

### Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 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 final verification report in this proceeding. 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. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. 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. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the

rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 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 the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

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

Dated: January 15, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-1109 Filed 1-22-08; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF ENERGY

### Notice of 229 Boundary Revision for the Oak Ridge Gaseous Diffusion Plant

**AGENCY:** Department of Energy (DOE).

**ACTION:** Notice of 229 Boundary Revision for the Oak Ridge Gaseous Diffusion Plant.

**SUMMARY:** Notice is hereby given that the U.S. Department of Energy, pursuant to Section 229 of the Atomic Energy Act of 1954, as amended, as implemented by 10 CFR part 860 published in the **Federal Register** on August 26, 1963 (28 FR 8400), prohibits the unauthorized entry, as provided in 10 CFR 860.3 and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 860.4, into or upon the following described facilities of the Oak Ridge Gaseous Diffusion Plant of the United States Department of Energy. The following amendments are made:

#### Deletions From Inclusion Within the Existing 299 Boundary

##### *Raw Water Pumping Station—K-901*

The K-901 raw water pumping station, including two outside water intake pumps enclosed by a 7-foot chain link fence topped with three strands of barbed wire, and a one-story building of

transite construction approximately 22 feet by 25 feet in size, located in the Second Civil District, Roane County, Tenn., within the corporate limits of the city of Oak Ridge, on the east bank of the Clinch River at approximately river mile 11.5.

##### *Raw Water Pumping Station—K-1513*

The K-1513 raw water pumping station including a one-story brick building approximately 26 x 18 feet in size and outside electric transformers, located in the Second Civil District, Roane County, Tenn., within the corporate limits of the city of Oak Ridge on the E. bank of the Clinch river at approximately river mile 14.5.

##### *Water Purification Plant—K-1515*

The K-1515 Water Purification Plant including a steel water tank approximately 39 feet in diameter and 23 feet high, located in the Second Civil District, Roane County, Tenn., within the corporate limits of the city of Oak Ridge, on the N. side of Bear Creek Road approximately 0.2 mile E. of the W. end of Bear Creek Road.

##### *Pine Ridge Antenna Facility—K-805*

The Pine Ridge Antenna Facility consisting of two wooden radio antenna poles approximately 87 feet in height and a one-story concrete block building approximately 11 feet by 10 feet in size, located on Pine Ridge in the Second Civil District of Roane County, Tenn., within the corporate limits of the city of Oak Ridge, on an access road approximately 0.7 miles E. of the intersection of the access road and road running between Bear Creek Road and the Oak Ridge Turnpike, said intersection being 0.6 mile N. of Bear Creek Road.

##### *Water Storage Tanks K-1529 and K-1530*

Two concrete water storage tanks located on Pine Ridge in the Second Civil District of Roane County, Tenn., within the corporate limits of the city of Oak Ridge, on an access road approximately 0.4 mile N. of the intersection of the access road and Bear Creek Road, said intersection being approximately 0.6 mile E. of the Clinch River.

#### Area Changes From the Existing 229 Boundary

##### *Building K-33 Area*

The installation known as Building K-33 at the Oak Ridge Gaseous Diffusion Plant located in the Second Civil District, Roane County, Tenn., within the corporate limits of the city of Oak Ridge County, Tennessee, within