assessment of double antidumping duties.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 2, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–449–804]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Steel Concrete Reinforcing Bars From Latvia

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

DATES: *Effective Date:* June 10, 2004.

FOR FURTHER INFORMATION CONTACT: Daniel O'Brien or Shane Subler, at (202) 482–5346 or (202) 482–0189, respectively; AD/CVD Enforcement Office 1, Group 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on steel concrete reinforcing bar (rebar) from Latvia. We preliminarily determine that sales of subject merchandise by Joint Stock Company Liepajas Metalurgs (Liepajas Metalurgs) have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on appropriate entries based on the difference between the export price (EP) and the NV.

Interested parties are invited to comment on these preliminary results. Parties that submit arguments are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument. Further, we ask that parties submitting comments provide the Department with an additional copy of the public version of any such comments on diskette.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2001, the Department issued an antidumping duty order on rebar from Latvia. *See Antidumping Duty Orders: Steel Concrete Reinforcing Bars From Belarus, Indonesia, Latvia, Moldova, People's Republic of China, Poland, Republic of Korea and Ukraine,* 66 FR 46777 (September 7, 2001). On September 2, 2003, the Department issued a notice of opportunity to request the second administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 68 FR 52181 (September 2, 2003). On September 17, 2003, in accordance with 19 CFR 351.213(b), Liepajas Metalurgs requested an administrative review. On September 30, 2003, also in accordance with 19 CFR 351.213(b), the petitioners [1] requested an administrative review of Liepajas Metalurgs. On October 24, 2003, the Department published the notice of initiation of this antidumping duty administrative review, covering the period September 1, 2002, through August 31, 2003 (the POR). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 68 FR 60910 (October 24, 2003).

On November 7, 2003, the Department issued its antidumping questionnaire to Liepajas Metalurgs, specifying that the responses to Section A and Sections B–D would be due on November 28, 2003, and December 14, 2003, respectively.[2] We received timely responses to Sections A–C of the initial antidumping questionnaire and associated supplemental questionnaires. We initiated a cost of production (COP) investigation of Liepajas Metalurgs on April 23, 2004. The company submitted timely responses to Section D of the antidumping questionnaire, as well as to supplemental questionnaires.

Due to the unexpected emergency closure of the main Commerce building on Tuesday, June 1, 2004, the Department has tolled the deadline for these preliminary results by one day to June 2, 2004.

Scope of the Order

For purposes of this review, the product covered by this order is all steel concrete reinforcing bars sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Fair Value Comparisons

We compared the EP to the NV, as described in the *Export Price* and *Normal Value* sections of this notice. We first attempted to compare contemporaneous sales of products sold in the United States and comparison market that are identical with respect to the matching characteristics. Pursuant to section 771(16) of the Act, all products produced by the respondent that fit the definition of the scope of the order and were sold in the comparison market during the POR fall within the definition of the foreign like product. We have relied on three criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: type of steel, yield strength, and size. Where there were no sales of identical merchandise in the comparison market, we compared U.S. sales to sales of the next most similar foreign like product on the basis of the characteristics listed above.

Export Price

We calculated an EP for all of Liepajas Metalurgs' sales because the merchandise was sold directly by Liepajas Metalurgs to the first unaffiliated purchaser for delivery to the United States, and constructed export price (CEP) was not otherwise warranted based on the facts of record. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included inland freight and domestic brokerage and handling expenses.

Normal Value

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the

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[1] The petitioners in this case are the Rebar Trade Action Coalition ("RTAC") and its individual members.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales 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 U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under review. Section E requests information on further manufacturing.

merchandise is sold in sufficient quantities (or value, if quantity is inappropriate); that the time of the sales reasonably corresponds to the time of the sale used to determine EP; and that there is no particular market situation that prevents a proper comparison with the EP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

We found that Liepajas Metalurgs had a viable home market for rebar. As such, Liepajas Metalurgs submitted home market sales data for purposes of the calculation of NV.

In deriving NV, we made adjustments as detailed in the *Calculation of Normal Value Based on Home Market Prices* section below.

B. Cost of Production Analysis

Because we disregarded below-cost sales in the first administrative review, we have reasonable grounds to believe or suspect that home market sales of the foreign like product by Liepajas Metalurgs have been made at prices below the COP during the period of the second review. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales made by Liepajas Metalurgs. *See* Memorandum From Daniel O'Brien, International Trade Compliance Analyst, to Gary Taverman, Director, Office 5, Re: Allegation of Sales Below the Cost of Production for Joint Stock Company Liepajas Metalurgs, dated April 23, 2004.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of materials, fabrication, and general and administrative (G&A) expenses. We relied on Liepajas Metalurgs' submitted COP. *See* Memorandum from Daniel O'Brien and Jim Kemp, International Trade Compliance Analysts, to Constance Handley, Program Manager, Re: Analysis Memorandum for Joint Stock Company Liepajas Metalurgs, dated June 2, 2004 (the Analysis Memorandum).

2. Test of Comparison Market Sales Prices

We compared the weighted-average COPs for Liepajas Metalurgs to its home-market sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the COP to the home market prices, less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses.

3. Results of the COP Test

We disregarded below-cost sales where (1) 20 percent or more of Liepajas Metalurgs' sales of a given product during the POR were made at prices below the COP, because such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of price to weighted-average COPs for the POR, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We found that Liepajas Metalurgs made sales below cost and we disregarded such sales where appropriate.

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

We determined NV for Liepajas Metalurgs as follows. We made adjustments for any differences in packing and deducted home market movement expenses pursuant to sections 773(a)(6)(A) and 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. We made COS adjustments for Liepajas Metalurgs's EP transactions by deducting direct selling expenses incurred for home market sales (credit expenses) and adding U.S. direct selling expenses (credit expenses). We note that Liepajas Metalurgs reported freight revenue on some sales, but failed to provide the corresponding freight expenses. For the purposes of this preliminary results, we have not added freight revenue to normal value. We will request the correct freight information from Liepajas Metalurgs prior to the deadline for case briefs being due.

D. Level of Trade Adjustment

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade as the EP transaction. The NV level of trade is that of the starting-price sales in the comparison market. For EP sales, the U.S. level of trade is also the level of the starting-price sale, which is usually from exporter to importer.

To determine whether NV sales are at a different level of trade than EP 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 level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act.

In implementing these principles in this administrative review, we obtained information from Liepajas Metalurgs about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondent for each channel of distribution. In identifying levels of trade for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments.

In conducting our level-of-trade analysis for Liepajas Metalurgs, we examined the specific types of customers, the channels of distribution, and the selling practices of the respondent. Generally, if the reported levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party reports levels of trade that are different for different categories of sales, the functions and activities may be dissimilar. We found the following.

Liepajas Metalurgs reported two channels of distribution in the home market: (1) Direct sales by Liepajas Metalurgs; and (2) sales by Liepajas Metalurgs' affiliated reseller Armaturas Servisa Centrs (ASC).[3] In the U.S. market, Liepajas Metalurgs reported one channel of distribution: direct sales by Liepajas Metalurgs. The company reported three customer categories in the home market: (1) Traders; (2) end users; and (3) service centers. We found that the selling functions performed by Liepajas Metalurgs differed significantly for home market customers depending on the channel of distribution. The activities performed by ASC were in greater number and more advanced than those provided by Liepajas Metalurgs on

[3] Liepajas Metalurgs sold its share in ASC on August 19, 2003. For all sales subsequent to that date, Liepajas Metalurgs reported its sales to ASC as direct sales to an unaffiliated customer.

direct sales. ASC provided selling functions such as customer negotiation, warehousing, sorting, repacking, and freight delivery, while Liepajas Metalurgs only negotiated with customers and arranged delivery of the product. Therefore, we have preliminarily determined that sales through ASC are at a more advanced level of trade than Liepajas Metalurgs' direct sales in the home market.

Liepajas Metalurgs has reported one customer category in the U.S. market: traders. In comparing EP sales to the direct sales in the home market, we found that the selling functions performed by Liepajas Metalurgs were very similar in the U.S. and Latvian markets. For U.S. sales, Liepajas Metalurgs conducts negotiations with the traders and arranges delivery to the port. Therefore, we concluded that the EP and home market direct sales were made at the same level of trade. Since Liepajas Metalurgs' direct home market and U.S. sales are at the same level of trade, and ASC's home market sales are at a more advanced level of trade and a pattern of consistent price differences exists, we have preliminarily determined that a level of trade adjustment is warranted when we based NV on sales made through ASC. We have calculated a level of trade adjustment based on the difference in price between the two levels of trade in the home market for U.S. sales that match to sales made through ASC.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average margin exists for the period September 1, 2002, through August 31, 2003:

Producer	Weighted-average margin (percentage)
Joint Stock Company Liepajas Metalurgs.	4.61

The Department will disclose calculations performed in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, the parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Assessment

Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. We will calculate importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Since the delivery terms for all of Liepajas Metalurgs' U.S. sales were FOB Latvian seaport, we will calculate entered value using the gross unit price reported in the U.S. sales database. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of rebar from Latvia entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate listed above for Liepajas Metalurgs will be the rate established in the final results of this review, except if a rate is less than 0.5 percent, and therefore *de minimis*, the cash deposit will be zero; (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 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 in this or any previous review conducted by the Department, the cash deposit rate will be 17.21 percent, the ''All Others'' rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice 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 entities 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 2, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–13071 Filed 6–9–04; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Trademark Trial and Appeal Board (TTAB) Actions.

Form Number(s): PTO 2120, 2151, 2153, 2188, 2189, and 2190.

Agency Approval Number: 0651–0040.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Burden: 12,505 hours annually.

Number of Respondents: 46,900 responses per year. The USPTO estimates that of this total, 4,400 notices of opposition, 1,100 electronic notices