

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-849]

Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review

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

DATES: Effective August 3, 2005.

FOR FURTHER INFORMATION CONTACT:

Catherine Bertrand or Carrie Blozy, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3207, and (202) 482-5403 respectively.

SUMMARY: In response to a request by Beijing Shougang Xingang Co., Ltd., and Beijing Alliance of Xingang Science and Trade Co., Ltd., (collectively "Shougang"), an exporter of subject merchandise, the Department of Commerce (the "Department") initiated an administrative review of the antidumping duty order on cut-to-length carbon steel plate ("CTL Plate") from the People's Republic of China ("PRC"). No other interested party requested a review of Shougang. The period of review ("POR") is November 3, 2003, through October 31, 2004. On July 5, 2005, Shougang withdrew its request for a review. The Department is now rescinding the administrative review of Shougang.

Background

On November 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on CTL Plate from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 69 FR 63359 (November 1, 2004). On November 29, 2004, Shougang requested an administrative review of its sales and shipments to the United States during the POR. On December 27, 2004, the Department published a notice of the initiation of the antidumping duty administrative review of CTL Plate from the PRC for the period November 3, 2003, through October 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 77181 (December 27, 2004). On July 5, 2005, Shougang withdrew its request for an administrative review.

Rescission of Review

The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of initiation of the requested review, the Secretary will rescind the review. It further states that the Secretary may extend this time limit if the Secretary finds it reasonable to do so. Shougang withdrew its request for review after the 90-day deadline; however, the Department finds it reasonable to extend the time limit by which a party may withdraw its request for review in the instant proceeding. The Department finds it reasonable to extend the withdrawal deadline because the Department has not yet devoted considerable time and resources to this review.¹ Shougang was the only party to request the review, and has withdrawn that request. Therefore, we are rescinding this review of the antidumping duty order on CTL Plate from the PRC covering the period November 3, 2003, through October 31, 2004. The Department will issue appropriate assessment instructions directly to U.S. Customs and Border Protection within 15 days of publication of this recession.

Notification to Interested Parties

This notice 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.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. 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 that is subject to sanction.

¹ After analyzing Shougang's questionnaire response, the Department issued a supplemental questionnaire to Shougang. Shougang did not respond to the supplemental questionnaire.

This notice is issued and published in accordance with sections 751 and 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: July 27, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5-4130 Filed 8-2-05; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

A-533-809

Certain Forged Stainless Steel Flanges From India; Preliminary Results of New Shipper Review

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

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on certain forged stainless steel flanges (stainless steel flanges) from India manufactured by Hilton Forge (Hilton). The period of review (POR) covers February 1, 2004, through July 31, 2004. We preliminarily determine that Hilton made sales of subject merchandise at less than normal value (NV) in the United States during the POR.

If these preliminary results are adopted in the final results of this new shipper review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of the subject merchandise for which the importer-specific assessment rates are above *de minimis*.

We invite interested parties to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument 1) a statement of the issues and 2) a brief summary of the argument.

EFFECTIVE DATE: August 3, 2005.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-2924 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On February 9, 1994, the Department published the antidumping duty order on stainless steel flanges from India. *See Amended Final Determination and*

Antidumping Duty Order; Certain Forged Stainless Steel Flanges from India, 59 FR 5994, (February 9, 1994). On August 31, 2004, Hilton requested that the Department initiate a new shipper review for the period February 1, 2004, through July 31, 2004. We initiated the review on October 6, 2004. See *Stainless Steel Flanges from India: Notice of Initiation of Antidumping Duty New Shipper Review*.

On March 28, 2005, we extended the time limit for the preliminary results of this new shipper review to no later than July 27, 2005. See *Forged Stainless Steel Flanges From India: Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review*, 70 FR 15615 (March 28, 2005).

For our analysis of the *bona fides* of Hilton's sales, see *Memorandum to Richard Weible, Re: Bona Fide Nature of the Sale in the New Shipper Review of Hilton Forge*, dated July 27, 2005, which is on file in the Central Records Unit (CRU), room B-099 of the main Commerce Building.

Scope of the Order

The products covered by this order are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A-182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld-neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A-351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the scope of the order.

Verification

As provided in section 782(i)(3) of the Tariff Act of 1930, as amended (the Tariff Act), we verified information provided by Hilton from June 6, 2005, through June 10, 2005, using standard

verification procedures, the examination of relevant sales, cost, and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report, on file in the CRU located in room B-099 in the main Department of Commerce building.

Comparisons to Normal Value

To determine whether sales of subject merchandise to the United States by Hilton were made at less than NV, we compared the U.S. export price (EP) to the NV, as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Tariff Act, we calculated monthly weighted-average prices for NV and compared these to the prices of individual EP transactions.

Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products described by the Scope of the Order section, above, which were produced and sold by Hilton in the home market, to be foreign like products for purposes of determining appropriate comparisons to U.S. sales. We determined that Hilton had sufficient sales of identical product in the home market; therefore, we did not need to resort to comparisons based on either sales of similar merchandise or constructed value. We made comparisons using the following five model match characteristics: (1) Grade; (2) Type; (3) Size; (4) Pressure rating; (5) Finish.

Export Price and Constructed Export Price

In accordance with section 772(a) of the Tariff Act, EP is defined as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Tariff Act, constructed export price (CEP) is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d). For Hilton's sales to the United States, we used EP in accordance with section 772(a) of the

Tariff Act because its merchandise was sold directly to the first unaffiliated purchaser prior to importation, and CEP was not otherwise warranted based on the facts of record.

We calculated EP based on the prices charged to the first unaffiliated customer in the United States. We used the date of invoice as the date of sale. We based EP on the packed CIF prices to the first unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act, including foreign inland freight, foreign brokerage and handling, international freight, marine insurance, and export inspection fees.

We denied Hilton's claimed adjustment for duty drawback. Section 772(c)(1)(B) of the Tariff Act provides that EP or CEP shall be increased by "the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States." The Department determines that an adjustment to U.S. price for claimed duty drawback is appropriate when a company can demonstrate that there is (i) a sufficient link between the import duty and the rebate, and (ii) sufficient imports of the imported material inputs to account for the duty drawback received for the export of the manufactured product (the so-called "two-prong test"). See *Rajinder Pipes, Ltd. v. United States*, 70 F. Supp. 2d 1350, 1358 (Ct. Int'l Trade 1999); see also *Viraj Group, Ltd. v. United States*, 162 F. Supp. 2d 656 (Ct. Int'l Trade 2001) (Commerce's rejection of claimed adjustments to either price or cost for Indian duty drawback sustained; remanded on other grounds).

In a supplemental questionnaire the Department requested that Hilton establish its entitlement to the duty drawback adjustment by providing evidence that its duty drawback claim met the two-pronged test described above. See April 5, 2005 Supplemental Questionnaire at 4. Hilton's response in its April 21, 2005, submission failed to provide evidence of either point. Furthermore, the Department presented Hilton with another opportunity to establish its entitlement to this claim at the verification in June 2005, and Hilton again failed to do so. Therefore, we have denied the duty drawback adjustment in these preliminary results.

Normal Value

A. Viability

In order to determine whether there is sufficient volume of sales in the home market to serve as a viable basis for

calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product during the POR is equal to or greater than five percent of the aggregate volume of U.S. sales of subject merchandise during the POR), we compared Hilton's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. (We found no reason to determine that quantity was not the appropriate basis for these comparisons, so value was not used. *See* section 773(a)(1)(C) of the Tariff Act and 19 CFR 351.404(b)(2).) Based on Hilton's reported home market and U.S. sales quantities, we determine that Hilton had a viable home market. Therefore, we based NV on home market sales to unaffiliated purchasers made in the usual quantities and in the ordinary course of trade.

We based our comparisons of the volume of U.S. sales to the volume of home market sales on reported stainless steel flange weight, rather than on number of pieces. The record demonstrates that there can be large differences between the weight (and corresponding cost and price) of stainless steel flanges based on relative sizes, so comparisons of aggregate data would be distorted for these products if volume comparisons were based on the number of pieces.

B. Price-to-Price Comparisons

As indicated above, we compared U.S. sales with contemporaneous sales of the foreign like product in India. As noted, we considered stainless steel flanges identical based on the following five criteria: grade, type, size, pressure rating, and finish. We made adjustments for differences in packing costs between the two markets and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act. Finally, we adjusted for differences in the circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410. We made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the home market at the same level of trade (LOT) as EP or CEP. The NV LOT is that of the starting-price sales in the home market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For CEP it is the level of the constructed sale from the exporter to an affiliated importer after the deductions

required under section 772(d) of the Tariff Act.

To determine whether NV sales are at a different LOT than EP or CEP, 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, 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 under section 773(a)(7)(A) of the Tariff Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP-offset provision). *See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732-33 (November 19, 1997).

In implementing these principles in this review, we obtained information from Hilton about the marketing stages involved in its U.S. and home market sales, including a description of its selling activities in the respective markets. Generally, if the reported levels of trade are the same in the home and U.S. markets, the functions and activities of the seller should be similar. Conversely, if a party reports differences in levels of trade the functions and activities should be dissimilar.

Hilton reported one channel of distribution and one LOT in the home market contending that all home market sales were to trading companies on a door-delivered basis. *See* Hilton's November 22, 2004, submission, pp. B-10 and B-19, and its April 21, 2005, submission, p. 7. After examining the record evidence provided by Hilton, we preliminarily determine that a single LOT exists in the home market.

Hilton further contends it provided substantially the same level of customer support on its U.S. EP sales to trading companies/importers as it provided on its home market sales to trading companies. This support included manufacturing to order, and making arrangements for freight and insurance. *See* Hilton's April 21, 2005 submission at 2. The Department has determined that we will find sales to be at the same LOT when the selling functions performed for each customer class are sufficiently similar. *See* 19 CFR 351.412 (c)(2). We find Hilton performed

virtually the same level of customer support services on its U.S. EP sales as it did on its home market sales.

The record evidence supports a finding that in both markets and in all channels of distribution Hilton performs essentially the same level of services. Therefore, based on our analysis of the selling functions performed on EP sales in the United States, and its sales in the home market, we determine that the EP and the starting price of home market sales represent the same stage in the marketing process, and are thus at the same LOT. Accordingly, we preliminarily find that no level of trade adjustment is appropriate for Hilton.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773(a) of the Tariff Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of our review we preliminarily find that a weighted-average dumping margin of 0.89 percent exists for Hilton for the period February 1, 2004, through July 31, 2004.

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication. *See* CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d).

Interested parties may submit case briefs or written comments no later than 30 days after the date of publication of these preliminary results of new shipper review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings 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, 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 final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

Assessment Rates

Upon issuance of the final results of this review, the Department shall determine, and the 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 based on the total amount of antidumping duties calculated for the examined sales made during the POR divided by the total quantity (in kilograms), of the examined sales. Upon completion of this review, where the assessment rate is above *de minimis*, we shall instruct CBP to assess duties on all entries of subject merchandise by that importer.

Cash Deposit Requirements

The following cash deposit rate will be effective upon publication of the final results of this new shipper review for shipments of stainless steel flanges from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Tariff Act. For subject merchandise produced and exported by Hilton, the cash deposit rate will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit rate will be zero. This cash deposit requirement, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested 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.

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

Dated: July 27, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5-4128 Filed 8-2-03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic From the People's Republic of China: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review

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

DATES: Effective August 3, 2005.

FOR FURTHER INFORMATION CONTACT: Sochieta Moth or Brian Ledgerwood, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0168 and (202) 482-3836, respectively.

Background

The Department of Commerce (the Department) published an antidumping duty on fresh garlic from the People's Republic of China on November 16, 1994. See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 28462. On December 27, 2004, the Department published the *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 77181, in which it initiated an administrative review of this order for the period November 1, 2003, through October 31, 2004, for nineteen exporters: Clipper Manufacturing Ltd.; Fook Huat Tong Kee Pte., Ltd.; H&T Trading Company; Heze Ever-Best International Trade Co., Ltd.; Huaiyang Hongda Dehydrated Vegetable Company; Jinan Yipin Corporation, Ltd.; Jining Trans-High Trading Co., Ltd.; Jining Yun Feng Agriculture Products Co., Ltd.; Jinxiang Dong Yun Freezing Storage Co., Ltd.; Jinxiang Hongyu Freezing and Storing Co., Ltd.; Jinxiang Shanyang Freezing and Storage Co., Ltd.; Linshu Dading Private Agricultural Products Co., Ltd.; Pizhou Guangda Import and Export Co., Ltd.; Shanghai Ever Rich Trade Company; Shanghai LJ International Trading Co., Ltd.; Sunny Import & Export Limited; Taian Ziyang Food Co., Ltd.; Weifang Shennong Foodstuff Co., Ltd.; and Zhengzhou Harmoni Spice Co., Limited.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), provides that the Department will issue the preliminary results of an administrative

review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act provides further that the Department may extend that 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period.

The Department has determined that it is not practicable to complete the preliminary results by the current deadline of August 2, 2005. There are a number of complex factual and legal questions related to the calculation of the antidumping margins in this administrative review, in particular the analysis of the valuation of the factors of production. We require additional time to issue supplemental questionnaires, review the responses, and conduct verification if necessary. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results by 100 days, until no later than November 10, 2005.

We are issuing this notice in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: July 28, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5-4127 Filed 8-2-05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Duty Drawback Practice in Antidumping Proceedings

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

DATE: August 3, 2005.

ACTION: Extension of Comment Period

SUMMARY: On June 30, 2005, the Department of Commerce (the Department) published a notice in the **Federal Register** requesting comments regarding its practice with respect to duty drawback adjustments to export price in antidumping proceedings (70 FR 37764). The Department has decided to extend the comment period by one week, making the new deadline for the submission of public comments August 15, 2005. Written comments (original and six copies) should be sent to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, 14th Street and Constitution Ave., NW, Washington, DC 20230.