

**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.

**FOR FURTHER INFORMATION CONTACT:** Shane Subler or Constance Handley at (202) 482-0189 or (202) 482-0631, respectively; AD/CVD Operations, Office 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 bars (rebar) from Latvia. We preliminarily determine that sales of subject merchandise by Joint Stock Company Liepajas Metalurģis (LM) 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.

**EFFECTIVE DATE:** October 7, 2005.

**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 1, 2004, the Department issued a notice of opportunity to request the third administrative review of this order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 69 FR 53407 (September 1, 2004). On September 27, 2004, in accordance with 19 CFR 351.213(b), LM requested an administrative review. On September 30, 2004, also in accordance with 19 CFR 351.213(b), the petitioners<sup>1</sup>

requested an administrative review of LM. On October 22, 2004, the Department published the notice of initiation of this antidumping duty administrative review, covering the period September 1, 2003, through August 31, 2004 (the POR). See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 69 FR 62022 (October 22, 2004).

On November 5, 2004, the Department issued its antidumping questionnaire to LM, specifying that the responses to Section A and Sections B–D would be due on November 26, 2004, and December 13, 2004, respectively.<sup>2</sup> The Department received timely responses to Sections A–D of the initial antidumping questionnaire and associated supplemental questionnaires.

On April 26, 2005, the Department published a notice of a sixty-day extension of the preliminary results of this administrative review. See *Steel Concrete Reinforcing Bars from Latvia: Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 21397. On July 18, 2005, the Department published a notice extending the deadline for the preliminary results for an additional 60 days. See *Steel Concrete Reinforcing Bars from Latvia: Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 41208. This second notice extended the deadline for the preliminary results to September 30, 2005.

From August 23 through September 2, 2005, the Department verified LM's sales and cost questionnaire responses at LM's offices in Liepaja, Latvia. The Department will release its verification report under separate cover.

**Scope of the Order**

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

members — Gerdau AmeriSteel, CMC Steel Group, Nucor Corporation, and TAMCO.

<sup>2</sup> 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. (continued...)(...continued) 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.

numbers 7214.20.00, 7228.30.8050, 7222.11.0050, 7222.30.0000, 7228.60.6000, 7228.20.1000, 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 the order 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.

**Date of Sale**

LM used the commercial invoice date as the date of sale in its response. In order to determine whether the invoice date is the appropriate date of sale, we requested that LM submit extensive sales documentation for all U.S. sales during the POR. LM provided us with this information in two submissions dated June 7, 2005, and July 6, 2005. The company's submitted sales documentation included contract addenda and commercial invoices for all U.S. sales.

After reviewing LM's submitted sales documentation, we have preliminarily determined that the date of the contract addendum is the date of sale because this date best reflects the determination of the material terms of sale. The use of contract date as the date of sale is consistent with the Department's use of contract date in *Hot-Rolled Steel from Thailand*,<sup>3</sup> in which the Department

<sup>3</sup> See Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, Subject: Issues and Decision Memorandum for the Final Results of

<sup>1</sup> The petitioners in this case are the Rebar Trade Action Coalition (RTAC) and its individual

determined that the material terms of sale for the respondent's U.S. sales did not change between its final contract and final invoice. Because information in LM's contract addenda and invoices is business proprietary, we have explained the date of sale methodology in the analysis memorandum for this determination. *See the Memorandum from Shane Subler, International Trade Compliance Analyst, to Constance Handley, Program Manager, Re: Analysis Memorandum for Joint Stock Company Liepajas Metalurgs*, dated September 30, 2005 (*Analysis Memorandum*), for further explanation of the selected date of sale. For all home market sales, we have preliminarily used the invoice date as the date of sale based on information on the record.

### Export Price

We calculated an EP for all of LM's sales because the merchandise was sold directly by LM to the first unaffiliated purchaser for delivery to the United States, and because 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, domestic brokerage and handling expenses, and dunnage 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 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 LM had a viable home market for rebar. As such, LM 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.

*the Antidumping Duty Administrative Review of Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, dated April 13, 2004 (*Hot-Rolled Steel from Thailand*).

#### B. Cost of Production Analysis

Because we disregarded below-cost sales in the final results of the second administrative review, we have reasonable grounds to believe or suspect that home market sales of the foreign like product by LM have been made at prices below the cost of production (COP) during the third POR. As a result, the Department initiated a COP inquiry for LM for the third POR.

##### 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. In accordance with the Department's standard practice, we relied on LM's submitted average COP calculations for the entire POR. Based on our findings at verification, we adjusted LM's submitted calculations for general and administrative (G&A) expenses, interest expenses, and indirect selling expenses. *See the Analysis Memorandum*.

##### 2. Test of Comparison Market Sales Prices

We compared the weighted-average COPs for LM 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 and direct and indirect selling expenses.

##### 3. Results of the COP Test

We disregarded below-cost sales where (1) 20 percent or more of LM's 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 LM 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 LM 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 LM's EP transactions by deducting direct selling expenses incurred for home market sales (credit expenses) and adding U.S. imputed credit expenses. In LM's case, the calculation of imputed credit expenses results in a negative number because all of LM's U.S. sales are prepaid. Therefore, the adjustment for U.S. imputed credit reduces NV. In addition, based on findings at verification, we adjusted the reported dates of payment and imputed credit fields for specific sales. *See the Analysis Memorandum* for details on adjustments to these specific sales.

#### Imputed Credit

At verification, we found that LM did not have any short-term loans in lats during the POR. Furthermore, we found that LM did not correctly calculate the U.S. dollar interest rate used in its imputed credit expense calculation for U.S. sales. Therefore, LM did not have verified interest rates for either its U.S. or home market sales. As a result, we have preliminarily recalculated LM's home market and U.S. imputed credit expenses by using published short-term interest rates in both lats and dollars.

To calculate a surrogate interest rate for home market and U.S. imputed credit expenses, we have followed the guidelines of *Policy Bulletin 98.2* (*Policy Bulletin*)<sup>4</sup> to select a surrogate interest rate. The *Policy Bulletin* states that the Department must select surrogate interest rates that are reasonable, readily obtainable, and representative of usual commercial behavior. *See Policy Bulletin* at 5. With respect to the calculation of a surrogate U.S. dollar interest rate, the *Policy Bulletin* states,

For dollar transactions, we will generally use the average short-term lending rates calculated by the Federal Reserve to impute credit expenses. Specifically, we will use the Federal Reserve's weighted-average data for commercial and

<sup>4</sup> *See Import Administration Policy Bulletin from Carlo Lavanga, Office of Policy, to Robert S. LaRussa, Assistant Secretary for Import Administration, Topic: Imputed credit expenses and interest rates*, dated February 23, 1998 (*Policy Bulletin*).

industrial loans maturing between one month and one year from the time the loan is made.<sup>5</sup>

Therefore, we have used a POR—average of the interest rates on nonfinancial commercial paper with a thirty-day maturity. These rates are published on the website of the Board of Governors of the Federal Reserve System ([www.federalreserve.gov/releases/h15/data.htm](http://www.federalreserve.gov/releases/h15/data.htm)).

The Commodity Futures Trading Commission (CFTC), a government agency that regulates commodity and financial futures, defines commercial paper as “Short-term promissory notes issued in bearer form by large corporations, with maturities ranging from 5 to 270 days.”<sup>6</sup> Therefore, the use of thirty-day nonfinancial commercial paper rates published by the Federal Reserve complies with the *Policy Bulletin’s* requirement to use short-term lending rates on commercial and industrial loans with a maturity of between one month and one year. We have selected the thirty-day rate because it is reflective of the circumstances of sales in this proceeding. For further discussion on proprietary information related to the selection of the thirty-day nonfinancial commercial paper rate, see the *Analysis Memorandum*.

For the calculation of home market imputed credit expenses, we have followed the *Policy Bulletin’s* guidelines for calculating an interest rate when the respondent received no loans in the currency of home market transactions. The *Policy Bulletin* at page 6 states, “For foreign currency transactions, we will establish interest rates on a case-by-case basis using publicly available information, with a preference for published average short-term lending rates.” Therefore, in the home market, we have preliminarily used a POR—average of the one-month Riga Interbank Offer Rate (RIGIBOR), which is published on the Web site of the Bank of Latvia, Latvia’s central bank, at <http://www.bank.lv/eng/main/finfo/nt/rgbidrgbor/>. The Bank of Latvia defines RIGIBOR as a money market index based on the quotes of the seven largest Latvian banks participating in the Latvian money market. This meets the *Policy Bulletin’s* criteria of using surrogate interest rates that are easily obtainable, reasonable, and reflective of commercial behavior. We note that in *Silicon Metal from Brazil*,<sup>7</sup> the

Department also used a short-term money market rate as a surrogate for home market interest rates because “this suggests that it is derived from a comprehensive market for short-term debt instruments.” The underlying U.S. and Latvian interest rates used in the calculation are located at Attachments 1 and 2 of the *Analysis Memorandum*.

#### 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 conducting our level-of-trade analysis, we examine the 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 should be dissimilar. We found the following.

For both the home market and U.S. market, LM reported one channel of distribution: direct sales. The company reported three customer categories in the home market: (1) traders; (2) end users; and (3) service centers. For all three customer categories, LM performed the following selling activities: negotiations with customers, order processing, packing, and delivery services. Accordingly, we preliminarily determine that LM’s home market sales

through these three channels of distribution constitute a single LOT.

LM reported one customer category in the U.S. market: traders. In comparing the company’s U.S. sales to its home market sales, we found that the selling functions performed by LM were very similar in the U.S. and Latvian markets. For U.S. sales, LM conducts negotiations with the traders, processes orders, and arranges delivery to the port. Therefore, we preliminarily determine that U.S. sales and home market sales were made at the same level of trade.

#### 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, 2003, through August 31, 2004:

| Producer                                    | Weighted-Average Margin (Percentage) |
|---|--------------------------------------|
| Joint Stock Company Liepajas Metalurgs .... | 8.84                                 |

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.

<sup>5</sup> See *Policy Bulletin* at 6.

<sup>6</sup> See [http://www.cftc.gov/opa/glossary/opglossary\\_co.htm](http://www.cftc.gov/opa/glossary/opglossary_co.htm).

<sup>7</sup> See *Memorandum from Bernard Carreau, Deputy Assistant Secretary for Import*

*Administration, to Faryar Shizad, Assistant Secretary for Import Administration, Subject: Issues and Decision Memorandum for the Administrative Review of Silicon Metal from Brazil - 7/1/1999 through 6/30/2000; Final Results (February 12, 2002) (Silicon Metal from Brazil).*

## 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 quantity of the sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. In addition, based on proprietary information in a June 17, 2005, memorandum placed on the record of the proceeding by the Department, we have adjusted the calculation of the importer-specific duty assessment rate. For an explanation of the adjustment to the calculated assessment rate, see the *Analysis Memorandum*.

## 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 LM 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: September 30, 2005.

**Barbara E. Tillman,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-5569 Filed 10-6-05; 8:45 am]

**BILLING CODE: 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-844, C-560-819]

### Notice of Initiation of Countervailing Duty Investigations: Certain Lined Paper Products from India (C-533-844) and Indonesia (C-560-819)

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

**ACTION:** Initiation of countervailing duty investigation.

**SUMMARY:** The Department of Commerce is initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters of certain lined paper products from India and Indonesia receive countervailable subsidies.

**EFFECTIVE DATE:** October 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** Maura Jeffords and Eric B. Greynolds (India) or Indonesia, David Layton or David Neubacher (Indonesia) AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0371 and (202) 482-5823, (202) 482-3146 and (202) 482-6071, (202) 482-0371 and (202) 482-5823, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Initiation of Investigations The Petitions

Between September 9 and September 26, 2005, the Department of Commerce ("the Department") received Petitions, and amendments to the Petitions, ("the Petitions") filed in proper form by Association of American School Suppliers ("Petitioner").

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended by

the Uruguay Round Agreements Act (effective January 1, 1995) ("the Act"), Petitioner alleges that manufacturers, producers, or exporters of certain lined paper products ("certain lined CLPP paper" or "subject merchandise") from India and Indonesia receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury, to an industry in the United States. On September 21, 2005, the Department issued a memo clarifying that the official filing date of the Petitions was September 9, 2005. See *Memorandum from the Team to Acting Deputy Assistant Secretary Barbara Tillman: Decision Memorandum Concerning Filing Date of Petitions*, September 21, 2005, (explaining that the proper file date is September 9, 2005, as it was filed at the ITC after the noon deadline on the previous day).

The Department finds that Petitioner filed the Petitions on behalf of the domestic industry because they are interested parties, as defined in sections 771(9)(E) and (F) of the Act, and have demonstrated sufficient industry support in accordance with section 702(c)(4)(A) of the Act. See *infra*, "Determination of Industry Support for the Petitions."

#### Scope of Investigation

See *Appendix I*.

#### Comments on Scope of Investigations

During our review of the Petitions, we discussed the scope with Petitioner to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27295, 27323 (1997). The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this initiation notice. Comments should be addressed to Import Administration's Central Records Unit ("CRU") in Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 - Attn: James Terpstra. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with interested parties prior to the issuance of the preliminary determinations.