

**UNITED STATES – ANTI-DUMPING MEASURES ON CORROSION-RESISTANT  
CARBON STEEL FLAT PRODUCTS FROM KOREA**

Request for Consultations by the Republic of Korea

The following communication, dated 31 January 2011, from the delegation of the Republic of Korea to the delegation of the United States and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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Upon instructions from my authorities, and on behalf of the Government of the Republic of Korea ("Korea"), I hereby request consultations with the Government of the United States of America ("United States") pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Article 17 of the *Agreement on Implementation of Article VI of GATT 1994* (the "Antidumping Agreement"), with regard to antidumping measures by the United States related to Corrosion-Resistant Carbon Steel Flat Products from Korea (Case No. A-580-816).

It is Korea's understanding that, in applying antidumping measures in the case of Corrosion-Resistant Carbon Steel Flat Products from Korea, the United States Department of Commerce ("USDOC") has relied on the practice and methodology, commonly referred to as "zeroing," by which transactions with negative dumping margins are treated as having margins equal to zero in determining dumping margins in administrative reviews and sunset reviews, and also in assessing the final antidumping duty liability for purposes of liquidation of entries. The effect of the USDOC's zeroing practice has been either to artificially create margins of dumping where none would otherwise have been found, or to inflate margins of dumping.

The Government of Korea wishes consultations with the United States with regard to the USDOC's use of the practice of zeroing negative dumping margins in administrative reviews, sunset reviews, and liquidations of antidumping duties with and without reviews, concerning the case of Corrosion-Resistant Carbon Steel Flat Products from Korea. I have attached a list of specific instances in which the United States applied the zeroing methodology. Korea wishes to consult with the United States not only with regard to these specific determinations, and the imposition of cash deposit requirements and the final assessment of antidumping duties pursuant thereto, but also with respect to the ongoing conduct reflected by the use of the zeroing methodology in successive proceedings in that case.

The matters the Government of Korea would like to raise in the course of these consultations also include the US laws, regulations, administrative practices and methodologies relevant to the USDOC's zeroing methodology, including, but not limited to, the following:

1. the Tariff Act of 1930 (the "Tariff Act"), in particular, sections 731, 751, 752, 771(35)(A), and (B), and 777A(c) and (d);
2. the Statement of Administrative Action that accompanied the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. I;
3. the implementing regulations of the USDOC, 19 C.F.R. section 351, in particular, sections 351.212(b) and (c), 351.218, and 351.414;
4. the Import Administration Antidumping Manual (1997 edition), including the computer program(s) to which it refers;
5. the USDOC's Policy Bulletin 98.3, "Policies Regarding the Conduct of Five-year ('Sunset') Reviews of Antidumping and Countervailing Duty Orders" ("Sunset Policy Bulletin"), 63 Fed. Reg. 18871 (16 April 1998);
6. the general procedures and methodology employed by the United States for determining dumping margins in administrative reviews, sunset reviews, and duty assessment determinations, including, but not limited to,
  - a. methodologies whereby the USDOC compares the export price for individual transactions to a weighted-average normal value, and then, when calculating the overall margin of dumping, treated as zero the negative dumping margins for individual transactions for which the export price exceeded the weighted-average normal value; and
  - b. methodologies whereby the USDOC does not perform a new calculation of the dumping margins as part of its determination, but instead adopted, applied, or relied upon dumping margins that had been calculated in prior proceedings using the methodologies described in sub-paragraph (a); and
7. the general procedures and methodology employed by the United States, in sunset reviews, for determining whether revocation of antidumping orders would be likely to lead to continuation or recurrence of dumping within a reasonably foreseeable time.

The legal and factual issues the Government of Korea would like to raise in the course of consultations include, but are not limited to, the following:

1. in administrative reviews, the zeroing of negative dumping margins when comparing export prices and normal values on a weighted-average to transaction basis;
2. the imposition and continuation of requirements that cash deposits be posted at the time of entry of merchandise based on determinations in administrative reviews in which the dumping margins were established using the practice of zeroing;
3. the assessment of antidumping duties based on dumping margins determined in administrative reviews using the practice of zeroing, and the automatic assessment of antidumping duties based on dumping margins established in prior proceedings using the practice of zeroing, when no review is requested;

4. the determination of dumping margins above de minimis levels as a result of the practice of zeroing negative dumping margins, and the consequent imposition, continuation, or collection of antidumping duties;
5. the use, in sunset reviews, of dumping margins calculated in prior antidumping investigations and/or administrative reviews in which negative dumping margins had been treated as zero dumping margins, resulting in determinations that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping;
6. the consideration by the United States International Trade Commission ("USITC"), in sunset reviews, of the magnitude of the margins of dumping provided by the USDOC, in determining whether the revocation of an antidumping duty order would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

The Government of Korea considers that the US measures identified in this request for consultations are inconsistent with the obligations of the United States under the relevant provisions of the GATT 1994, the Antidumping Agreement, and the Marrakesh Agreement Establishing the WTO, in particular under:

1. Articles 1, 2.1, 2.4, 2.4.2, 3, 5.8, 9.1, 9.3, 11, 18.3 and 18.4 of the Antidumping Agreement;
2. Articles VI:1 and VI:2 of GATT 1994; and
3. Article XVI:4 of the Marrakesh Agreement Establishing the WTO.

The Government of Korea reserves its rights to raise additional factual and legal issues during the course of the consultations and in any request for the establishment of a panel.

We look forward to the response of the Government of the United States to this request so that we can schedule a mutually convenient date for consultations.

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## ANNEX

### Specific Instances in which the United States Department of Commerce Applied the Zeroing Methodology in the Case of Corrosion-Resistant Carbon Steel Flat Products

1. Administrative Review Determinations and Subsequent Assessment of Final Antidumping Duties Pursuant Thereto
  - a. *Certain Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review*, 61 Fed. Reg. 18547 (26 April 1996)
  - b. *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 62 Fed. Reg. 18404 (15 April 1997), as amended by *Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled Carbon Steel Flat Products From Korea; Certain Corrosion-Resistant Carbon Steel Flat Products from Korea*, 62 Fed. Reg. 33587 (20 June 1997), and as amended by *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Reviews in Accordance with Court Decision*, 67 Fed. Reg. 39955 (11 June 2002)
  - c. *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 Fed. Reg. 13170 (18 March 1998), as amended by *Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled Carbon Steel Flat Products From Korea; Certain Corrosion-Resistant Carbon Steel Flat Products From Korea*, 63 Fed. Reg. 20572 (27 April 1998), and as amended by *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Reviews in Accordance with Court Decision*, 67 Fed. Reg. 39956 (11 June 2002)
  - d. *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 64 Fed. Reg. 12927 (16 March 1999)
  - e. *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 65 Fed. Reg. 13359 (13 March 2000), as amended by *Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea*, 65 Fed. Reg. 24180 (25 April 2000)
  - f. *Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea*, 66 Fed. Reg. 3540 (16 January 2001), as amended by *Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea*, 66 Fed. Reg. 14883 (14 March 2001)
  - g. *Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea*, 67 Fed. Reg. 11976 (18 March 2002), as amended by *Notice of Amended Final Results of Antidumping Duty Administrative Review: Cold-Rolled and Corrosion Resistant Carbon Steel Products from Korea*, 67 Fed. Reg. 20956 (29 April 2002)

- h. *Notice of Final Results of the Tenth Administrative Review and New Shipper Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 70 Fed. Reg. 12443 (14 March 2005)
- i. *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 Fed. Reg. 7513 (13 February 2006), as amended by *Notice of Amended Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 Fed. Reg. 13962 (20 March 2006)
- j. *Notice of Final Results of the Twelfth Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 72 Fed. Reg. 13086 (20 March 2007), as amended by *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea; Notice of Amended Final Results of the Twelfth Administrative Review*, 72 Fed. Reg. 20815 (26 April 2007)
- k. *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Thirteenth Administrative Review*, 73 Fed. Reg. 14220 (17 March 2008)
- l. *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Fourteenth Administrative Review and Partial Rescission*, 74 Fed. Reg. 11082 (16 March 2009); as amended by *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Amended Final Results of the Fourteenth Antidumping Duty Administrative Review*, 74 Fed. Reg. 19199 (28 April 2009)
- m. *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Fifteenth Administrative Review*, 75 Fed. Reg. 13490 (22 March 2010)

2. Sunset Review Determinations

a. First Sunset Review

1. USDOC Determination of Likely Continuation or Recurrence of Dumping

*Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea; Final Results of Expedited Sunset Reviews*, 65 Fed. Reg. 18044 (6 April 2000)

2. USITC Determination of Likely Continuation or Recurrence of Injury

*Certain Carbon Steel Products From Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and United Kingdom*, 65 Fed. Reg. 75301 (1 December 2000), as amended by *Certain Carbon Steel Products From Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and United Kingdom*, 65 Fed. Reg. 77074 (8 December 2000)

3. Notice of Continuation of Antidumping Duty Order

*Continuation of Antidumping and Countervailing Duty Orders on Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, South Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom*, 65 Fed. Reg. 78469 (15 December 2000)

b. Second Sunset Review

1. USDOC Determination of Likely Continuation or Recurrence of Dumping

*Final Results of Expedited Sunset Reviews: Corrosion-Resistant Carbon Steel Flat Products from Australia, Canada, France, Germany, Japan, and South Korea*, 71 Fed. Reg. 32508 (6 June 2006)

2. USITC Determination of Likely Continuation or Recurrence of Injury

*Certain Carbon Steel Products From Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom*, 72 Fed. Reg. 4529 (31 January 2007)

3. Notice of Continuation of Antidumping Duty Order

*Continuation Pursuant to Second Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products from Germany and Korea*, 72 Fed. Reg. 7009 (14 February 2007)

3. Additional Measures

Automatic assessment of antidumping duties without published determinations for review periods and/or exporters for which no reviews were requested for the following review periods:

4 February 1993 through 31 July 1994  
1 August 1994 through 31 July 1995  
1 August 1995 through 31 July 1996  
1 August 1996 through 31 July 1997  
1 August 1997 through 31 July 1998  
1 August 1998 through 31 July 1999  
1 August 1999 through 31 July 2000  
1 August 2000 through 31 July 2001  
1 August 2001 through 31 July 2002  
1 August 2002 through 31 July 2003  
1 August 2003 through 31 July 2004  
1 August 2004 through 31 July 2005  
1 August 2005 through 31 July 2006  
1 August 2006 through 31 July 2007  
1 August 2007 through 31 July 2008  
1 August 2008 through 31 July 2009

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