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These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Rachel Sprague, (808) 944-2200 (phone) or (808) 973-2941 (fax), at least 5 days before the scheduled meeting date.

Dated: September 22, 2010.

**Eric C. Schwaab,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-838]

#### Seamless Refined Copper Pipe and Tube From Mexico: Final Determination of Sales at Less Than Fair Value

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

**SUMMARY:** The U.S. Department of Commerce ("the Department") has determined that imports of seamless refined copper pipe and tube ("copper pipe and tube") from Mexico are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are listed in the "Continuation of Suspension of Liquidation" section of this notice.

**DATES:** *Effective Date:* October 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Joy Zhang or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482-1168 or (202) 482-1167, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On May 12, 2010, the Department published in the *Federal Register* its preliminary determination on copper pipe and tube from Mexico. See *Seamless Refined Copper Pipe and Tube from Mexico: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 26726 (May 12,

2010) ("*Preliminary Determination*").<sup>1</sup>

We selected the following companies for individual examination: IUSA S.A. de C.V. ("IUSA") and Nacional de Cobre, S.A. de C.V. ("Nacobre").

See *Preliminary Determination*, 75 FR at 26726.

As provided in section 782(i) of the Act, we conducted sales and cost verifications of the questionnaire responses submitted by IUSA and Nacobre. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by IUSA and Nacobre.<sup>2</sup> All verification reports are on file and available in the Central Records Unit ("CRU"), Room 7046, of the main Department of Commerce building.

On July 23, 2010 and July 26, 2010, respectively, IUSA and Nacobre, submitted sales and cost databases with revisions that reflect the minor corrections presented during their respective verifications.<sup>3</sup> IUSA, Nacobre, and the petitioners<sup>4</sup> filed their case briefs with the Department on August 4, 2010, and rebuttal briefs on August 10, 2010. At the petitioners' request, we held a hearing on August 12, 2010.

We used IUSA's July 23, 2010, and Nacobre's July 26, 2010, sales and cost databases to calculate IUSA's and Nacobre's antidumping duty margin. No parties have objected to the use of these databases.

On September 13, 2010, the Department placed a memorandum on the record of this case regarding a recent

<sup>1</sup> On May 28, 2010, the Department also published in the *Federal Register*, *Seamless Refined Copper Pipe and Tube From Mexico: Correction to Notice of Preliminary Determination of Sales at Less Than Fair Value 75 FR 29990 (May 28, 2010) and Postponement of Final Determination* to correct the Scope section of the *Preliminary Determination*.

<sup>2</sup> See Memorandum to the File titled "Verification of the Sales Response of IUSA S.A. de C.V. ("IUSA") and its affiliates ("IUSA") in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico, dated July 21, 2010" "Verification of the Cost Response of IUSA, S.A. de C.V. in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico, dated July 19, 2010" "Verification of the Sales Response of Nacobre, S.A. de C.V. and its affiliates ("Nacobre") in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico," dated July 21, 2010, and "Verification of the Cost Response of Nacobre, S.A. de C.V. and its affiliates ("Nacobre") in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico," dated July 22, 2010.

<sup>3</sup> See IUSA's July 23, 2010, and Nacobre's July 26, 2010, submission of the sales and cost databases.

<sup>4</sup> The petitioners in this investigation are Cerro Flow Products, Inc., KobeWieland Copper Products, LLC, Mueller Copper Tube Products, Inc., and Mueller Copper Tube Company, Inc. (collectively, "petitioners").

*ex parte* meeting in which Francisco J. Sánchez, Under Secretary for International Trade Administration met with Mr. Carlos Peralta, President and Director General of IUSA. The Department invited interested parties to comment on this memorandum by September 17, 2010; however, no comments were received.

#### Period of Investigation

The period of investigation ("POI") is July 1, 2008, to June 30, 2009. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition. See 19 CFR 351.204(b)(1).

#### Scope of Investigation

For the purpose of this investigation, the products covered are all seamless circular refined copper pipes and tubes, including redraw hollows, greater than or equal to 6 inches (152.4 mm) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter ("OD"), regardless of wall thickness, bore (e.g., smooth, enhanced with inner grooves or ridges), manufacturing process (e.g., hot finished, cold-drawn, annealed), outer surface (e.g., plain or enhanced with grooves, ridges, fins, or gills), end finish (e.g., plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (e.g., plastic, paint), insulation, attachments (e.g., plain, capped, plugged, with compression or other fitting), or physical configuration (e.g., straight, coiled, bent, wound on spools).

The scope of this investigation covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials ("ASTM") ASTM-B42, ASTM-B68, ASTM-B75, ASTM-B88, ASTM-B88M, ASTM-B188, ASTM-B251, ASTM-B251M, ASTM-B280, ASTM-B302, ASTM-B306, ASTM-359, ASTM-B743, ASTM-B819, and ASTM-B903 specifications and meeting the physical parameters described therein. Also included within the scope of this investigation are all sets of covered products, including "line sets" of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase "all sets of covered products" denotes any combination of items put up for sale that is comprised of merchandise subject to the scope.

"Refined copper" is defined as: (1) Metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the

content by weight of any other element does not exceed the following limits:

Element	Limiting content percent by weight
Ag—Silver .....	0.25
As—Arsenic .....	0.5
Cd—Cadmium .....	1.3
Cr—Chromium .....	1.4
Mg—Magnesium .....	0.8
Pb—Lead .....	1.5
S—Sulfur .....	0.7
Sn—Tin .....	0.8
Te—Tellurium .....	0.8
Zn—Zinc .....	1.0
Zr—Zirconium .....	0.3
Other elements (each) .....	0.3

Excluded from the scope of this investigation are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length. The products subject to this investigation are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Products subject to this investigation may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

#### *Analysis of Comments Received*

All issues raised in the case and rebuttal briefs by parties to this antidumping duty investigation are addressed in the “Issues and Decision Memorandum for the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico” (“Decision Memorandum”) from Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Susan H. Kuhbach, to Deputy Assistant Secretary for Import Administration Ronald K. Lorentzen, dated September 24, 2010, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memorandum which is on file in the CRU of the main Department of Commerce building, Room 7046, and is accessible on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### *Changes Since the Preliminary Determination*

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations for IUSA and Nacobre based on the sales and cost verifications.<sup>5</sup>

#### *Cost of Production*

As explained in the *Preliminary Determination*, we conducted an investigation concerning sales at prices below the cost of production in the home market. We found that, for certain specific products, more than 20 percent of IUSA and Nacobre’s home market sales were at prices less than the cost of production and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales as the basis for determining normal value in accordance with section 773(b)(1) of the Act. Based on this test, for this final determination we have disregarded below-cost sales by IUSA and Nacobre.

#### *Continuation of Suspension of Liquidation*

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all entries of subject merchandise from Mexico entered, or withdrawn from warehouse, for consumption on or after May 12, 2010, the date of the publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated below, as follows: (1) The rates for IUSA and Nacobre will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 28.16 percent as discussed in the “All-Others

<sup>5</sup> For a discussion of these changes, see the Issues and Decision Memorandum and memorandum titled, “Final Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico—Sales Analysis Memorandum for IUSA” (“USA Sales Analysis Memo”); “Final Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from Mexico—Sales Analysis Memorandum for Nacobre” (“Nacobre Sales Analysis Memo”); “Cost of Production and Constructed Value Calculation Adjustments for the Final Determination—IUSA” (“IUSA Cost Analysis Memo”); and “Cost of Production and Constructed Value Calculation Adjustments for the Final Determination—Nacobre” (“Nacobre Cost Analysis Memo”), dated September 24, 2010.

Rate” section below. These suspension-of-liquidation instructions will remain in effect until further notice.

#### *Final Determination*

The final antidumping duty margins are as follows:

Manufacturer/exporter	Weighted-average margin (percent)
IUSA S.A. de C.V. ....	24.89
Nacional de Cobre, S.A. de C.V. ....	31.43
All Others .....	28.16

#### *All-Others Rate*

Section 735(c)(5)(A) of the Act provides that the estimated “All Others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. IUSA and Nacobre are the only respondents in this investigation for which the Department has calculated a company-specific rate that is not zero or *de minimis*. Therefore, because there are only two relevant weighted-average dumping margins for this final determination and because using a weighted average risks disclosure of business proprietary information, the “all others” rate is a simple-average of these two values, which is 28.16 percent.<sup>6</sup>

#### *Disclosure*

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

#### *International Trade Commission Notification*

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury or threat of material injury to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC

<sup>6</sup> See *Steel Wire Garment Hangers from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 47587, 47591 (August 14, 2008).

determines that such injury does exist, we will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### *Destruction of Proprietary Information*

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the APO itself. See 19 CFR 351.305(a)(3). Timely written notification of the 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 sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: September 24, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

#### **Appendix**

##### **List of Issues in the Issues and Decision Memorandum**

*Comment 1:* Comments Regarding the Investigation

*Comment 2:* Alternative Cost Averaging Methodology

*Comment 3:* Cost Recovery Test

*Comment 4:* Model Matching Hierarchy

*Comment 5:* Nacobre's U.S. Date of Sale

*Comment 6:* Treatment of Nacobre's General and Administrative Expense Ratio

*Comment 7:* Nacobre's Weight Basis

*Comment 8:* Treatment of the Negative Value of Certain U.S. Expense Variables for IUSA

*Comment 9:* Treatment of Early Payment Discounts for IUSA's Home Market Sales

*Comment 10:* IUSA's Packing Costs

*Comment 11:* Further Manufactured Line Sets

*Comment 12:* "All Others" Rate

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

[A-570-964]

#### **Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Determination of Sales at Less Than Fair Value**

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

**DATES:** *Effective Date:* October 1, 2010.

**SUMMARY:** On May 12, 2010, the Department of Commerce (the "Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping duty investigation of seamless refined copper pipe and tube ("copper pipe and tube") from the People's Republic of China ("PRC").<sup>1</sup> The Department invited interested parties to comment on the *Preliminary Determination*. Based on the Department's analysis of the comments received, the Department has made changes from the *Preliminary Determination*. The Department determines that copper pipe and tube from the PRC is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended (the "Act"). The final dumping margins for this investigation are listed in the "Final Determination" section below.

#### **FOR FURTHER INFORMATION CONTACT:**

Karine Gziryan or Shawn Higgins, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4081 and (202) 482-0679, respectively.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

The Department published its *Preliminary Determination* of sales at LTFV and postponement of the final determination on May 12, 2010.

Between May 24, 2010, and June 1, 2010, the Department conducted verification of mandatory respondents Golden Dragon Precise Copper Tube Group, Inc. ("Golden Dragon") and Zhejiang Hailiang Co., Ltd., Shanghai Hailiang Copper Co., Ltd., and Hong Kong Hailiang Metal Trading Limited (collectively, the "Hailiang Group").<sup>2</sup>

<sup>1</sup> See *Seamless Refined Copper Pipe and Tube from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 26716 (May 12, 2010) ("*Preliminary Determination*").

<sup>2</sup> See the "Verification" section below.

Cerro Flow Products, Inc., KobeWieland Copper Products, LLC, Mueller Copper Tube Company, Inc. (collectively, "Petitioners"), Golden Dragon, and the Hailiang Group submitted case briefs on July 2, 2010.<sup>3</sup> On July 9, 2010, Petitioners, Golden Dragon, and the Hailiang Group filed rebuttal briefs.<sup>4</sup> The Department conducted a public hearing on August 4, 2010.

On August 3, 2010, the Department notified parties that as a result of the recent decision in *Dorbest Ltd. v. United States*, 604 F.3d 1363 (Fed. Cir. 2010) ("*Dorbest*"), issued by the United States Court of Appeals for the Federal Circuit ("CAFC") on May 14, 2010, the Department would be reconsidering its valuation of the labor wage rate in this investigation. The Department placed export data on the record of the investigation and gave parties an opportunity to comment on the narrow issue of the labor wage value in light of the CAFC's decision.<sup>5</sup> On August 9, 2010, Petitioners and Golden Dragon submitted comments regarding the wage rate issue.<sup>6</sup>

#### **Period of Investigation**

The period of investigation ("POI") is January 1, 2009, through June 30, 2009. This period corresponds to the two most recent fiscal quarters prior to the month

<sup>3</sup> See Letter from Petitioners to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China; Investigation; Case Brief of Petitioners" (July 2, 2010); Letter from Golden Dragon to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China" (July 2, 2010); Letter from the Hailiang Group to the Secretary of Commerce, "Seamless Refined Copper Pipe & Tube from the People's Republic of China: The Hailiang Group—Administrative Case Brief" (July 2, 2010).

<sup>4</sup> See Letter from Petitioners to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China; Investigation; Rebuttal Brief of Petitioners" (July 9, 2010); Letter from Golden Dragon to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China" (July 9, 2010); Letter from the Hailiang Group to the Secretary of Commerce, "Seamless Refined Copper Pipe & Tube from the People's Republic of China: Rebuttal Brief of the Hailiang Group" (July 9, 2010).

<sup>5</sup> See Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, "Antidumping Duty Investigation of Seamless Refined Copper Pipe and Tube from the People's Republic of China: Wage Data" (August 3, 2010).

<sup>6</sup> See Letter from Petitioners to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from China; Petitioners' Comments on the Surrogate Value for Labor" (August 9, 2010); Letter from Golden Dragon to the Secretary of Commerce, "Seamless Refined Copper Pipe and Tube from the People's Republic of China: Golden Dragon Precise Copper Tube Group, Inc." (August 9, 2010).