

to the Assistant Secretary for Import Administration, Room 1870, within 30 days of the date of 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 issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisal instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific assessment rates for each respondent based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by these reviews if any importer-specific assessment rate calculated in the final results of these reviews is above *de minimis* (i.e., at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent). See 19 CFR 351.106(c)(1).

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review.

The Department clarified its "automatic assessment" regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this

clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

#### Cash Deposit Requirements

In December 2008, the ITC determined, pursuant to section 751(c) of the Act, that revocation of this order would not be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See *ITC Final and USITC Publication 4052*. As a result of the ITC's negative determination, the Department revoked the order on rebar from Turkey on January 5, 2009, effective as of March 26, 2008 (i.e., the fifth anniversary of the date of publication in the **Federal Register** of the notice of continuation of this antidumping duty order). See *Revocation Notice*. Consequently, the collection of cash deposits of antidumping duties on entries of the subject merchandise is no longer required.

#### Notification to Importers

This notice 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.

We are issuing and publishing the results of this administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 30, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9-10513 Filed 5-5-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-894]

#### **Certain Tissue Paper Products From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order**

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

#### **Preliminary Determination**

We preliminarily determine that certain tissue paper products ("tissue paper") from Thailand exported by Sunlake Décor Co., Ltd. ("Sunlake")<sup>1</sup> are made from jumbo rolls and/or cut sheets of tissue paper produced in the People's Republic of China ("PRC"), and are circumventing the antidumping duty order on tissue paper from the PRC, as provided in section 781(b) of the Tariff Act of 1930, as amended ("the Act"). See *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 16223 (March 30, 2005) ("Order").

**DATES:** Effective Date: May 6, 2009.

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

Brian Smith or Gemal Brangman, 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) 482-1766 or (202) 482-3773, respectively.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

On September 10, 2008, the Seaman Paper Company of Massachusetts, Inc. ("the petitioner") requested that the Department of Commerce ("the Department") initiate a circumvention inquiry pursuant to section 781(b) of the Act, and 19 CFR 351.225(h), to determine whether imports of tissue paper from Thailand, which Sunlake made from jumbo rolls and/or cut sheets of tissue paper produced in the PRC, are circumventing the antidumping duty order on tissue paper from the PRC. See the petitioner's September 10, 2008, anti-circumvention inquiry request; *Order*. Specifically, the petitioner alleges that PRC-produced jumbo rolls and/or cut sheets of tissue paper sent to Thailand for completion or assembly into merchandise of the same class or kind as that covered by the antidumping duty order on tissue paper from the PRC constitutes circumvention pursuant to section 781(b) of the Act.

On October 21, 2008, the Department initiated a circumvention inquiry on certain imports of tissue paper from Thailand. See *Certain Tissue Paper Products from the People's Republic of China: Notice of Initiation of Anti-circumvention Inquiry*, 73 FR 63688 (October 27, 2008) ("Initiation"). In the *Initiation*, the Department stated that it would focus its analysis on the significance of the production process

<sup>1</sup> Sunlake is a company located in Thailand.

in Thailand by Sunlake (*i.e.*, the company the petitioner identified in its circumvention request and about which sufficient information to initiate an anti-circumvention inquiry was provided).

On November 21, 2008, the Department issued an anti-circumvention questionnaire to Sunlake. On December 16, 2008, Sunlake entered a notice of appearance in this proceeding. Also, on December 16, 2008, Sunlake requested additional time to file a response to the anti-circumvention questionnaire. Pursuant to this request, the Department extended the questionnaire response deadline until January 9, 2009. On January 8, 2009, Sunlake made a second request for additional time to file a response to the anti-circumvention questionnaire, in response to which the Department granted an extension until January 23, 2009.

On January 23, 2009, Sunlake notified the Department that it was unable to answer the questionnaire issued to Sunlake, and requested that the Department re-issue the questionnaire to focus on Sunlake's current operations. On January 27, 2009, the petitioner submitted comments in response to Sunlake's January 23, 2009, submission.

On January 30, 2009, the Department provided Sunlake a final opportunity to submit a complete response to the November 21, 2008, questionnaire. On February 6, 2009, Sunlake reasserted that it would not respond to the Department's questionnaire in its current form.

### Scope of the Antidumping Duty Order

The tissue paper products subject to this order are cut-to-length sheets of tissue paper having a basis weight not exceeding 29 grams per square meter. Tissue paper products subject to this order may or may not be bleached, dye-colored, surface-colored, glazed, surface decorated or printed, sequined, crinkled, embossed, and/or die cut. The tissue paper subject to this order is in the form of cut-to-length sheets of tissue paper with a width equal to or greater than one-half (0.5) inch. Subject tissue paper may be flat or folded, and may be packaged by banding or wrapping with paper or film, by placing in plastic or film bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of tissue paper subject to this order may consist solely of tissue paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this order does not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the

United States ("HTSUS"). Subject merchandise may be under one or more of several different subheadings, including: 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.31.1000; 4804.31.2000; 4804.31.4020; 4804.31.4040; 4804.31.6000; 4804.39; 4805.91.1090; 4805.91.5000; 4805.91.7000; 4806.40; 4808.30; 4808.90; 4811.90; 4823.90; 4820.50.00; 4802.90.00; 4805.91.90; 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.<sup>2</sup>

*Excluded from the scope of this order are the following tissue paper products:*

(1) Tissue paper products that are coated in wax, paraffin, or polymers, of a kind used in floral and food service applications; (2) tissue paper products that have been perforated, embossed, or die-cut to the shape of a toilet seat, *i.e.*, disposable sanitary covers for toilet seats; (3) toilet or facial tissue stock, towel or napkin stock, paper of a kind used for household or sanitary purposes, cellulose wadding, and webs of cellulose fibers (HTSUS 4803.00.20.00 and 4803.00.40.00).

### Scope of the Circumvention Inquiry

The products covered by this inquiry are tissue paper products, as described above in the "Scope of the Antidumping Duty Order" section, which are produced in Thailand from PRC-origin jumbo rolls and/or cut sheets of tissue paper, and exported to the United States from Thailand by Sunlake.

### Statutory Provisions Regarding Circumvention

Section 781(b) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries under section 781(b) of the Act, the Department relies upon the following criteria: (A) Merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is subject to an antidumping duty order; (B) before importation into the United States, such imported merchandise is completed or

assembled in another foreign country from merchandise which is subject to the order or produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that action is appropriate to prevent evasion of such order.

The Department's questionnaire issued to Sunlake was designed to elicit information for purposes of conducting both qualitative and quantitative analyses in accordance with the criteria enumerated in section 781(b) of the Act, as outlined above. This approach is consistent with our analyses in prior circumvention inquiries. *See Certain Tissue Paper Products From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 73 FR 57591 (October 3, 2008); *Circumvention and Scope Inquiries on the Antidumping Duty Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Affirmative Final Determination of Circumvention of the Antidumping Duty Order, Partial Final Termination of Circumvention Inquiry and Final Rescission of Scope Inquiry*, 71 FR 38608 (July 7, 2006); *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003); *Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany and the United Kingdom: Negative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 64 FR 40336 (July 26, 1999). Sunlake failed to provide any of the information requested in the Department's questionnaire.

### Facts Available

Section 776(a)(2) of the Act provides that the Department will apply "facts otherwise available" if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the

<sup>2</sup> On January 30, 2007, at the direction of U.S. Customs and Border Protection ("CBP"), the Department added the following HTSUS classifications to the AD/CVD module for tissue paper: 4802.54.3100, 4802.54.6100, and 4823.90.6700. However, we note that the six-digit classifications for these numbers were already listed in the scope.

information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(d) of the Act provides that if the Department determines that a response to a request for information does not comply with that request, the Department is obligated to “promptly inform” the respondent submitting the response as to the “nature of the deficiency” and, to the “extent practicable, provide that person with an opportunity to remedy or explain the deficiency” in light of the established time limits. If the Department finds the respondent’s submission to be “not satisfactory,” section 782(d) allows the Department to disregard all or part of the submission.

As stated in the “Background” section, above, on November 21, 2008, the Department issued an anti-circumvention questionnaire to Sunlake. The original deadline to file a response to this questionnaire was December 19, 2008. At Sunlake’s request, the Department extended this deadline to January 9, 2009, and then to January 23, 2009. On January 23, 2009, Sunlake notified the Department that it was “unable” to answer the Department’s questionnaire because the questionnaire was “allegedly premised upon the petitioners’ erroneous assumption that Sunlake is currently engaged in the manufacture and export to the United States of cut-to-length tissue products made from jumbo rolls produced of Chinese origin that are converted in Sunlake’s facility in Thailand.” Sunlake conceded in its January 23, 2009, letter that prior to August 2008, its operations in Thailand involved minor conversion of PRC-origin jumbo rolls into cut-to-length tissue paper products. Sunlake refused to answer questions about its production activities before August 2008, and argued that the Department should re-issue its questionnaire to focus only on Sunlake’s current operations, which it claimed incorporate only Thai-origin jumbo rolls in the production of cut-to-length tissue paper products.

On January 27, 2009, the petitioner submitted comments in response to Sunlake’s January 23, 2009, submission. The petitioner argued that due to Sunlake’s failure to respond to the questionnaire, the Department should resort to facts available and immediately issue an affirmative preliminary determination of circumvention, in conjunction with the imposition of suspension of liquidation and cash

deposit requirements on all shipments of tissue paper products from Sunlake.

On January 30, 2009, the Department provided Sunlake a final opportunity to submit a complete response to the November 21, 2008 questionnaire. The Department informed Sunlake that in order for the Department to properly assess and verify Sunlake’s manufacturing and selling practices for purposes of determining whether it is circumventing the antidumping duty order on tissue paper from the PRC, it was necessary that Sunlake respond fully to the questions contained in the Department’s November 21, 2008, questionnaire. The Department also notified Sunlake that although it had already given the company ample time to respond to the anti-circumvention questionnaire, the Department would allow it one final opportunity to respond, and accordingly extended the response deadline until February 6, 2009.

On February 6, 2009, Sunlake reasserted that it would not respond to the Department’s November 21, 2008, questionnaire.

The Department gave Sunlake over two months to respond to the November 21, 2008 questionnaire and, consistent with section 782(d) of the Act, explained to Sunlake why a complete response to the questionnaire was necessary, as discussed above. Sunlake, for its part, chose not to provide any of the information requested by the Department. Because Sunlake failed to answer the Department’s questionnaire, despite being given ample opportunity to do so, the Department is not able to properly assess (or verify) Sunlake’s manufacturing and selling practices for purposes of determining whether it is currently circumventing the antidumping duty order on tissue paper from the PRC, or has circumvented the order in the past. Therefore, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, the Department preliminarily finds that the use of facts available is appropriate for Sunlake in this proceeding.

#### **Application of Adverse Facts Available**

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to make an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (Sept. 13, 2005); *see also Notice of Final Determination of Sales*

*at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (Aug. 30, 2002). Adverse inferences are appropriate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” *See Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H. Rep. No. 103–316, Vol. 1, at 870 (1994) (“SAA”). Furthermore, “affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.” *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997). *See also Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003) (*Nippon*).

The Department advised Sunlake during the proceeding that if it failed to respond to the questionnaire by the extended deadline date (*i.e.*, February 6, 2009), the Department might conclude, pursuant to section 776(b) of the Act, that Sunlake had not acted to the best of its ability in this proceeding. The Department advised further that if it made such a determination under that provision, the application of adverse facts could be warranted. As explained above, Sunlake refused to answer the Department’s questionnaire, and instead offered only to provide a response to specific questions of its choosing. Such a response is unacceptable and the Department will not allow Sunlake to supply only enough information “to obtain a more favorable result by failing to cooperate than if it had cooperated fully.” We therefore find that Sunlake did not act to the best of its ability in this proceeding, within the meaning of section 776(b) of the Act. Thus, an adverse inference is warranted in selecting the facts otherwise available. *See Nippon*, 337 F. 3d at 1382–83. Accordingly, as adverse facts available (“AFA”), we preliminarily consider all of Sunlake’s exports of tissue paper from Thailand to be of PRC origin, and conclude that Sunlake is circumventing the antidumping duty order on tissue paper from the PRC.

Section 776(b) of the Act authorizes the Department to use as AFA, information derived from the petition, the final determination in the less-than-fair-value (“LTFV”) investigation, any previous administrative review, or any information placed on the record. In selecting an AFA rate in post-LTFV segments, the Department’s practice has been to assign the highest margin on the record of any segment of the proceeding. *See, e.g., Freshwater Crawfish Tail Meat*

from the People's Republic of China: *Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504 (April 21, 2003). The Court of International Trade ("CIT") and the Federal Circuit have consistently upheld the Department's practice in this regard. See *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (*Rhone Poulenc*); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); see also *Kompass Food Trading Int'l v. United States*, 24 CIT 678, 689 (July 31, 2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). As discussed above, the Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See SAA at 870; see also *Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 22.

For purposes of the preliminary determination and consistent with the statute, court precedent, and our normal practice, we have applied as AFA to Sunlake a margin of 112.64 percent, which is the highest rate on the record in any completed segment of this proceeding (i.e., the LTFV investigation, and the first and second administrative reviews). As discussed further below, this rate has been corroborated.

#### **Corroboration of Adverse Facts Available Rate**

Section 776(c) of the Act provides that when the Department selects from among the facts otherwise available and

relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The SAA states that "corroborate" means to determine that the information used has probative value. See SAA at 870. The Department has determined that to have probative value, information must be reliable and relevant. See *Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 58642 (October 16, 2007), and accompanying Issues and Decision Memorandum at Comment 6.

The AFA rate of 112.64 percent that we are applying in this determination of circumvention of the antidumping duty order on tissue paper from the PRC was derived from the petition and corroborated in the LTFV investigation. See *Notice of Final Determination of Sales at Less than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (February 14, 2005). Furthermore, this rate was applied in a review subsequent to the LTFV investigation, and no information has been presented in this segment of the proceeding that calls into question the reliability of this information. See *Certain Tissue Paper Products from the People's Republic of China: Preliminary Results and Preliminary Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 17477, 17480–17481 (April 19, 2007) (unchanged in *Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 58642, 58644–58645 (October 16, 2007)). Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. The AFA rate we are applying for this determination was calculated based on export price information and production data from the petition, as well as the most appropriate surrogate value information available to the Department during the LTFV investigation. See *Notice of Final Determination of Sales at Less than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (February 14, 2005). As there is no information on the record of this segment of the proceeding that demonstrates this rate is not appropriate

for use as AFA, we determine this rate has relevance.

Because the AFA rate, 112.64 percent, is both reliable and relevant, we determine that it has probative value. As a result, we determine that the 112.64 percent rate is corroborated to the extent practicable for the purposes of this determination, in accordance with section 776(c) of the Act, and may reasonably be applied to entries of tissue paper produced in and exported from Thailand by Sunlake as AFA.

#### **Suspension of Liquidation**

In accordance with section 19 CFR 351.225(l), the Department will direct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the rate of 112.64, on all unliquidated entries of certain tissue paper products produced in and exported from Thailand by Sunlake that were entered, or withdrawn from warehouse, for consumption on or after October 21, 2008, the date of initiation of the circumvention inquiry.

#### **Notification to the International Trade Commission**

The Department, consistent with section 781(e) of the Act and 19 CFR 351.225(f)(7)(i)(B), has notified the International Trade Commission ("ITC") of this preliminary determination to include the merchandise subject to this inquiry within the antidumping duty order on certain tissue paper products from the PRC. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning the Department's proposed inclusion of the subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 15 days to provide written advice to the Department.

#### **Public Comment**

Case briefs from interested parties may be submitted no later than 30 days from the date of publication of this notice. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. See 19 CFR 351.309(c). This summary should be limited to five pages total, including footnotes. Rebuttal briefs limited to issues raised in the case briefs may be filed no later than 35 days after the date of publication of this notice. See 19 CFR 351.309(d).

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department

of Commerce, Room 1117, within 30 days after the date of publication of this notice. See 19 CFR 351.310. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief. We intend to hold a hearing, if requested, no later than 40 days after the date of publication of this notice.

### Final Determination

The final determination with respect to this circumvention inquiry will be issued no later than August 17, 2009, including the results of the Department's analysis of any written comments.

This affirmative preliminary circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-201-805

### Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Notice of Partial Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is partially rescinding its administrative review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico for the period November 1, 2007, to October 31, 2008 with respect to four of the eight companies for which the review was initiated. This rescission is based on the timely withdrawal of the request for review by the interested party that requested the review. A complete list of the companies for which the administrative review is being rescinded is provided in the Background section below.

**EFFECTIVE DATE:** May 6, 2009.

**FOR FURTHER INFORMATION CONTACT:** Maryanne Burke or Robert James, AD/CVD Operations, Office 7, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone: (202) 482-5604 or (202) 482-0649, respectively.

### Background:

On November 3, 2008, the Department published in the **Federal Register** its notice of opportunity to request an administrative review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 65288 (November 3, 2008). On December 1, 2008, the United States Steel Corporation (U.S. Steel) requested an administrative review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico for the period November 1, 2007, through October 31, 2008.

On December 24, 2008, the Department initiated a review of the eight companies for which an administrative review was requested.<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 79055 (December 24, 2008).

On March 24, 2009, U.S. Steel timely withdrew its requests for review of the following companies: Niples del Norte, S.A. de C.V., Productos Laminados de Aceros, S.A. de C.V., Tuberias Procasa S.A. de C.V./Tuberias Procarsa S.A. de C.V., and PYTCO S.A. de C.V.<sup>2</sup>

### Scope of the Order

The merchandise covered by this order is circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally

known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinklers, and other related uses, and generally meet ASTM-53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or loading-bearing purposes in construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in this order. All carbon steel pipes and tubes within the physical description outlined above are included with the scope of this order, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the United States as line pipe of a kind used for oil or gas pipelines is also not included in this order.

The merchandise under the scope of the order is currently classifiable under subheadings 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, the Department's written description of the merchandise under this order is dispositive.

### Rescission, in Part, of Administrative Review

Section 351.213(d)(1) of the Department's regulations provides that the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review. Within 90 days of the date of publication of the notice or initiation, U.S. Steel withdrew its request for an administrative review for the following companies: Niples del Norte, S.A. de C.V., Productos Laminados de Aceros, S.A. de C.V., Tuberias Procasa S.A. de C.V./Tuberias Procarsa S.A. de C.V., and PYTCO S.A. de C.V. Because U.S. Steel was the only party to request administrative reviews of these companies, we are rescinding the review with regards to Niples del Norte, S.A. de C.V., Productos Laminados de Aceros, S.A. de C.V.,

<sup>1</sup> U.S. Steel requested review of, *inter alia*, Hylsa, S.A. de C.V. (Hylsa) and Ternium Mexico, S.A. de C.V. (Ternium Mexico). However, in an ongoing changed circumstances review of this order, Ternium Mexico claims it is the successor-in-interest to Hylsa, the respondent in the original investigation. See *Initiation of Antidumping Duty Changed Circumstances Review: Circular Welded Non-Alloy Steel Pipe from Mexico*, 73 FR 63682 (October 27, 2008). The Department has not yet determined whether Ternium Mexico is, in fact, the successor-in-interest to Hylsa; therefore, at this time we are treating both producers in this segment of the proceeding as separate entities.

<sup>2</sup> On January, 16, 2009, U.S. Steel submitted clarification of its request, indicating Tuberias Procasa S.A. de C.V. and Tuberias Procarsa S.A. de C.V. are the same company.