

mixture containing any of these, whose vapor pressure at 75 degrees Fahrenheit (24 degrees Celsius) exceeds a gauge pressure of 15 pounds per square inch. Non-refillable pocket lighters are imported under subheading 9613.10.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Refillable, disposable pocket lighters would be imported under subheading 9613.20.0000. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

Case History

On December 5, 1994 (59 FR 64191, December 13, 1994), the Department of Commerce ("the Department") made its affirmative preliminary determination of sales at less than fair value in the above-referenced investigation. On December 8, 1994, we disclosed our calculations for the preliminary determination to counsel for PolyCity Industrial Ltd. ("PolyCity"), a respondent in this investigation.

On December 13, 1994, counsel for PolyCity alleged that ministerial errors had occurred in the calculations and requested that these errors be corrected and an amended preliminary determination be issued reflecting these corrections. On December 16, 1994, petitioners submitted comments regarding PolyCity's ministerial error allegations. On January 10, 1995, counsel for PolyCity again requested that the Department amend the preliminary determination to correct for ministerial errors.

PolyCity alleged that for a particular U.S. sale, the Department made its first ministerial error when it used an incorrect value for ocean freight in the calculation of U.S. price. Rather than use the figure reported in its supplemental response, PolyCity argues that the Department erred when it used the figure provided on the computer diskette accompanying the response. According to PolyCity, the narrative portion of the response rather than the spreadsheet provided on diskette contained the correct value for ocean freight. We disagree that this constitutes a ministerial error. Rather, we believe that this issue should be addressed at verification where the correct value for ocean freight can be established.

The second ministerial error alleged by counsel for PolyCity involved the calculation of transportation costs for the various components used in the production of disposable lighters. According to PolyCity, the Department used the inland freight figures reported in PolyCity's supplemental response

incorrectly. Rather than using the reported inland freight as transportation costs per unit of measure (i.e., cost per kilogram), the Department erred in treating the inland freight costs as transportation costs per component. PolyCity maintains that in order to obtain the transportation cost per lighter associated with each item, the Department should have multiplied the reported freight price for that item by the quantity of the item used in producing a lighter. Based on these comments and the Department's own analysis, we found that a significant ministerial error had been made.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. References to the Proposed Regulations, are provided solely for further explanation of the Department's AD practice with respect to amended preliminary determinations. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the Proposed Regulations were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. See 60 FR 80 (January 3, 1995).

Amendment of Preliminary Determination

It is not our normal practice to amend preliminary determinations since these determinations only establish estimated margins, which are subject to verification, and which may change in the final determination. However, the Department has stated that it will amend a preliminary determination to correct for significant ministerial errors. (See Proposed Rules and Notice of Amended Preliminary Determination of Sales at Less than Fair Value: Fresh Cut Roses from Colombia, 59 FR 51554 (October 12, 1994) and Amendment to Preliminary Determination of Sales at Less than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong, 55 FR 19289 (May 9, 1990).) Given the facts of this investigation, as noted above, the Department hereby amends its preliminary determination to correct for the ministerial error involved. The revised estimated margin for PolyCity is 39.37%.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct the U.S. Customs Service to continue to require a cash deposit or posting of a bond for all entries of subject merchandise from the PRC for all respondents, as set forth in the original preliminary determination, and for PolyCity, at the newly calculated rate, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the amended preliminary determination. If our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry within 45 days after our final determination.

This notice is published pursuant to section 733(f) of the Act and 19 CFR 353.13(a)(4).

Dated: February 9, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-3961 Filed 2-15-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-122-503]

Certain Iron Construction Castings From Canada; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On August 10, 1994, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of an administrative review of the antidumping duty order on iron construction castings from Canada. The review covered four manufacturers and/or exporters of the subject merchandise to the United States during the period March 1, 1991 through February 29, 1992. Based on our analysis of the comments received, the dumping margins for these four companies have not changed from the margins presented in the preliminary results. For the final results we continue to find that 14

additional companies are related to one of the respondents in this review and have, therefore, continued to collapse these companies and assign a single rate to the entire entity.

EFFECTIVE DATE: February 16, 1995.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, D.C. 20230, telephone: (202) 482-6312/3814.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 1994, the Department published in the **Federal Register** the preliminary results of an administrative review (59 FR 40866) of the antidumping duty order on iron construction castings from Canada (51 FR 17220). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). The Department completed its administrative review of the order on Canadian castings for the next annual period, March 1, 1992, through February 28, 1993, on May 17, 1994.

Scope of the Review

Imports covered by the review are shipments of certain iron construction castings, limited to manhole covers, rings and frames, catch basin grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water, and sanitary systems, classifiable as heavy castings under Harmonized Tariff Schedule (HTS) item numbers 7325.10.0010 and 7325.10.0050 and to valve, service, and meter boxes which are placed below ground to encase water, gas, and other valves, or water or gas meters, classifiable as light casting under HTS item numbers 8306.29.0000 and 8310.00.0000. The HTS item numbers are provided for convenience and for Customs purposes only. The written description remains dispositive.

This review covers sales of certain Canadian iron construction castings by Fonderie LaPerle (LaPerle), Penticton Foundry, Ltd. (Penticton), Titan Foundry, Ltd. (Titan), and Associated Foundry (Associated), during the period March 1, 1991 through February 29, 1992.

Related Parties

In addition, based on our analysis, we have found that 14 other companies, for which we did not initiate an administrative review, were related to

LaPerle during the period of review. (For more information, see the analysis memorandum for the preliminary results.) We have determined, based on the best information available (BIA), that these related companies should be collapsed with LaPerle and receive a single assessment rate for this review period.

On May 17, 1994, we issued final results of review for the period 1992/1993. Since we assigned cash deposit rates to 12 of the 14 related companies in that review, these final results affect only the two remaining companies.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results as provided for in section 353.38 of the Department's regulations. We received comments from LaPerle and rebuttal comments from the Municipal Castings Fair Trade Council, including its individually named members (petitioner).

Comment 1: LaPerle commented that the Department should not have resorted to BIA since LaPerle cooperated fully with the Department and responded to all requests for information. It argues that it responded fully to all seven requests for information from the Department.

LaPerle states that, despite the Department's decision to collapse LaPerle and all parties to which it is either directly or indirectly related, LaPerle is an autonomous operation. LaPerle argues that the other companies also operate autonomously, especially, according to LaPerle, considering that two of these companies are located at too great a distance to be involved with LaPerle's operations. LaPerle asserts that the remaining companies either did not produce or did not sell such or similar merchandise or did not export to the United States.

LaPerle further contends that this situation is like that in Gray Portland Cement and Clinker from Japan (58 FR 48826, 1993), where the Department stated: "The use of BIA was not warranted in a situation where, as here, there are sufficient home market sales of comparable merchandise to unrelated customers to calculate an FMV for every month of the review period."

In its rebuttal comments the petitioner asserts that the fundamental error in LaPerle's arguments is its assertion that the submission of questionnaire responses for itself alone constitutes cooperation. By ignoring the Department's request for a consolidated response for itself and its related entities, petitioner agrees with the

Department's determination that LaPerle has been uncooperative.

Department's Position: In conducting this review, we received responses from only one company, which was LaPerle. Based on our analysis of this response, we determined in the preliminary results that LaPerle was not independent, but was, in fact, one of many components in a single business entity. In doing so, we determined that LaPerle and its related entities were sufficiently related to permit the possibility of price manipulation. As we stated in Cellular Mobile Telephones and Subassemblies from Japan (54 FR 48011, 1989), our determination to collapse related parties into a single respondent entity is not "based solely on the extent of their financial relationship."

The other factors we relied upon in collapsing related companies are as follows: (1) The level of common ownership; (2) interlocking officers or directors (e.g., whether managerial employees or board members of one company sit on the board(s) of directors of the other related part(ies)); (3) the existence of production facilities for similar or identical products that would not require retooling either plant's facilities to implement a decision to restructure either company's manufacturing priorities; and (4) whether the operations of the companies are intertwined (e.g., pricing decisions, sharing of facilities or employees; transactions between the companies). See, e.g., Certain Granite Products from Spain, 53 FR 24335 (1988); Certain Granite Products from Italy, 53 FR 27187 (1988); Steel Wheels from Brazil, 54 FR 8780 (1989); Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Canada, 58 FR 37099 (1993). The Department's use of these factors was upheld by the Court of International Trade (CIT) in *Nihon Cement Co., Ltd., et al. v. United States and The Ad Hoc Committee of Southern California Producers of Gray Portland Cement, et al.*, Slip Op. 93-80 (CIT 1993). Based on an analysis of all four criteria, the Department has determined that the facts warrant collapsing the related entities. For further discussion of the Department's application of these factors in this review, see the analysis memorandum for the preliminary results.

In conducting our analysis of the related-party issue in this review, we issued six supplemental questionnaires

and granted deadline extensions. In spite of this, LaPerle did not provide the Department with enough information to support its position that the related parties should not be collapsed. In addition, it did not consolidate all information for the respondent entity, including information for its related home market firms as outlined in our questionnaire. Therefore, we have determined that LaPerle significantly impeded the proceeding and, in accordance with section 776(c) of the Tariff Act, we have based our final results regarding LaPerle and its related entities on BIA.

Comment 2: LaPerle states that if the Department continues to use BIA for the final results of review, it should use a second-tier BIA rate since LaPerle was a cooperative respondent. To support its argument LaPerle refers to Stainless Steel Wire Rods from Brazil (58 FR 68862, 1993), where the Department applied a less adverse rate because the respondent was cooperative.

The petitioner in its rebuttal comments states that the Department should reject this claim for the same reason as it did in the 1992-93 review. The petitioner asserts that, as in that review, absent a consolidated response from LaPerle and its related entities, the Department would not be able to reach a determination of the amount of dumping engaged in by LaPerle and its related concerns, and thus that LaPerle did not fully cooperate with the Department.

Department's Position: Despite LaPerle's responses, the respondent entity's response was inadequate. Therefore, we have concluded that the respondent entity "refused to cooperate * * * or otherwise significantly impeded" the review. (See *Allied-Signal Aerospace Co. v. United States*, 996 F.2d 1185 (Fed. Cir. 1993)). Accordingly, the application of first-tier BIA is appropriate because LaPerle impeded the proceeding by failing to provide to the Department the information necessary to conduct the review and by failing to provide support for its position that LaPerle should not be collapsed with the 14 other companies during the period of review.

Final Results of the Review

As a result of our review, we determine that the following weighted-average margins exist, and have been applied based on relationship and/or failure to respond, for the period March 1, 1991 through February 29, 1992:

Manufacturer/Producer/Exporter	Margin percent
LaPerle	9.80
Pentiction	9.80
Titan	9.80
Associated	9.80

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions on each exporter directly to the Customs Service.

Because the Department has already completed the review for the period March 1, 1992, through February 28, 1993, the cash deposit requirement for merchandise subject to the order will not be changed by these final results, except in the case of the two companies related to LaPerle that were not assigned cash deposit rates in the review covering the next annual period. For these two companies, the Department will instruct Customs to collect cash deposits at the rate applicable to LaPerle in this review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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 notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 8, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-3962 Filed 2-15-95; 8:45 am]

BILLING CODE 3510-DS-P

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended export trade certificate of review, application No. 89-2A001.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the Air-Conditioning & Refrigeration Institute ("ARI") on May 10, 1991. Notice of issuance of the Certificate was published in the **Federal Register** on May 21, 1991 (56 FR 23284).

DATES: July 13, 1994.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

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 Ch. III Part 325 (1994).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 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 Amended Certificate

Export Trade Certificate of Review No. 89-00010 was issued to the Air-Conditioning & Refrigeration Institute ("ARI") on May 10, 1991 (56 FR 23284, May 21, 1991), and previously amended on July 6, 1992 (57 FR 30956, July 13, 1992).

ARI's Export Trade Certificate of Review has been amended to:

1. add the following companies as "Members" within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2 (1)): American Thermaflo; Cryogel; Danfoss Automatic Controls; Doucette Industries, Inc.; Herrmidifier Company, Inc.; Hoshizaki America, Inc.; MDI Major Diversities, Inc.; Manchester Tank and Equipment Company; Uniflow Manufacturing Company; and Witt;
2. delete the following company as a "Member" of the Certificate: Hupp Industries, Inc.;
3. change the listing of the company name of the following current "Members" as follows: Change Airmax,