DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–817]

Oil Country Tubular Goods From Mexico: Preliminary Results of Antidumping Duty Administrative Review and Partial Recission of Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review and partial rescission of administrative review.

SUMMARY: In response to a request from respondents, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on oil country tubular goods (''OCTG'') from Mexico. The review covers one manufacturer/exporter of the subject merchandise to the United States and the period August 1, 1997 through July 31, 1998. We preliminarily determine that sales of subject merchandise have not been made below normal value. (''NV''). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties based on the difference between export price (''EP'') or constructed export price (''CEP'') and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument (no longer than five pages, including footnotes).

EFFECTIVE DATE: September 9, 1999.

FOR FURTHER INFORMATION CONTACT: John Drury, Nancy Decker or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0195 (Drury), (202) 482–0196 (Decker), (202) 482–3833 (Ludwig).

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (April 1998).

Background

The Department published a final determination of sales at less than fair value for OCTG from Mexico on June 28, 1995 (60 FR 33567), and subsequently published the antidumping duty order on August 11, 1995 (60 FR 41056). The Department published a notice of ''Opportunity To Request Administrative Review'' of the antidumping order for the 1997/1998 review period on August 11, 1998 (63 FR 42821). Upon receiving requests for administrative review from two respondents, Hylsa S.A. de C.V. (''Hylsa'') and Tubos de Acero de Mexico, S.A. (''TAMSA''), we initiated a review on September 23, 1998 (63 FR 51893, September 29, 1998).

On November 2, 1998, Hylsa timely withdrew its request for review. Therefore, this review has now been terminated as to Hylsa as a result of the withdrawal of Hylsa's request for review.

Under Section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On April 14, 1999, the Department extended the time limits for these preliminary results to August 31, 1999. *See Oil Country Tubular Goods from Mexico; Extension of Time Limits for Antidumping Duty Administrative Review* (64 FR 24370, May 6, 1999).

Scope of the Review

Imports covered by this review are oil country tubular goods, hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers:

7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Review

The review covers the period August 1, 1997 through July 31, 1998. The Department is conducting this review in accordance with section 751 of the Act, as amended.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents, covered by the description in the Scope of the Review section, above, and sold in the home market during the period of review (POR), to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. 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 the Department's October 16, 1998 questionnaire, or to constructed value (''CV'').

Normal Value Comparisons

To determine whether sales of the subject merchandise by TAMSA were made at less than NV, we compared the CEP to the NV, as described in the CEP and NV sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared CEPs to weight-averaged NVs.

United States Price

In its response to the Department, TAMSA claimed that its sales to the United States were EP sales. After careful examination of the record, and

based upon our analysis using the three-pronged test defined below, the Department has preliminarily determined to treat TAMSA's U.S. sales as CEP sales, as defined in section 772(b) of the Act. *See* Analysis Memorandum for TAMSA for a further discussion.

Pursuant to section 772(a) and (b) of the Act, an EP sale is a sale of merchandise for export to the United States made by a foreign producer or exporter outside the United States prior to importation. A CEP sale is a sale made in the United States before or after importation by or for the account of the exporter/producer or by a party affiliated with the exporter or producer. In determining whether the sales activity of a U.S. affiliate rises to such a level that CEP methodology is warranted, the Department has examined the following criteria: (1) whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer (rather than being introduced into the inventory of the U.S. affiliate), (2) whether this was a customary commercial channel between the parties involved, and (3) whether the function of the U.S. affiliate is limited to that of a ''processor of sales-related documentation'' and a ''communication link'' with the unaffiliated U.S. buyer. *See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Review (''Canadian Steel'')*, 63 Fed. Reg. 12725, 12738 (March 16, 1998).

In the *Canadian Steel* case, the Department clarified its interpretation of the third prong of this test, as follows. ''Where the factors indicate that the activities of the U.S. affiliate are ancillary to the sale (*e.g.*, arranging transportation or customs clearance, invoicing), we treat the transactions as EP sales. Where the U.S. affiliate has more than an incidental involvement in making sales (*e.g.*, solicits sales, negotiates contracts or prices) or providing customer support, we treat the transactions as CEP sales.'' *Id.*

Our examination of the record with respect to this administrative review indicates that the fact pattern for sales to the United States is substantially identical to the pattern for sales in the previous administrative review. In *Oil Country Tubular Goods From Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 13962 (March 23, 1999), the Department stated in part:

> As an initial matter, the selling agreement between TAMSA and Siderca Corp. is quite clear with respect to the services that Siderca Corp. performs. Siderca Corp. is the exclusive selling agent for TAMSA products in the United States and other parts of the world, and has certain rights affecting the price for any sales under the agreement. In exchange for providing marketing and selling functions, and for providing other services, such as paying for brokerage and importer duties, Siderca Corp. is entitled to receive compensation under the agreement. The record indicates that Siderca Corp. did receive, in connection with this sale, the compensation provided for under the agreement.
>
> In addition, Siderca Corp. played the primary role in generating this sale by bringing the customer to TAMSA. The record shows that Siderca Corp. has a longstanding working relationship with the United States customer, is in frequent contact with that customer, and that sales of other TAMSA products to this and other customers occur because of these contacts. Conversely, TAMSA itself appears to have little, if any, contact outside of Mexico with regard to the sale of its products in the United States. Indeed, under the terms of the agreement, TAMSA is precluded from soliciting or negotiating sales directly in the United States. The agreement places the rights and responsibilities of selling and marketing TAMSA products in the United States squarely on Siderca Corp.
>
> Based on this fact pattern, it appears that, * * * the sale to the United States of subject merchandise was within the framework of the agreement between TAMSA and Siderca Corp. Evidence on the record indicates that, consistent with its rights and responsibilities under the selling agreement, Siderca Corp. maintained contacts with the United States customer and, through these contacts, was able to match that customer's requirements with subject merchandise available from TAMSA. The fact that Siderca Corp. may not have fully exercised its rights with regards to price negotiation, deferring to TAMSA with respect to the final approval, neither negates the substance and importance of the agreement nor diminishes the importance of Siderca Corp.'s role in arranging this sale. Simply put, under the current agreement, it appears that TAMSA would be precluded from seeking sales in the United States directly. Sales of TAMSA products in the United States must, as a condition of the agreement, begin with Siderca Corp. The fact that Siderca Corp. performed other functions as specified in the agreement, even if these were ancillary services, and received compensation according to the terms of the agreement, reinforces the conclusion that Siderca Corp.'s activities under the agreement were the primary factors in creating the sale to the United States.

Based on our examination of the record, the selling agreement between TAMSA and its U.S. affiliate (Siderca Corp.) has not changed. Furthermore, Siderca Corp. has longstanding ties to the United States customer and is in frequent contact with that customer concerning sales of TAMSA products worldwide. Conversely, TAMSA does not communicate directly with the customer and, under the agreement, appears to be precluded from contacting United States customers. Based on these facts, it is clear that the U.S. affiliate has more than an incidental involvement in making these sales. Since the sales in question do not meet the third prong of the test for indirect EP sales described above, we need not consider the other two prongs. Based on our analysis, we are treating TAMSA's U.S. transactions as CEP sales.

We based CEP on the delivered price to unaffiliated customers in the United States. We made adjustments, where applicable, for movement expenses (U.S. inland freight, U.S. brokerage and handling expenses, and U.S. customs duties), credit expenses, and other selling expenses that were associated with economic activity in the United States, in accordance with section 772(d) of the Act. Finally, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

Normal Value

In order to determine whether there were sufficient sales of OCTG in the home market (''HM'') to serve as a viable basis for calculating NV, we compared the volume of home market sales of subject merchandise to the volume of subject merchandise sold in the United States, in accordance with section 773(a)(1)(C) of the Act.

TAMSA's aggregate volume of HM sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Therefore, for TAMSA, we have based NV on HM sales. We made adjustments to NV for HM inland freight, discounts, credit expenses, warehousing expenses, packing, and warranty expenses.

Cost of Production Analysis

Because the Department disregarded sales below cost for TAMSA in the comparison market during the last completed segment of the proceeding, we initiated a cost of production (''COP'') analysis in accordance with section 773(b) of the Act. We conducted the COP analysis as described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of the cost of materials, fabrication and general expenses, and packing costs. We relied on the submitted COPs.

B. Test of Home Market Prices

We used respondent's weighted-average COP for the period August 1, 1997 to July 31, 1998. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and discounts.

C. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of TAMSA's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. Because we compared prices to POR-average costs, we also determined that such sales were also not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act; therefore, we disregarded the below-cost sales.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of TAMSA's cost of materials, fabrication, SG&A, including interest expenses, and U.S. packing costs, as reported and a calculated profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A 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 foreign country.

Level of Trade

In accordance with section 773(a)(1)(B)(i) 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 transaction. 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 and profit. For EP, the U.S. LOT is also the level of the starting price sale, which is usually from the exporter to the 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 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 a 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 differences 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 (November 19, 1997).)

As the Department explained in *Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review (''Cement from Mexico'')*, 62 FR 17156 (April 9, 1997), for both EP and CEP the relevant transaction for the LOT analysis is the sale from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the CEP results in a price that would have been charged by the exporter to the importer if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an unaffiliated U.S. customer the expenses referenced in section 772(d) of the Act and the profit associated with these expenses. These expenses represent activities undertaken by the affiliated importer in making the sale to the unaffiliated customers. Because the expenses deducted under section 772(d) of the Act are incurred for selling activities in the United States, the deduction of these expenses may yield a different LOT for the CEP than for the later resale (which we use for the starting price). Movement charges, duties, and taxes deducted under section 772(c) of the Act do not represent activities of the affiliated importer, and we do not remove them to obtain the price on which the CEP LOT is based.

To determine whether some or all home market sales are at a different LOT than U.S. sales, we examined both the chain of distribution and the selling functions in both markets. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed LOTs. Our analysis revealed that while all sales in the home market were in the same chain of distribution, there were substantial differences in selling functions between certain types of customers.

Some of the home market sales were made on a Just In Time (''JIT'') basis. As in the prior review, the Department preliminarily determines that the infrastructure required to support the selling functions involving JIT sales results in these sales being made at a different LOT than non-JIT sales. Some sales in the home market, which would match to the U.S. sale, were not made on a JIT basis. The Department examined the selling functions provided by TAMSA to these customers to determine if these sales were at the same LOT as sales to the United States.

In *Stainless Steel Sheet and Strip in Coils from the United Kingdom, Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination*, 64 FR 85 (January 4, 1999), the Department determined that some of the items listed by respondent were not selling functions relevant to the Department's LOT analysis because they did not characterize significant services provided to customers. Based on this analysis, we conclude that customer solicitation is not a selling function. Therefore, we are disregarding this item in our LOT analysis.

Of the remaining 13 selling functions listed by TAMSA, all but one were provided in both the home market and the United States to non-JIT customers. Only customer visits are listed by TAMSA as a selling function provided in the home market, but not in the United States. However, TAMSA does not quantify or otherwise describe the nature of these visits. Given the absence of evidence, we preliminarily determine that the actual differences in selling functions in connection with sales to non-JIT customers in the home market, and sales to the United States, are relatively minor.

Based on this determination, we preliminarily determine that sales to home market customers which do not receive JIT services are at the same level of trade as CEP sales. As a result, we have based our margin analysis on the

comparison of CEP sales to these non-JIT home market sales.

Because we have preliminarily determined that there are sales in the home market at the same level of trade as the sale to the United States, and because we have used only these same LOT sales as matching in calculating the margin, we are not making an LOT adjustment or a CEP offset.

Preliminary Results of Review

We preliminarily determine that the following margins exist for the period August 1, 1997 through July 31, 1998:

TAMSA—0.00%

Parties to this proceeding may request disclosure within five days of publication of this notice and any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. For duty assessment purposes, we calculated an importer-specific assessment rate by taking the dumping margin calculated for the U.S. sale to the importer and dividing this amount by the total entered value of the sale. This specific rate calculated will be used for the assessment of antidumping duties on the entry of the subject merchandise during the POR.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of OCTG from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for reviewed firms will be the rate established in the final results of administrative review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(d)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original fair value investigation, the cash deposit rate will be 23.79%, the ''all other'' rate from the original investigation.

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.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1)of the Act.

Dated: August 31, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–23433 Filed 9–8–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Certain Stainless Steel Wire Rod From India: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review

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

ACTION: Notice of extension of time limits for preliminary results of antidumping administrative review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the antidumping administrative review on certain stainless steel wire rod from India.

EFFECTIVE DATE: September 9, 1999.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Rick Johnson, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–0413 or (202) 482–3818, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 351 (1998).

Background

On October 20, 1993, the Department published in the **Federal Register** (58 FR 54110) the antidumping duty order on certain stainless steel wire rod from India. On December 8, 1998, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this antidumping duty order (63 FR 67646).

On December 29, 1998, Viraj, an Indian producer, requested an administrative review of the antidumping duty order on certain stainless steel wire rod from India. In accordance with 19 CFR 351.221(b), we initiated the review of Viraj on January 25, 1999 (64 FR 3682), covering the period of December 1, 1997 through November 30, 1998.

Extension of Time Limits for Preliminary Results

Because it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act, the Department is extending the time limits for the preliminary results 120 days to January 3, 2000 (for a further discussion, *see Memorandum from Joseph A. Spetrini to Robert S. LaRussa, Extension of Time Limit for the Preliminary Results of Antidumping Administrative Reviews: Certain*