

electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."⁴

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."⁵

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."⁶

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).⁷ This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains,

by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 HI-C." The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6."

Same Person Test for Sammi

In the previous administrative review, covering the period calendar year 2000, we acknowledged that Sammi's name was changed to BNG in March 2002. However, we declared that we were not conducting any type of entity review or successor-in-interest test in that review. We stated that we would examine the facts related to Sammi in the 2001 administrative review (see *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip from the Republic of Korea*, 68 FR 13267 (March 19, 2003) (2000 Sheet and Strip) and accompanying Issues and Decision Memorandum (2000 Sheet and Strip Decision Memo) at page 3 and Comment 2).

On December 6, 2000, Incheon became Sammi's majority shareholder when it completed its purchase of 68.4 percent of Sammi's shares. In the instant administrative review, we are conducting the "same person test" to determine whether Sammi was the same entity before and after Incheon's purchase of the majority of Sammi's shares.⁸

⁸ On June 23, 2003, the Department published a notice that our practice regarding the "same person test" would be modified. See Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act, 68 FR 37125. In that notice, we announced the prospective application of a new privatization

In making the "person" determination, where appropriate and applicable, we analyze factors such as (1) continuity of general business operations, including whether the successor holds itself out as the continuation of the previous enterprise, as may be indicated, for example, by use of the same name, (2) continuity of production facilities, (3) continuity of assets and liabilities, and (4) retention of personnel. See *Acciai Speciali Terni S.p.A. v. United States*, 206 F.Supp.2d 1344, 1350 (CIT 2002); *Final Negative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From Argentina*, 67 FR 62106 (October 3, 2002) and the accompanying Issues and Decision Memorandum, at Section II, "Change in Ownership." No single factor will necessarily provide a dispositive indication of any change in the entity under analysis.

Regarding the first criterion, after Incheon's majority purchase of Sammi's shares, Sammi's general business operations continued as before. Sammi's name also remained the same.⁹ Moreover, Sammi's production facilities remained unchanged. With respect to its assets and liabilities, Sammi experienced no changes after Incheon's December 6, 2000, share purchase. Finally, Sammi's personnel was retained after the share purchase. See BNG's August 21, 2003, submission at Attachment 3, pages 7, 8, and 10.

Therefore, we preliminarily determine that Sammi was the same "person" after Incheon became Sammi's majority shareholder. Furthermore, we preliminarily determine that any allocable subsidies received by Sammi prior to Incheon's share acquisition continue to benefit the post-share-acquisition Sammi.

BNG and Cross-Ownership With INI

According to section 351.525(b)(6)(vi) of the Department's regulations, cross-ownership exists between two corporations where one corporation can use or direct the individual assets of the other corporation in essentially the same ways it can use its own assets. Normally, this standard will be met where there is a majority voting ownership interest between two corporations. On December 6, 2000, Incheon became the majority shareholder of Sammi with 68 percent of Sammi's shares. The Department's regulations acknowledge that control can be exercised by one corporation over

methodology that would supercede the "same person test." We further stated that the new methodology would only apply to segments of proceedings initiated on or after June 30, 2003.

⁹ Sammi changed its name to BNG in March 2002.

⁴ "Arnokrome II" is a trademark of the Arnold Engineering Company.

⁵ "Gilphy 36" is a trademark of Imphy, S.A.

⁶ "Durphynox 17" is a trademark of Imphy, S.A.

⁷ This list of uses is illustrative and provided for descriptive purposes only.