

protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 30, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-850]

Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4½ Inches) From Japan: Preliminary Results of the Antidumping Duty Administrative Review

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

SUMMARY: On July 28, 2010, the U.S. Department of Commerce (“the Department”) published a notice of initiation of an administrative review of the antidumping duty order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan. The review covers four manufacturers/exporters: JFE Steel Corporation (“JFE”); Nippon Steel Corporation (“Nippon”); NKK Tubes (“NKK”); and Sumitomo Metal Industries, Ltd. (“SMI”). The period of review (“POR”) is June 1, 2009, through May 31, 2010. Following the receipt of certifications of no shipments from all four of the potential respondents, we sought further clarification of specific entries indicated by U.S. Customs and Border Protection (“CBP”) data. After analyzing parties’ explanations of these entries, we have reached a preliminary determination of no shipments in this administrative review. If the preliminary results are adopted in our final results of this administrative review, we will instruct CBP to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

DATES: *Effective Date:* Insert date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Joshua Morris, AD/CVD Operations, Office 1, Import Administration, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-1779.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2010, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan for the period June 1, 2009, through May 31, 2010. *See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity To Request Administrative Review*, 75 FR 30383 (June 1, 2010). On June 30, 2010, United States Steel Corporation (“U.S. Steel”), a domestic producer of the subject merchandise, made a timely request that the Department conduct an administrative review of JFE, Nippon, NKK, and SMI. On July 28, 2010, in accordance with section 751(a) of the Tariff Act of 1930, as amended (“the Act”), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 75 FR 44224 (July 28, 2010). On August 18, and 31, 2010, Nippon and SMI, respectively, submitted letters to the Department certifying that each company made no shipments or entries for consumption in the United States of subject merchandise during the POR. On August 31, 2010, the Department issued its antidumping duty questionnaire to JFE and NKK. On September 8, and 21, 2010, JFE and NKK, respectively, submitted letters to the Department certifying that each company made no shipments or entries for consumption in the United States of subject merchandise during the POR.

Scope of the Order

The products covered by the order are large diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes produced, or equivalent, to the American Society for Testing and Materials (“ASTM”) A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-589, ASTM A-795, and the American Petroleum Institute (“API”) 5L specifications and meeting the physical parameters described below, regardless of application. The scope of the order also includes all other products used in standard, line, or pressure pipe applications and meeting the physical parameters described

below, regardless of specification, with the exception of the exclusions discussed below. Specifically included within the scope of the order are seamless pipes greater than 4.5 inches (114.3 mm) up to and including 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to the order are currently classifiable under the subheadings 7304.10.10.30, 7304.10.10.45, 7304.10.10.60, 7304.10.50.50, 7304.19.10.30, 7304.19.10.45, 7304.19.10.60, 7304.19.50.50, 7304.31.60.10, 7304.31.60.50, 7304.39.00.04, 7304.39.00.06, 7304.39.00.08, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.51.50.15, 7304.51.50.45, 7304.51.50.60, 7304.59.20.30, 7304.59.20.55, 7304.59.20.60, 7304.59.20.70, 7304.59.60.00, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, and 7304.59.80.70 of the Harmonized Tariff Schedule of the United States (“HTSUS”).

Specifications, Characteristics, and Uses: Large diameter seamless pipe is used primarily for line applications such as oil, gas, or water pipeline, or utility distribution systems. Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A-106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (“ASME”) code stress levels. Alloy pipes made to ASTM A-335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A-106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A-106 standard.

Seamless standard pipes are most commonly produced to the ASTM A-53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other

liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A-333 or ASTM A-334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification. Seamless water well pipe (ASTM A-589) and seamless galvanized pipe for fire protection uses (ASTM A-795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A-106, ASTM A-53, API 5L-B, and API 5L-X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A-106 pressure pipes and triple or quadruple certified pipes in large diameters is for use as oil and gas distribution lines for commercial applications. A more minor application for large diameter seamless pipes is for use in pressure piping systems by refineries, petrochemical plants, and chemical plants, as well as in power generation plants and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A-106 pipes may be used in some boiler applications.

The scope of the order includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the exclusions discussed below, whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of the order. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334,

ASTM A-589, ASTM A-795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A-106 applications. These specifications generally include ASTM A-161, ASTM A-192, ASTM A-210, ASTM A-252, ASTM A-501, ASTM A-523, ASTM A-524, and ASTM A-618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of the order.

Specifically excluded from the scope of the order are: A. Boiler tubing and mechanical tubing, if such products are not produced to ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-589, ASTM A-795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. B. Finished and unfinished oil country tubular goods ("OCTG"), if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in the scope when used in standard, line or pressure applications. C. Products produced to the A-335 specification unless they are used in an application that would normally utilize ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-589, ASTM A-795, and API 5L specifications. D. Line and riser pipe for deepwater application, *i.e.*, line and riser pipe that is: (1) Used in a deepwater application, which means for use in water depths of 1,500 feet or more; (2) intended for use in and is actually used for a specific deepwater project; (3) rated for a specified minimum yield strength of not less than 60,000 psi; and (4) not identified or certified through the use of a monogram, stencil, or otherwise marked with an API specification (*e.g.*, "API 5L").

With regard to the excluded products listed above, the Department will not instruct CBP to require end-use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being utilized in a covered application. If such information is provided, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in a covered application as described above. For example, if, based on evidence provided by petitioner, the

Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A-335 specification is being used in an A-106 application, we will require end-use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Preliminary Determination of No Shipments

As noted above, all four of the potential respondents submitted letters to the Department indicating that they did not make any shipments or entries of subject merchandise to the United States during the POR. In response to the Department's query to CBP, CBP data showed subject merchandise manufactured by three of the respondent companies, JFE, NKK, and SMI, may have entered for consumption into the United States during the POR. On December 27, 2010, and January 7, 2011, the Department placed on the record of this review, copies of the entry documents in question.

The Department subsequently confirmed with CBP the no shipment claim made by Nippon. Because the evidence on the record indicates that Nippon did not export subject merchandise to the United States during the POR, we preliminarily determine that Nippon had no reviewable transactions during the POR.

On January 3, 2011, the Department sent letters to JFE, NKK, and SMI, requesting that they further substantiate their claims of no shipments. On February 1, 2011, JFE submitted that it did not make any U.S. sales of subject merchandise during the POR, nor did it sell any subject merchandise to any trading company with the knowledge that the trading company would export the subject merchandise to the United States during the POR, nor did it initiate, and was not aware of, any exports from Japan to the United States of subject merchandise produced by JFE during the POR. In its response, JFE explained in detail how its claim of no knowledge is supported by the record evidence, and that some of the entries which entered the United States under its antidumping case number were non-

subject merchandise. See Memorandum to the File, from Joshua Morris, International Trade Analyst, "Preliminary Determination of No Shipments in the Antidumping Duty Administrative Review on Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4½ Inches) from Japan," June 29, 2011 ("No Shipments Memo").

On February 8, 2011, NKK responded that its statement to the Department on September 21, 2010, remains accurate, and reiterated that NKK did not have shipments of subject merchandise to the United States during the POR. NKK explained in detail how its claim of no knowledge is supported by the record evidence, and that entries which entered into the United States during the POR under its antidumping case number were non-subject merchandise. See No Shipments Memo.

On February 15, 2011, SMI submitted that SMI did not export subject merchandise to the United States during the POR. SMI explained that it did sell, through trading companies, subject merchandise to distributors and end-users in Japan and third countries. SMI emphasized that as stated in its August 31, 2010, submission, it did not make any U.S. sales of subject merchandise during the POR, nor did it sell any subject merchandise to any end-users or distributors with the knowledge that such end-users or distributors would export the subject merchandise to the United States during the POR. Furthermore, SMI stated that it did not initiate, and was not aware of, any exports from Japan or any third countries to the United States of subject merchandise produced by SMI during the POR. In its response, SMI explained in detail how its claim of no knowledge is supported by the record evidence. See No Shipments Memo.

Based on JFE's and SMI's submissions and our review of CBP documentation, the Department finds that the record evidence supports JFE's and SMI's claims that, at the time of the sale, JFE or SMI had no knowledge that any of these entries of subject merchandise entered the United States during the POR. On this basis, we find that subject merchandise produced by JFE and SMI entered the United States during the POR under their antidumping case number, but did so by way of intermediaries without the knowledge of either company.¹

Based on NKK's and JFE's submissions and our review of CBP

documentation, the Department finds that the merchandise produced by NKK and certain of the merchandise produced by JFE which entered the United States during the POR under their respective antidumping case numbers appears to be non-subject merchandise. See No Shipments Memo for full analysis.

Thus, the Department finds that the respondents' claims of no shipments or entries for consumption to be substantiated. Based upon the certifications and the evidence on the record, we are satisfied that no respondent had shipments of subject merchandise to the United States during the POR and, as such, we preliminarily determine that JFE, SMI, and NKK had no reviewable transactions during the POR.

Since the implementation of the 1997 regulations, our practice concerning no-shipment respondents had been to rescind the administrative review if the respondent certifies that it had no shipments and we have confirmed through our examination of CBP data that there were no shipments of subject merchandise during the POR. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27393 (May 19, 1997); see also *Oil Country Tubular Goods from Japan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review*, 70 FR 53161, 53162 (September 5, 2007), unchanged in *Oil Country Tubular Goods from Japan: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 95 (January 3, 2006). In such circumstances, we normally instructed CBP to liquidate any entries from the no-shipment company at the deposit rate in effect on the date of entry.

In our May 6, 2003, "automatic assessment" clarification, we explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) ("Assessment Policy Notice").

Because "as entered" liquidation instructions do not alleviate the concerns which the May 2003 clarification was intended to address, we find it appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by Nippon, JFE, SMI, and NKK, and exported by other parties at the all-

others rate, should we continue to find that Nippon, JFE, SMI, and NKK had no shipments of subject merchandise in the POR in our final results. See, e.g., *Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989, 56990 (September 17, 2010). In addition, the Department finds that it is more consistent with the May 2003 clarification not to rescind the review in part in these circumstances but, rather, to complete the review with respect to Nippon, JFE, SMI, and NKK, and issue appropriate instructions to CBP based on the final results of the review. See the "Assessment Rates" section of this notice below.

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department intends to issue appraisement instructions directly to CBP 15 days after the date of publication of the final results of this review.

As noted above, the Department clarified its "automatic assessment" regulation on May 6, 2003. See *Assessment Policy Notice*. This clarification will apply to POR entries by all respondent companies if we continue to make a final determination of no shipments because they certified that they made no POR shipments of subject merchandise for which they had knowledge of U.S. destination. We will instruct CBP to liquidate these entries at the all-others rate established in the less-than-fair-value investigation (68.88 percent) if there is no rate for the intermediary involved in the transaction. See *Assessment Policy Notice* for a full discussion of this clarification.

These preliminary results of administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: June 29, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

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¹ As our decision is based largely on proprietary information, a full analysis and explanation is contained in our No Shipments Memo.