

Required information must be submitted to BIS no later than June 15, 2008.

Dated: May 13, 2008.

Matthew S. Borman,
Acting Assistant Secretary for Export
Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

A-588-847

Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act Regarding the Antidumping Duty Order on Certain Cut-to-Length Carbon- Quality Steel Plate Products from Japan

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

SUMMARY: On April 8, 2008, the U.S. Trade Representative instructed the Department of Commerce (the Department) to implement its determination under section 129 of the Uruguay Round Agreements Act (URAA) regarding the investigation of certain cut-to-length carbon-quality steel plate products from Japan. The Department issued its final results on December 21, 2007, regarding the offsetting of dumped comparisons with non-dumped comparisons when making average-to-average comparisons of export price and normal value in the investigation challenged by Japan before the World Trade Organization in *United States - Measures Relating to Zeroing and Sunset Reviews*. The Department is now implementing this determination.

DATES: The effective date of this determination is April 8, 2008.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor or Mark Manning, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-5831, or (202) 482-5253, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 2007, the Department advised interested parties that it was initiating a proceeding under section 129 of the URAA to issue a determination that would implement the findings of the World Trade Organization (WTO) dispute settlement

panel in *United States - Measures Relating to Zeroing and Sunset Reviews* (WT/DS322) (September 20, 2006). On November 26, 2007, the Department issued its preliminary results, in which it recalculated the weighted-average dumping margins from the antidumping investigation of certain cut-to-length carbon-quality steel plate products from Japan¹ by applying the calculation methodology described in *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006). The Department also invited interested parties to comment on the preliminary results. On December 3, 2007, we received a case brief from IPSCO Steel Inc. (IPSCO), a domestic interested party. We received no other case briefs. After receiving comments from IPSCO, the Department issued its final results for the section 129 determination on December 21, 2007.

On January 11 and 14, 2008, consistent with section 129(b)(3) of the URAA, the U.S. Trade Representative held consultations with the Department and the appropriate congressional committees with respect to this determination. On April 8, 2008, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the URAA, the U.S. Trade Representative directed the Department to implement this determination.

Nature of the Proceedings

Section 129 of the URAA governs the nature and effect of determinations issued by the Department to implement findings by WTO dispute settlement panels and the Appellate Body. Specifically, section 129(b)(2) provides that "notwithstanding any provision of the Tariff Act of 1930," within 180 days of a written request from the U.S. Trade Representative, the Department shall issue a determination that would render its actions not inconsistent with an adverse finding of a WTO panel or the Appellate Body. See 19 USC 3538(b)(2). The Statement of Administrative Action, URAA, H. Doc. 316, Vol. 1, 103d Cong. (1994) (SAA), variously refers to such a determination by the Department as a "new," "second," and "different" determination. See SAA at 1025, 1027. After consulting with the Department and the appropriate congressional committees, the U.S. Trade Representative may direct the

Department to implement, in whole or in part, the new determination made under section 129. See 19 USC 3538(b)(4). Pursuant to section 129(c), the new determination shall apply with respect to unliquidated entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date on which the U.S. Trade Representative directs the Department to implement the new determination. See 19 USC 3538(c). The new determination is subject to judicial review separate and apart from judicial review of the Department's original determination. See 19 USC 1516a(a)(2)(B)(vii).

Analysis of Comments Received

The issues raised in the case brief submitted by an interested party to this proceeding are addressed in the Issues and Decision Memorandum for the Final Results of Proceeding Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Cut-to-Length Carbon-Quality Steel Plate Products from Japan from Stephen J. Claeys to David M. Spooner, dated December 21, 2007 (Issues and Decision Memorandum), which is hereby adopted by this notice. The Issues and Decision Memorandum is on file in the Central Records Unit (CRU), room B-099 of the Department of Commerce main building. A list of the issues addressed in the Issues and Decision Memorandum is appended to this notice.

Final Antidumping Margins

The recalculated margins, unchanged from the preliminary decision in this 129 proceeding, are as follows:

- The margin for Kawasaki Steel Corporation decreases from 10.78 percent to 9.46 percent.
- The all-others rate decreases from 10.78 percent to 9.46 percent.

On April 8, 2008, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the URAA, the U.S. Trade Representative, after consulting with the Department and Congress, directed the Department to implement this determination. Therefore, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of the subject merchandise from all exporters or producers, entered, or withdrawn from warehouse, for consumption on or after April 8, 2008 (the effective date). CBP shall continue to require cash deposit equal to the estimated amount by which normal value exceeds the U.S. price. The suspension of liquidation will remain in effect until further notice. The Section

¹ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products from Japan*, 64 FR 73215 (December 29, 1999).

129 Determination “all others” rate will be the new cash deposit rate for all exporters of subject merchandise for whom the Department has not assigned an individual rate, which is 9.46 percent.

This determination is issued and published in accordance with section 129(c)(2)(A) of the URAA.

Dated: May 13, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I

Issued Raised in the Issues and Decision Memorandum

Comment 1: Whether Customs Instructions Should Be Clarified to Retain the Deposit Rates for Producers Whose Margins Were Not Recalculated

Comment 2: Whether the Preliminary Results Are Consistent with U.S. Law

Comment 3: Whether the Statute Equates the Dumping Margin with the Antidumping Duty Assessment

Comment 4: Whether the Department’s Interpretation of the Term ‘Dumping Margin’ is Inconsistently Applied to Antidumping Investigations and Administrative Reviews

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DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 08–00002]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review to Wilco Machine & Fab, Inc. (Application No. 08–00002).

SUMMARY: On May 12, 2008, the U.S. Department of Commerce issued an Export Trade Certificate of Review to Wilco Machine & Fab, Inc. (“WILCO”). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by E-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2006).

Export Trading Company Affairs (“ETCA”) is issuing this notice pursuant to 15 CFR section 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR section 325.11(a), any person aggrieved by the Secretary’s determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct: WILCO is certified to engage in the Export Trade Activities and Methods of Operation described below in the following Export Trade and Export Markets.

I. Export Trade

Products

All Products manufactured by WILCO, including all fabricated, machined, or assembled pressure vessels, tanks, bulk transport trailers, bulk storage trailers, bulk plants or any components of or tools for the aforementioned items (North American Industry Classification System codes: 333132; 332313; 332420; and 332439).

II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

III. Export Trade Activities and Methods of Operation

1. WILCO, on its own behalf, may:

a. *Sales Price:* Establish sale prices, minimum sales prices, target sale prices and/or minimum target sales prices, and other terms of sale in Export Markets.

b. *Marketing and Distribution:* Conduct marketing and distribution of Products in Export Markets.

c. *Promotion:* Conduct promotion of Products in Export Markets.

d. *Quantities:* Determine quantities of Products to be sold in Export Markets.

e. *Market and Customer Allocation:* Allocate geographic areas or countries in the Export Markets and/or customers in the Export Markets to Export Intermediaries.

f. *Refusals to Deal:* Refuse to quote prices for Products, or to market or sell Products, to or for any customers in the Export Markets, or any countries or geographical areas in the Export Markets.

g. *Exclusive and Nonexclusive Export Intermediaries:* Enter into exclusive and nonexclusive agreements appointing one or more Export Intermediaries for the sale of Products in Export Markets with price, quantity, territorial, and/or customer restrictions as provided above.

WILCO may meet with customers or Export Intermediaries to discuss or engage in the activities described above.

2. WILCO may, on a one-to-one basis, meet with, exchange, and discuss the following information with its customers and its Export Intermediaries:

a. Information about sale and marketing efforts for the export markets, activities and opportunities for sales of Products in the Export Markets, selling strategies for the Export Markets, sales for the Export Markets, contracts and pricing in the Export Markets, project demands in the Export Markets for Products, customary terms of sale in the Export Markets, price and availability of Products from competitors for sale in Export Markets, and specifications for Products by customers in the Export Markets.

b. Information about its price, quality, quantity, source, and delivery dates of Products for Export Markets.

c. Information about terms and conditions of contracts for sale in the Export Markets to be considered and/or bid on by WILCO.

d. Information about bidding, selling, or sales arrangements for the Export Markets.

e. Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties, and taxes.

f. Information about U.S. and foreign legislation and regulations relating to sales in the Export Markets.

g. Information about WILCO’s export operations, including without limitation, sales and prior export sales information and prior export price information.

h. Information about export customer credit terms and credit history.

V. Definition

• “Export Intermediary” means a person who acts as a distributor, sales representative, sales or marketing agent, import agent, broker, or a person who performs similar functions including providing or arranging for the provision of export trade facilitation services.

A copy of the Certificate will be kept in the International Trade Administration’s Freedom of Information Records Inspection Facility,