

contained in our preliminary results regarding the calculation of the constructed export price (CEP) offset. See *Issues and Decision Memorandum*. Lastly, we have made corrections to the reported information pursuant to minor errors found during verification. See *Issues and Decision Memorandum*.

Final Results of Review

We determine that the following weighted-average percentage margin exists for DSM/KISCO for the period January 30, 2001, through August 31, 2002.

Exporter/manufacturer	Margin (percent)
Dongkuk Steel Mill Co., Ltd./ Korea Iron and Steel Co., Ltd.	11.74

Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR § 351.212(b)(1), we have calculated importer-specific assessment rates for merchandise subject to this review. Since DSM/KISCO reported the entered values and importer for its sales, we have calculated an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of dumping margins calculated for the examined sales to the entered value of sales used to calculate those duties. If the importer-specific assessment rate is above *de minimis* (i.e., greater than 0.50 percent *ad valorem*), we will instruct CBP to assess the importer-specific rate uniformly on all entries made during the POR. The Department will issue appropriate assessment instructions directly to the CBP within 15 days of publication of the final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of rebar from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for DSM and KISCO will be the rate shown above; (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 this review, a prior review, or the original less-than-fair-value (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 by any segment of this proceeding, the cash deposit rate will continue to be 22.89 percent, which is the "all others" rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a final 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 the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as the only 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 § 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: April 5, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix 1—Issues in Decision Memorandum

Comments and Responses

- Whether Dongkuk Steel Mill Co., Ltd. (DSM), Korea Iron and Steel Co., Ltd. (KISCO), and Dongkuk Industries Co., Ltd. (DKI) are affiliated.
- Whether the Department should "collapse" DSM and KISCO.
- Whether the Department should classify DSM's U.S. sales as weldable rebar.
- Whether the Department should correct a clerical error in the preliminary margin program to allow for the calculation of the CEP offset.

5. Whether the Department should reverse its decision and reject DSM's sales, which are a major and significant correction to the sales listing.

6. Whether DSM/KISCO's August 11, 2003 letter supports the acceptance of new factual information.

7. Whether the Department can retroactively confer timely status.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-832]

Light-Walled Rectangular Pipe and Tube from Mexico: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

ACTION: Notice of preliminary determination of sales at less than fair value and postponement of final determination.

EFFECTIVE DATE: April 13, 2004.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor (Prolamsa) at (202) 482-5831, Richard Johns (Galvak/Hylsa) at (202) 482-2305, Magd Zalok (LM) at (202) 482-4162, or Crystal Crittenden (Regiomontana) at (202) 482-0989; AD/CVD Enforcement, Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Preliminary Determination

We preliminarily determine that light-walled rectangular pipe and tube (LWRPT) from Mexico is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

SUPPLEMENTARY INFORMATION:

Case History

On September 9, 2003, the Department of Commerce (the Department) received a petition for the imposition of antidumping duties on LWRPT from Mexico, filed in proper form, by California Steel and Tube, Hannibal Industries, Inc., Leavitt Tube Company, LLC, Maruichi American Corporation, Northwest Pipe Company,

Searing Industries, Inc., Vest Inc., and Western Tube and Conduit Corporation (collectively, petitioners). See Letter from petitioners to Secretary Evans of the Department and Secretary Abbott of the U.S. International Trade Commission (ITC), "Petition for the Imposition of Antidumping Duties: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey," dated September 9, 2003 (Petition). The Department initiated this antidumping investigation of LWRPT from Mexico on September 29, 2003. See *Notice of Initiation of Antidumping Investigations: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, 68 FR 57668 (October 6, 2003) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage of the scope of the investigation. See *Initiation Notice*, at 68 FR 57668. On October 27, 2003, Productos Laminados de Monterrey, S.A. de C.V. (Prolamsa) and IMSA-MEX, S.A. de C.V. and IMSA, Inc. (collectively, IMSA) submitted comments on product coverage. Petitioners and Prolamsa submitted rebuttal comments in November 2003, January 2004, and March 2004. See *Scope Comments* section below.

On October 23, 2003, the Department selected Prolamsa, Galvak, S.A. de C.V. (Galvak), Perfiles y Herrajes LM, S.A. de CV (LM), and Regiomontana De Perfiles Y Tubos (Regiomontana) (collectively, respondents), as mandatory respondents in this investigation. See Memorandum from Maisha Cryor, Analyst, to Thomas F. Futtner, Acting Office Director, Re: Selection of Respondents for the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Mexico, dated October 23, 2003 (Respondent Selection Memo), on file in the Central Records Unit (CRU), Room B-099 of the Main Commerce Building.

On October 24, 2003, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of LWRPT imported from Mexico that is alleged to be sold in the United States at LTFV. See *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, 68 FR 61829 (October 30, 2003).

On October 28, 2003, the Department issued to respondents sections A-E of its antidumping questionnaire, which included proposed product characteristics that the Department intends to use to make its fair value

comparisons.¹ After setting aside a period of time for all interested parties to provide comments on the proposed product characteristics, the Department received comments from Galvak and petitioners on November 4, 2003, and from Prolamsa on November 5, 2003. On November 10, 2003, Galvak and petitioners submitted rebuttal comments.

After reviewing interested parties' comments, the Department revised the proposed product characteristics and instructed Prolamsa, Galvak, LM, and Regiomontana, to report their product characteristics according to the revised requirements for sections B and C of the Department's questionnaire. See Memorandum from Maisha Cryor, Analyst, to the File, RE: Revision to Product Characteristics, dated November 21, 2003.

In December 2003, we received responses to sections A-C of the antidumping questionnaire from all of the respondents. We issued supplemental questionnaires, pertaining to sections A, B, and C of the questionnaire, in December 2003, January 2004 and February 2004. Respondents replied to these supplemental questionnaires in January, February, and March of 2004. On January 9, 2004, in accordance with 19 CFR 351.301(d)(2)(i)(B), petitioners submitted allegations that home market sales were made at prices below the cost of production (COP) by each respondent in this investigation. After reviewing petitioners' allegations, the Department, in accordance with section 773(b)(2)(A)(i) of the Act, concluded that there was a reasonable basis to suspect that each respondent is selling LWRPT in Mexico at prices below the COP and initiated cost investigations on February 2, 2004, (Prolamsa)², February

¹ Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation, and the manner in which the company sells that merchandise in all markets. Section B requests a complete listing of all of the company's home market sales on the foreign like product or, if the home market is not viable, sales of the foreign like product in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of the company's U.S. sales of subject merchandise. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

² See Memo to Howard Smith from Maisha Cryor, James Balog and Gina Lee regarding Light-walled Rectangular Pipe and Tube from Mexico, RE: Petitioners' Allegation of Sales Below the Cost of Production for Productos Laminados de Monterrey, S.A. de C.V. (Prolamsa Cost Memo).

3, 2004 (Regiomontana)³, and February 4, 2004, (Galvak/Hylsa⁴ and LM⁵).

On January 28, 2004, petitioners submitted a letter in support of the postponement of the preliminary determination. On February 5, 2004, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation by 50 days, from February 16, 2004, until April 6, 2004. See *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey: Notice of Postponement of Preliminary Antidumping Duty Determinations*, 69 FR 5487 (February 5, 2004).

On February 23, 2004, all of the respondents submitted responses to section D of the Department's antidumping questionnaire. The Department issued supplemental section D questionnaires to respondents, and received timely responses in March of 2004.

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On March 15, 2004, Galvak/Hylsa requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until

³ See Memo to Thomas Futtner from Crystal Crittenden, Trinette Ruffin, and Gina Lee regarding Light-walled Rectangular Pipe and Tube from Mexico, RE: Petitioners' Allegation of Sales Below the Cost of Production for Regiomontana de Perfiles y Tubos, S.A. de C.V. (Regiomontana Cost Memo).

⁴ See Memo to Thomas Futtner from Magd Zalok, Richard Johns, Gina Lee, and James Balog regarding Light-walled Rectangular Pipe and Tube from Mexico, RE: Petitioners' Allegation of Sales Below the Cost of Production for Galvak, S.A. de C.V. and Hylsa, S.A. de C.V. (Galvak/Hylsa Cost Memo).

⁵ See Memo to Thomas Futtner from Magd Zalok, Trinette Ruffin, and Gina Lee regarding Light-walled Rectangular Pipe and Tube from Mexico, RE: Petitioners' Allegation of Sales Below the Cost of Production for Perfiles y Herrajes L.M., S.A. de C.V. (LM Cost Memo).

135 days after the publication of the preliminary determination. Galvak/Hylsa also included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, because we have made an affirmative preliminary determination, and the requesting party accounts for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

Period of Investigation

The period of investigation (POI) is July 1, 2002, through June 30, 2003. See 19 CFR 351.204(b)(1).

Scope Comments

In accordance with the preamble to the Department's regulations (see *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (Preamble)), in the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding the product coverage of the scope of the investigation and encouraged parties to submit comments on product coverage within 20 calendar days of publication of the *Initiation Notice*. See *Initiation Notice*, 68 FR at 57668. On October 27, 2003, Prolamsa requested that the Department exclude pre-primed products from the scope of the investigation because it claims that petitioners do not produce pre-primed products and, therefore, they do not have a legitimate interest in including such items in the scope of this investigation. Further, Prolamsa argued that pre-primed LWRPT should be excluded from the scope because the unique properties of the production process ensure that it is only purchased by a particular customer type. In addition, Prolamsa requested that the Department expressly state whether the subject merchandise includes all specifications and product categories of LWRPT (*i.e.*, mechanical, ornamental, etc.).

On October 27, 2003, IMSA requested that the Department exclude galvanized LWRPT from the scope of the investigation because it claims that petitioners do not produce such products and that the unique properties of galvanized LWRPT limit its interchangeability with respect to other products.

On November 3, 2003, petitioners requested that the scope of the investigation not exclude those products specified by Prolamsa and IMSA. Specifically, petitioners contend that

domestic petitioning firms produce both pre-primed and galvanized LWRPT and, therefore, they have a legitimate interest in including such products within the scope of this investigation. Petitioners also argue that exclusion of pre-primed LWRPT would enable respondents to circumvent any antidumping order on LWRPT simply by applying a primer coat to un-coated LWRPT.

Prolamsa rebutted petitioners comments in a January 23, 2004, submission, by stating that one of the petitioning domestic producers, identified in petitioners' rebuttal comments as a producer of pre-primed LWRPT (Searing Industries), did not, in fact, produce pre-primed LWRPT during the POI. In addition, Prolamsa included an affidavit from a non-petitioning domestic producer, who opposes the inclusion of pre-primed LWRPT in this investigation. See Prolamsa's January 23, 2004, rebuttal comments at Exhibit 1. On March 4, 2004, petitioners submitted an affidavit from petitioning producer Searing Industries, stating that Searing Industries does, in fact, produce and sell pre-primed LWRPT in the normal course of business.

On March 24, 2004, Prolamsa rebutted petitioners comments and argued that the affidavit submitted by petitioners fails to establish that Searing Industries has or is currently producing pre-primed LWRPT in the United States. In addition, Prolamsa countered petitioners argument that exclusion of pre-primed LWRPT from the scope of the investigation would result in circumvention of any antidumping order.

We have not adopted the change to the scope of the investigation proposed by Prolamsa. Prolamsa argues that pre-primed LWRPT should be excluded from the scope of the investigation because petitioners do not manufacture the product and because the unique properties of the pre-priming production process dictate that only particular customers will purchase it. However, petitioners submitted an affidavit by a petitioning domestic producer which states that it does produce pre-primed LWRPT. In addition, the statute does not require that petitioners produce every type of product covered by the scope of the investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan*, 65 FR 42985 (July 12, 2000) and accompanying *Issues and Decision Memorandum*, at Comments 1 and 2 (*Hollow Products*). Moreover, Prolamsa

has not provided any basis to distinguish pre-primed LWRPT from the class or kind of merchandise subject to this investigation. For these reasons, we find no reason to exclude pre-primed LWRPT from the scope of this investigation. See Memorandum from Maisha Cryor, Analyst, to Thomas F. Futtner, Acting Office Director Re: Consideration of Scope Exclusion Request, dated April 6, 2004 (Scope Exclusion Request Memo).

Similarly, we have not adopted the change to the scope of the investigation proposed by IMSA. IMSA also argues that galvanized LWRPT should be excluded from the scope of this investigation because petitioners do not manufacture the product and because the unique properties of LWRPT restricts its ability to be interchangeable with other products. However, also in this case, petitioners submitted evidence demonstrating that a petitioning domestic producer does, in fact, produce galvanized LWRPT. In addition, as indicated above, the statute does not require that petitioners produce every type of product covered by the scope of the investigation. See *Hollow Products* 65 FR 42985 (July 12, 2000) and accompanying *Issues and Decision Memorandum*, at Comments 1 and 2. Moreover, IMSA has not provided any basis to distinguish galvanized LWRPT from the class or kind of merchandise subject to this investigation. For these reasons, we find no reason to exclude galvanized LWRPT from the scope of this investigation. See Scope Exclusion Request Memo.

With respect to Prolamsa's request that the Department expressly state whether the subject merchandise includes all specifications and product categories of LWRPT, we note that the scope of this investigation reads, in relevant part, "[t]hese LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, *regardless of specification.*" (emphasis added). Thus, the scope language explicitly states that LWRPT of a certain size is covered by this investigation, regardless of specification. Moreover, the phrase "regardless of specification" means that the scope covers any product meeting the physical characteristics described therein, regardless of product category. Therefore, there is no need to modify the scope language as suggested by Prolamsa. See Scope Exclusion Request Memo.

Scope of Investigation

The merchandise covered by this investigation is LWRPT from Mexico,

which is welded carbon-quality pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification. LWRPT are currently classifiable under item number 7306.60.5000 of the Harmonized Tariff System of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes only. The written product description of the scope is dispositive.

The term "carbon-quality" applies to products in which (i) Iron predominates, by weight, over each of the other contained elements, (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual weighted-average dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all of the known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can reasonably be examined. The petitioners identified nine Mexican exporters/producers of subject merchandise. See Petition at Exhibit 7A. U.S. Customs and Border Protection (CBP) import statistics for the POI identified twenty-four exporters/producers of subject merchandise during the POI. Due to limited resources, we determined that we could investigate only the four Mexican producers/exporters that accounted for the largest volume of exports of subject merchandise during the POI. See Respondent Selection

Memo. Therefore, we selected Prolamsa, Galvak, LM, and Regiomontana as mandatory respondents in this investigation.

Collapsing Affiliated Parties

Section 771(33) of the Act defines affiliated persons. Moreover, 19

CFR 351.401(f) identifies the criteria that must be met in order to treat two or more affiliated producers as a single entity (*i.e.*, "collapse" the firms) for purposes of calculating a dumping margin.

Specifically, 19 CFR 351.401(f)(1) provides that affiliated producers of subject merchandise will be treated as a single entity (*i.e.*, collapsed), where (1) Those producers have production facilities for similar or identical products that would not require substantial retooling in order to restructure manufacturing priorities, and (2) the Department concludes that there is a significant potential for manipulation of price or production. 19 CFR 351.401(f)(2) of the Department's regulations provides factors the Department may consider in determining whether there is significant potential for manipulation of price or production, namely (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

Galvak and Hylsa are wholly-owned subsidiaries of Hylsamex, a Mexican holding company, which is 90-percent owned by Alfa, S.A. de C.V. Galvak and Hylsa requested that they be treated as affiliated parties. See Galvak/Hylsa's section A questionnaire response at 15. Pursuant to section 771(33)(F) of the Act, the Department has preliminarily determined that Galvak and Hylsa are affiliated because Galvak and Hylsa are both wholly-owned subsidiaries of Hylsamex, and thus, are "two persons controlled by {a} person."⁶

Galvak and Hylsa also satisfy the first requirement of the collapsing test, as they both possess production facilities of identical or similar types of merchandise, and these facilities would not require substantial retooling to restructure manufacturing priorities. In addition, they also satisfy the second requirement of the collapsing test,

because there is a significant potential for manipulation of price or production given that Galvak and Hylsa are owned by the same company, have a significant overlap of management positions and have intertwined operations. Therefore, we are treating Galvak and Hylsa as a single entity for purposes of our antidumping analysis. For a more detailed analysis, see Memorandum from Maisha Cryor and Richard Johns, Analysts, to Thomas F. Futtner, Acting Office Director, Regarding "Whether to Collapse Galvak, S.A. de C.V. and Hylsa, S.A. de C.V.", dated February 13, 2004 (Collapsing Memo). This single entity is hereafter referred to as Galvak/Hylsa.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of Investigation" section of this notice, above, that were sold in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon seven criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product. These criteria, in order of importance are: (1) Steel type, (2) galvanized coating, (3) whether the merchandise was painted or primed, (4) outside perimeter, (5) wall thickness, (6) shape, and (7) finish. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed above. Where we were unable to match U.S. sales to home market sales of the foreign like product, we based normal value (NV) on constructed value (CV).

Fair Value Comparisons

To determine whether sales of LWRPT from Mexico were made in the United States at LTFV, we compared the export price (EP) or constructed export price (CEP) to the NV, as described in the *Export Price and Constructed Export Price and Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs. We compared these to weighted-average NVs in Mexico.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP as defined in sections 772(a) and (b) of the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or

⁶ See Galvak's January 5, 2004 supplemental section A response at 2 (supplemental response).

agreed to be sold) before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser for exportation to the United States. We based EP on packed and delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, we reduced the starting price by movement expenses and export taxes and duties, if appropriate. These deductions included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance and U.S. customs duties.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act. We based CEP on packed prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, we reduced the starting price by movement expenses U.S. duties, if appropriate. Movement expenses include, where applicable, expenses incurred for foreign inland freight, international freight, marine insurance, foreign and U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight, and warehousing. In accordance with section 772(d)(1) of the Act we made additional adjustments to the starting price in order to calculate CEP, by deducting direct and indirect selling expenses related to commercial activity in the United States. Pursuant to section 772(d)(3) of the Act, where applicable, we made an adjustment to the starting price for CEP profit.

We determined the EP or CEP for each company as follows:

Prolamsa

We calculated a CEP for all of Prolamsa's U.S. sales because the subject merchandise was sold directly to Prolamsa Inc., Prolamsa's U.S. affiliate, prior to being sold to the first unaffiliated purchaser in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include expenses incurred for inland freight, domestic brokerage and handling, U.S. brokerage and handling and U.S. customs duties. In addition, we made deductions from the U.S. starting price for discounts and

rebates. Additionally, we made adjustments to the U.S. starting price for billing adjustments.

LM

We calculated an EP for all of LM's sales because the merchandise was sold directly by LM to the first unaffiliated purchaser in the United States prior to importation. We made deductions from the FOB, duty paid, starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include expenses incurred for inland freight, domestic brokerage and U.S. customs duties, when applicable. In addition, we made deductions from the starting price for discounts, where appropriate.

Regiomontana

We calculated an EP for all of Regiomontana's sales because the merchandise was sold directly by Regiomontana to the first unaffiliated purchaser in the United States prior to importation.⁷ We made deductions from the FOB starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include inland freight, international freight, and U.S. and domestic brokerage and handling. Additionally, we adjusted for billing adjustments in accordance with 19 CFR 351.401(c).

Galvak/Hylsa

On December 2, 2003, in accordance with the instructions provided in the Department's questionnaire regarding reporting requirements for affiliated companies, Galvak and Hylsa submitted a single response to section A of the Department's questionnaire. Galvak and Hylsa, collectively, continued to submit responses to the Department's questionnaire and supplemental questionnaires. Due to the Department's decision to collapse the two companies, we accepted and conducted an analysis of the collapsed data. *See Collapsing Memo.*

We calculated an EP for all of Galvak/Hylsa's sales because the merchandise was sold directly by Galvak/Hylsa to the first unaffiliated purchaser in the United States prior to importation.⁸ We note

⁷ Petitioners requested that the Department treat Regiomontana's sales made through unaffiliated U.S. commissioned selling agents as CEP sales, and deduct the commission expense from the CEP. *See* Petitioners March 25, 2004, letter at 8-9. However, because all of Regiomontana's U.S. sales were made by Regiomontana to the first unaffiliated purchaser in the United States prior to importation, in accordance with section 772(a) of the Act we have treated all U.S. sales as EP sales.

⁸ Petitioners requested that the Department treat Galvak/Hylsa's U.S. sales as CEP transactions, because Galvka/Hylsa was the importer of record

that Galvak/Hylsa's affiliated reseller in the United States provided certain administrative services pertaining to a small percentage of U.S. sales.

See Galvak/Hylsa's December 31, 2003, questionnaire response at 8.

However, the sales documents provided in the questionnaire response indicate that these services were minor and that the invoicing was done by Galvak/Hylsa. Further, the merchandise was shipped directly from Galvak/Hylsa's production facility in Mexico to the unaffiliated U.S. customer. *Id.* Therefore, we have preliminarily concluded that the sales were, in fact, EP sales. We made deductions from the FOB starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include inland freight, domestic brokerage, U.S. brokerage, and warehousing. In accordance with 19 CFR 351.401(c), we increased the starting price for freight fees, brokerage and handling fees, insurance fees, and duty fees, charged to the customer, and adjusted for billing adjustments. In addition, we made deductions from the starting price for discounts, where appropriate.

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs the Department to base NV on the price at which the foreign like product is sold in the home market, provided that, among other things, the merchandise is sold in sufficient quantities in the home market (or has sufficient aggregate value, if quantity is inappropriate). The statute provides that the total quantity of home market sales of foreign like product (or value) will normally be considered sufficient if it is five percent or more of the aggregate quantity (or value) of sales of the subject merchandise. Based on a comparison of the aggregate quantity of home market sales of foreign like product and U.S. sales of subject merchandise by Prolamsa, LM, Galvak/Hylsa, and Regiomontana, we determined that the quantity of foreign like product sold in Mexico is more than five percent of the quantity of U.S. sales of subject merchandise for each

for its own sales of subject merchandise during the POI. *See* Petitioners March 25, 2004, letter at 9-10. However, where the same party is both the foreign producer/exporter, as well as the importer of record, the Department's practice is to treat such sales as EP transactions. *See Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 10659, 10661-10662 (March 8, 2004). Therefore, consistent with the Department's practice, we have continued to treat Galvak/Hylsa's U.S. sales as EP transactions.

respondent. Accordingly, for each of the respondents, we based NV on home market sales.

In deriving NV, we made adjustments as detailed in the *Calculation of Normal Value Based on Comparison-Market Prices* and *Calculation of Normal Value Based on Constructed Value* sections below.

B. Affiliated-Party Transactions and Arm's-Length Test

During the POI, Prolamsa, Regiomontana, LM, and Galvak/Hylsa sold foreign like product to affiliated customers.

To test whether these sales were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all discounts and rebates, movement charges, direct selling expenses, commissions, and home market packing. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. See 19 CFR 351.403(c); see also, *Preamble*, 69 FR at 69186. Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102(b).

C. Cost of Production Analysis

Based on timely allegations filed by the petitioners, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that LWRPT sales were made at prices below the COP. As a result, we initiated sales below cost investigations on February 2, 2004 (Prolamsa),⁹ on February 4, 2004 (LM¹⁰ and Galvak/Hylsa),¹¹ and on February 3, 2004 (Regiomontana)¹² to determine whether sales were made at prices below the COP.

We conducted the COP analysis as described below.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each respondent based on the sum of the cost of materials and fabrication of the foreign like product, plus amounts for the home market

general and administrative (G&A) expenses and interest expenses. We relied on the submitted COP data, except as noted below:

Galvak/Hylsa

We revised the financial expense ratio by including the full amount of net exchange losses and net gain on monetary positions instead of the selected portions of the net exchange losses and net gains that were reported. In addition, we added back certain interest income items. We also recalculated the rate based on the figures from the parent company's 2002 consolidated income statement instead of using the average of the parent company's 2002 and 2003 income statements.

For both Galvak and Hylsa, we revised their G&A ratios by using the administrative expenses, including charges from their parent companies and debt restructuring expenses, and COGS figures from Hylsa and Galvak's respective 2002 unconsolidated income statements instead of an average of their respective 2002 and 2003 income statements. See Galvak/Hylsa's Analysis Memorandum, dated April 6, 2004.

Prolamsa

We adjusted the reported total cost of manufacturing to include the depreciation expense related to the revaluation of fixed assets recorded in Prolamsa's audited financial statements in accordance with Mexican generally accepted accounting principles. See Prolamsa's Analysis Memorandum, dated April 6, 2004.

We adjusted the G&A ratio to reflect the 2002 profit sharing costs included in Prolamsa's 2002 audited financial statements. *Id.*

LM

We adjusted the reported total cost of manufacturing to include the depreciation expense related to the revaluation of fixed assets recorded in LM's audited financial statements in accordance with Mexican generally accepted accounting principles. We adjusted the G&A ratio to reflect the 2002 profit sharing costs included in LM's 2002 audited financial statements. In addition, we adjusted the reported interest expenses for exchange gains and losses, interest paid to affiliates and the gain on monetary position. See LM's Analysis Memorandum, dated April 6, 2004.

Regiomontana

We adjusted the G&A ratio to reflect the 2002 profit sharing costs included in Regiomontana's 2002 audited financial

statements. We adjusted the reported interest expense for the gain on monetary position. See Regiomontana's Cost Analysis Memorandum, dated April 6, 2004.

2. Test of Home Market and Third-Country Market Sales Prices

As required by section 773(b)(1) of the Act, for each respondent subject to a cost investigation, we compared, on a product-specific basis, the adjusted weighted average COP to the comparison-market prices, less any applicable movement charges, taxes, rebates, commissions, and other direct and indirect selling expenses to determine whether these sales had been made at prices below the COP. For those sales that we determined were made below COP, we examined whether they had been made within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. See sections 773(b)(1)(A) and (B) of the Act.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of the respondent's sales of a given product during the POI were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the POI, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded below-cost sales with respect to Galvak/Hylsa. See Analysis Memorandum to the file dated April 6, 2004, for additional information. For the remaining respondents, less than 20 percent of sales of a given product were at prices less than COP. Therefore, we did not disregard any below-cost sales for these respondents.

D. Calculation of Normal Value Based on Comparison-Market Prices

We determined price-based NVs for respondent companies as follows. For all respondents, we made adjustments to the starting price for any differences

⁹ See Prolamsa Cost Memo.

¹⁰ See LM Cost Memo.

¹¹ See Galvak/Hylsa Cost Memo.

¹² See Regiomontana Cost Memo.

in packing costs, in accordance with section 773(a)(6) of the Act, and we deducted from starting prices movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments to starting prices to account for differences in cost attributable to differences in the physical characteristics of the merchandise sold in the U.S. and home markets pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other market, where applicable.

Company-specific adjustments are described below.

Prolamsa

We based NV for Prolamsa on prices to unaffiliated customers or, as indicated above, affiliated customers, if affiliated party home market sales satisfied the arm's-length test. We reduced the home market starting price for rebates in accordance with 19 CFR 351.401(c). In addition, we reduced the starting price for inland freight pursuant to section 773(a)(6)(B) of the Act. In accordance with 19 CFR 351.401(c), we increased the starting price for interest revenue and adjusted for billing adjustments and discounts. We also made COS adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted home market packing costs from, and added U.S. packing costs to the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

LM

We based NV for LM on prices to unaffiliated customers or, as indicated above, affiliated customers, if affiliated party home market sales satisfied the arm's-length test. We reduced the home market starting price for rebates in accordance with 19 CFR 351.401(c). We reduced the home market starting price for discounts and inland freight pursuant to section 773(a)(6)(B) of the Act. We also made COS adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted home market packing costs from, and added U.S. packing costs to the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

Galvak/Hylsa

We based NV for Galvak/Hylsa on prices to unaffiliated customers or, as indicated above, affiliated customers, if affiliated party home market sales satisfied the arm's-length test. In accordance with 19 CFR 351.401(c), we increased the starting price for freight fees charged to the customer and interest revenue, and adjusted for billing adjustments. We reduced the home market starting price for movement expenses such as inland freight and warehousing pursuant to section 773(a)(6)(B) of the Act. We also made COS adjustments to the starting price for imputed credit expenses and warranty expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We deducted home market packing costs from, and added U.S. packing costs to, the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

Regiomontana

We based NV for Regiomontana on prices to unaffiliated customers or, as indicated above, affiliated customers, if affiliated party home market sales satisfied the arm's-length test. Where applicable, we made an adjustment for inland freight pursuant to section 773(a)(6)(B) of the Act. In accordance with 19 CFR 351.401(c), we increased the starting price for handling fees charged to the customer and interest revenue and adjusted for billing adjustments and discounts. We also made COS adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted home market packing costs from, and added U.S. packing costs to, the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

E. Calculation of Normal Value Based on Constructed Value

Section 773(b)(1) of the Act provides that if, after disregarding all sales made at prices below the COP, there are no comparison market sales made in the ordinary course of trade, NV shall be based on constructed value (CV). We calculated CV in accordance with section 773(e) of the Act. Specifically, section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative expenses (SG&A), profit, and U.S. packing.

In accordance with section 773(e)(2)(A) of the Act, we used the actual amounts incurred and realized by

each respondent in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the comparison market to calculate SG&A expenses and profit. For price-to-CV comparisons, we made adjustments to CV for COS differences, pursuant to section 773(a)(8) of the Act.

F. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the U.S. sales (either EP or CEP transactions). The NV LOT is that of the starting-price sale in the comparison market or, when the NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually the price of the sale from the exporter to the importer. For CEP sales, it is the level of the constructed sale from the exporter to the importer.

To determine whether comparison market sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability with U.S. sales, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment pursuant to section 773(a)(7)(A) of the Act. For CEP sales, if the LOT of the home market sale is more remote from the factory than the CEP level and there is no basis for determining whether the difference between the LOT of the home market sale and the CEP transaction affects price comparability, we adjust NV pursuant to section 773(a)(7)(B) of the Act (the CEP offset provision). See *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002).

To determine whether a LOT adjustment is warranted, we obtained information from each respondent about the marketing stages at which its reported U.S. and comparison-market sales were made, including a description of the selling activities performed by the respondent for each of its channels of distribution. In identifying LOTs for EP and comparison market sales, we considered the selling

functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit pursuant to section 772(d) of the Act. Generally, if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar.

In conducting our LOT analysis for each respondent, we took into account the specific customer types, channels of distribution, and selling functions of each respondent. For Galvak/Hylsa, Regiomontana, Prolamsa and LM, we found that there was a single LOT in the United States and a single, identical, LOT in the comparison market.

Therefore, it was not necessary to make a LOT or CEP offset adjustment. For a further discussion of our LOT analysis for each respondent, see their respective Level of Trade Memorandums, dated April 6, 2004.

G. Currency Conversions

We made currency conversions to U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank, the Department's preferred source for exchange rates.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. See *Statement of Administrative Action*, H.R. Doc. No. 103-316, Vol. I (1994). This section states that the all others rate shall generally be an amount equal to the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, we have preliminarily assigned to all other exporters of LWRPT from Mexico a margin that is based on the weighted-average margins calculated for all mandatory respondents.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing CBP to suspend liquidation of all shipments of

LWRPT from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. price, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Prolamsa	5.56
LM	13.61
Galvak/Hylsa	19.89
Regiomontana	4.45
All Others	11.59

Disclosure

The Department will disclose to the parties to the proceeding the calculations performed in the preliminary determination within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring or threatening material injury to the U.S. industry. The deadline for the final ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, the Department respectfully requests that all parties submitting written comments also provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to

afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the Department will make its final determination within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 6, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04-8376 Filed 4-12-04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040804A]

Proposed Information Collection; Comment Request; Coast Pilot Report

AGENCY: National Oceanic and Atmospheric Administration (NOAA).
ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 14, 2004.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer,