

alloy as the U.S. products. We used the same gauge and width groupings and the same model-match methodology in this review as in the last completed administrative review. *See B&S 1997*. Also, *see Analysis Memo*.

We based NV on the price at which the foreign like product is first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade, and at the same LOT as the export price, as defined by section 773(a)(1)(B)(i) of the Act.

We reduced NV for warranty and home market credit expenses, and increased NV for U.S. credit expenses in accordance with section 773(a)(6)(C)(iii), due to differences in circumstances of sale. We reduced NV for home market movement expenses, in accordance with section 773(a)(6)(B)(ii); and for packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i); and increased NV to account for U.S. packing expenses in accordance with section 773(a)(6)(A).

Preliminary Results of the Review

As a result of our comparison of EP to NV, we preliminarily determine that a 3.33 percent dumping margin exists for Wolverine for the period January 1, 1998, through December 31, 1998.

Assessment

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct the U.S. Customs Service to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period.

Cash Deposit

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for Wolverine, the sole respondent covered by this review, will be the rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will

continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original LTFV investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the manufacturer nor the exporter is a firm covered in this or any previous review, the cash deposit rate will continue to be 8.10 percent, the "all others" rate established in the LTFV investigations. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. 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. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, thirty-seven days after the date of publication of these preliminary results. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing not later than 120 days after the date of publication of these preliminary results.

Notification to Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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: January 31, 2000.

Holly Kuga,

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; Final Results of Administrative Reviews

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

ACTION: Notice of final results of administrative reviews.

SUMMARY: On June 25, 1999, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the 1992-1993 and 1993-1994 administrative reviews of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico (64 FR 34190). These reviews cover one manufacturer/exporter of the subject merchandise during the periods of review (POR) for April 28, 1992 through October 31, 1993, (the 92/93 POR) and November 1, 1993 through October 31, 1994 (the 93/94 POR).

We gave interested parties an opportunity to comment on the preliminary results. Based upon our analysis of the comments received we have not changed the results from those presented in our preliminary results for the 92/93 administrative review. However, we have changed the results for the 93/94 administrative review.

EFFECTIVE DATE: February 8, 2000.

FOR FURTHER INFORMATION CONTACT: John Drury at (202) 482-0195 or Linda Ludwig at (202) 482-3833, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as

amended (the Tariff Act) and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

The Department published an antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico on November 2, 1992 (57 FR 49453). The Department published a notice of Opportunity to Request an Administrative Review of the antidumping duty order for the 92/93 POR on November 3, 1993 (58 FR 58682). On November 19, 1993, respondent Hylsa S.A. de C.V. (Hylsa) requested that the Department conduct an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. On November 30, 1993, respondent Tuberia Nacional S.A. de C.V. (TUNA) requested that the Department conduct an administrative review of this order. We initiated this review on January 18, 1994 (59 FR 2593).

The Department published a notice of Opportunity to Request an Administrative Review of the antidumping duty order for the 93/94 POR on November 10, 1994 (59 FR 56034). On November 29, 1994, respondent Hylsa requested that the Department conduct an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. On November 30, 1994, respondent Western American Manufacturing, Inc. (Western American) requested that the Department conduct an administrative review of this order. We initiated this review on December 15, 1994. (59 FR 64650).

We published the preliminary results of these reviews, and termination of reviews with respect to TUNA and Western American, in the **Federal Register** on June 25, 1999 (Circular Welded Non-Alloy Steel Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty Administrative Reviews; and Partial Revocation, 64 FR 34190 (Preliminary Results)). Hylsa filed a case brief on July 26, 1999; we did not receive any other case or rebuttal comments.

The Department has now completed these reviews in accordance with section 751 of the Tariff Act.

Scope of the Review

The review of circular welded non-alloy steel pipe and tube covers products 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). Those pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this review, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. In accordance with the Final Negative Determination of Scope Inquiry (56 FR 11608, March 21, 1996), pipe certified to the API 5L line pipe specification, or pipe certified to both the API 5L line pipe specifications and the less-stringent ASTM A-53 standard pipe specifications, which fall within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines, are outside of the scope of the antidumping duty order.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.3010.00, 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. These HTS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Analysis of Comments Received

Comment 1: Use of Best Information Available for 92/93 Administrative Review.

Hylsa takes issue with the Department's statement that [t]he inability of Hylsa to reconcile aggregate quantities and values to its financial statements throws into doubt the accuracy of Hylsa's reported transaction-specific sales, and that because of such inaccuracies, the Department does [n]ot believe that it is

possible to calculate an accurate margin for the first review. (64 FR 34190, at 34192). On the contrary, Hylsa states that the Department was able to verify that the reported information was consistent with the sales information in Hylsa's accounting system. Any discrepancies, argues Hylsa, were minor, and did not undermine the integrity of the response.

By way of explaining any discrepancies, Hylsa points to the fact that the verification for the review took place over 2½ years after Hylsa filed its initial response. In the intervening time, according to Hylsa, a failure of a computer hard drive resulted in the loss of the database used to prepare the original response. Compounding the problem, according to Hylsa, is the fact that it had to respond to Department requests for submissions and information concerning four separate reviews. According to Hylsa, the burden of responding to information requests, and preparing for verifications for the 94/95 administrative review concerning the same product, prevented Hylsa from having adequate time and resources to resolve this problem.

In examining the discrepancies found by the Department, Hylsa classifies them into two categories. The first category contains errors that Hylsa asserts are inconsequential because, according to Hylsa, the sales involved will not be used in the Department's margin calculations. These involve third country sales, and sales regarding unreported secondary merchandise.

Hylsa places the discrepancies between both U.S. and home market quantity and value figures into the second category. These discrepancies might affect the Department's dumping calculations. However, according to Hylsa, these discrepancies were small and insignificant for the purposes of verifying the accuracy of Hylsa's response.

Furthermore, Hylsa states that it cooperated with the Department to the best of its ability to provide the requested information. Given the nature of the errors, and the fact that Hylsa cooperated with the Department, Hylsa believes that the submitted information was sufficient and that there is no reasonable basis for the Department not to use the submitted data.

Petitioners did not comment on the issues.

Department's Position

We disagree with respondent. To begin, the Department takes issue with Hylsa's statement that it could not provide the necessary database because of a computer failure. During the

verification, Hylsa stated to the Department that it had changed computer systems and neglected to preserve those data files which it would need to document and explain its method of responding to the Department's questionnaire. (See verification report at page 20). Thus, rather than being the result of a computer failure, findings at verification indicated that the company, in the process of changing computer systems, simply failed to preserve a key database.

With regard to the errors in quantity and value, both those known before verification and those discovered at verification, the Department disagrees with Hylsa's statements that they were either minor or irrelevant to the Department's analysis. Establishing the completeness and accuracy of the response with respect to the quantity and value of sales in both the home and U.S. markets is a very significant element of verification. Only with a complete and accurate response can the Department reasonably calculate values for a price analysis.

19 CFR 353.37(a) states that [t]he Secretary will use the best information available whenever the Secretary: (1) Does not receive a complete, accurate, and timely response to the Secretary's request for factual information; or (2) Is unable to verify, within the time specified, the accuracy and completeness of the factual information submitted. In the instant case, Hylsa did not provide a complete, accurate, and timely response to the Department. Additionally, the Department was unable to verify, within the time specified, the accuracy and completeness of the information which Hylsa did submit.

At verification the Department ascertained that Hylsa's submission contained two errors. Both errors prevented the Department from establishing completeness and accuracy. The first error was that certain sales of subject merchandise were not reported to the Department until the verification, including large amounts of sales of subject merchandise in the home market. The second error was that even with these unreported sales included, Hylsa was unable to reconcile quantity and value figures. While the Department provided Hylsa with three separate opportunities to reconcile its quantity and value figures during the verification process, using separate databases, Hylsa was ultimately unable to reconcile any of the differences (See verification report at 16).

With regard to the first error (unreported sales), the Department discovered at verification that approximately 10 percent of sales of

subject merchandise in the home market (most of which, but not all, were seconds) had not been reported and that a large volume of third country sales were not reported. The failure to report approximately 10 percent of home market sales until verification is especially disturbing and, by itself, is reasonable grounds to apply BIA to this case (19 CFR 353.37(a)(1)). The importance of providing accurate information regarding the quantity and value of sales in the home market, on a timely basis, which forms the basis of calculating fair market value, cannot be overstated. Full disclosure of such information prior to verification is critical to the process of verifying its accuracy and suitability for use in determining fair market value. Due to stringent time deadlines and the significant limitations on Commerce's resources, 'it is vital that accurate information be provided promptly to allow the agency sufficient time for review.' *Ceramica Regiomontana, S.A. v. United States*, 10 CIT 399, 406, 636 F. Supp. 961, 967 (1986). *Tatung Co. v. United States*, 18 CIT 1137, 1140 (1994). The failure to report a substantial portion of information regarding quantity or value is sufficient grounds for the application of BIA. The use of a 'neutral' margin . . . [where respondent failed to report a significant percentage of its home market prices] . . . would be inconsistent with the purpose of BIA, which is to insure a reasonably adverse inference against respondents which fail to comply fully with the Department's requests for information. (See Notice of 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 Germany, 58 FR 37136, 37145 (July 9, 1993)). As the Court noted in *Persico Pizzamiglio, S.A. v. United States*, by allowing the Department to reject a submission in toto, the court encourages full disclosure by the respondent, because only full disclosure will lead to a dumping margin lower than that established by employing BIA. *Persico Pizzamiglio, S.A. v. United States*, 18 CIT 299 (CIT 1994). The lack of full information prior to verification substantially compromised the integrity of Hylsa's response.

In addition to the failure of Hylsa to report all home market sales of subject merchandise, the Department was unable to verify the quantity and value figures for both home market and U.S. sales for the review. Hylsa claims that the loss of the database used to create

the original submission, as well as the need to respond to multiple Department requests for information on various reviews over a one-year period, complicated its efforts to reconcile quantity and value figures. However, the Department provided Hylsa with three separate opportunities to reconcile the quantity and value figures during verification (See verification report at 16). Hylsa was unable to do so. The failure to verify the submitted information is sufficient grounds for the application of BIA (19 CFR 353.37(a)(2)).

Despite its failure to reconcile quantity and value, Hylsa argues that the percentage differences were minor and did not prevent the Department from making reasonable price comparisons. However, even accepting Hylsa's figures, some of the percentage differences are sufficiently great to affect the margin calculations (See Analysis Memorandum, dated January 7, 2000). More importantly, because the Department was unable to verify quantity and value figures, we have no way of determining whether the unreported sales we uncovered represented all unreported sales. Verification is not a complete audit, and not an opportunity to provide substantial new data. As we said in Final Results of Antidumping Duty Administrative Review; Sodium Nitrate from Chile (52 FR 25897, 25898 (July 9, 1987)):

Comment 4

SQM claims that during the first period only 3.28 percent and during the second period only 1.60 percent of sales in the United States of commercial grade nitrates were not included in its response and these omissions would not have appreciably affect the Department's analysis.

Department's Position

The Department was unable to complete its price analysis because of the omission of an undeterminable number of U.S. sales and a substantial number of other deficiencies found at verification. The purpose of verification is to confirm the accuracy of the data submitted; the Department is not authorized to use verification for the purpose of supplementing the information originally missing from the response and investigating these unreported sales. Failure to include certain sales information in the original response meant that the Department was not able to conduct verification.

Taken together, the Department believes that the totality of the errors

and omissions found at verification render Hylsa's submitted data unusable for purposes of calculating a margin. To summarize, at verification the Department found that both the reported quantity and value of home market sales were misreported to varying degrees. Additionally, the value of sales to the United States was also misreported. Hylsa was unable to reconcile these differences. Finally, Hylsa failed to report a number of home market sales of subject merchandise until the Department arrived at Hylsa to begin verification.

The decision to resort to BIA in an administrative review is made on a case-by-case basis after evaluating all evidence in the administrative record. See *Allied-Signal Aerospace Corp. v. United States*, 966 F.2d 1185, 1191 (Fed. Cir. 1993). Once again, the multiple and pervasive nature of errors and omissions in the information provided by Hylsa prevented the Department from relying on Hylsa's response, as the Department was not confident that the response was an accurate reflection of Hylsa's sales activity during the POR. Therefore, the use of BIA is appropriate. Since Hylsa substantially cooperated with the Department's request for information, the Department believes that assigning Hylsa second-tier BIA is the most reasonable approach. (See *Allied Signal Aerospace Corp. v. United States*, 996 F.2d 1185 (Fed. Cir. 1993) (concluding that the Department's two-tiered BIA methodology, under which cooperating companies are assigned the lower, second tier BIA rate, is reasonable).) As such, the Department is not deviating from its preliminary results with respect to the first administrative review.

Comment 2: Use of Best Information Available for 93/94 Administrative Review.

Hylsa believes that the Department's use of BIA in establishing Hylsa's cost of production in the second review is unfair. While acknowledging that it failed to report weighted-average costs for the full POR, Hylsa states that it had no reason to suspect that its methodology was inappropriate until verification. In fact, Hylsa indicates that it had ample reason to believe that the methodology was the Department's preferred methodology for this review.

In the second administrative review, Hylsa reported six-month costs corresponding to the time in which Hylsa made sales to the United States. The Department approved a six-month reporting period for sales data in this review, and had approved six-month cost reporting for the 94/95 administrative review. Furthermore,

after the submission, the Department did not notify Hylsa that the cost data were in error. Citing *Olympic Adhesives, Inc. v. U.S.*, 899 F.2d 1565, 1573 (Fed. Cir. 1990), Hylsa indicates that the Department was required to give notice of any perceived inadequacies of the responses. Since the Department did not do so prior to verification, Hylsa asserts, there was no reason to suspect that the reported cost data was unacceptable. Therefore, in the interest of fairness, Hylsa requests that the Department use Hylsa's reported costs for this review.

Petitioners did not comment on the issues.

Department's Position

We agree with respondent, and have used its reported costs when calculating the margin for this administrative review. The Department accepted limited reporting in the third administrative review. As the Department used a similar methodology in a previous review, the use of limited reporting in this review is consistent with previous practice. Further, the Department did not request that Hylsa alter its reporting methodology in this review. Consequently, application of BIA for this review is not warranted.

Final Results of Review

Based on our review of the arguments presented above, for these final results we have made no changes in the margins for Hylsa in the first review. We have determined that Hylsa's weighted-average margin for the period April 28, 1992 through October 31, 1993 is 32.62 percent. Hylsa's margin for the November 1, 1993 through October 31, 1994 period of review is 7.17 percent.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, we have calculated importer-specific ad valorem duty assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total quantity of sales examined during the POR. The Department will issue appraisal instructions directly to Customs.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of circular welded non-alloy steel pipe from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of these administrative reviews, as provided in section 751(a)(1) of the Tariff Act:

(1) The cash deposit rate for Hylsa will continue to be 8.31 percent (*See Circular Welded Non-Alloy Steel Pipe from Mexico: Final Results of Administrative Review*, 63 FR 33041 (June 17, 1998);

(2) For previously reviewed or investigated companies other than Hylsa, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 32.62 percent. *See Antidumping Duty Order; Circular Welded Non-Alloy Steel Pipe from Mexico*, 57 FR 49453 (November 2, 1992).

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 the 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 disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return or 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and 1677f(i)(1)).

Dated: January 11, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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