

Dated: February 9, 2018.

**James Maeder,**

*Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

**Appendix**

**Scope of the Investigations**

The merchandise covered by these investigations is welded carbon and alloy steel pipe, more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of these investigations, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the in-scope large diameter welded pipe.

Excluded from the scope are any products covered by the existing antidumping duty orders on welded line pipe from the Republic of Korea, welded line pipe from the Republic of Turkey, and welded ASTM A-312 stainless steel pipe from Korea, as well as any products covered by the existing countervailing duty order on welded line pipe from Turkey. *See Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders*, 80 FR 75056 (December 1, 2015); *Welded ASTM A-312 Stainless Steel Pipe from South Korea: Antidumping Duty Order*, 57 FR 62300 (December 30, 1992); and *Welded Line Pipe from the Republic of Turkey: Countervailing Duty Order*, 80 FR 75054 (December 1, 2015).

The large diameter welded pipe that is subject to these investigations is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060,

7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A-201-805]**

**Certain Circular Welded Non-Alloy Steel Pipe From Mexico: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is notifying the public that the Court of International Trade's (CIT or the Court) final judgment in this case is not in harmony with Commerce's final scope ruling and is, therefore, finding that certain black, circular tubing produced to ASTM A-513 specifications by Maquilacero S.A. de C.V. (Maquilacero) is not within the scope of the antidumping duty order on circular welded non-alloy steel pipe from Mexico.

**DATES:** Applicable Date: February 19, 2018.

**FOR FURTHER INFORMATION CONTACT:** Mark Flessner, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6312.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 27, 2015, Commerce issued the Maquilacero Scope Ruling,<sup>1</sup> in which it determined, under 19 CFR 351.225(k)(1), that 46 products produced by Maquilacero to specification A-513 did not meet the exclusion for "mechanical tubing" in the scope of the *Order*,<sup>2</sup> and were,

<sup>1</sup> See Memorandum, "Final Scope Ruling on Certain Black, Circular Tubing Produced to ASTM A-513 Specifications by Maquilacero S.A. de C.V.," dated July 27, 2015 (Maquilacero Scope Ruling).

<sup>2</sup> See *Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Welded*

therefore, within the scope of the *Order*. In particular, Commerce relied upon a prior scope ruling pertaining to certain mechanical tubing products produced by Productos Laminados de Monterrey, S.A. de C.V., and Prolamsa, Inc. (Prolamsa), which was conducted under 19 CFR 351.225(k)(2), and which defined "mechanical tubing" as tubing that met a variety of physical, chemical, and mechanical characteristics, and was stenciled.<sup>3</sup> Commerce found that Maquilacero's tubing was not stenciled, and, thus, was not "mechanical tubing."<sup>4</sup> Maquilacero challenged Commerce's final scope ruling before the CIT.

On August 30, 2017, the Court remanded the Maquilacero Scope Ruling to Commerce.<sup>5</sup> Specifically, the Court held that Commerce did not "properly consider how the mention of stenciling came to be found in the ruling excluding Prolamsa's pipe from the *Order*," particularly given that stenciling "does not change the inherent quality or the intended use of the product."<sup>6</sup> As such, the Court concluded that "the imposition of a requirement {i.e., stenciling} having nothing to do with the physical characteristics of mechanical tubing and that appeared in the Prolamsa Final Scope Ruling by chance { } was unreasonable."<sup>7</sup> Thus, the Court found "that Commerce's ruling unlawfully expanded the scope of the *Order* to include {Maquilacero}'s merchandise,"<sup>8</sup> and remanded the Final Scope Ruling to Commerce to "(1) not impose a stenciling requirement, and (2) find that Maquilacero's tubing is excluded from the *Order* based on its analysis found on pages 6-9 of the Final Scope Ruling."<sup>9</sup> In particular, the Court instructed Commerce to "find plaintiff's products are excluded from the *Order* using the same analysis in the Final Scope Ruling and that is found in this opinion."<sup>10</sup>

Pursuant to the Court's instructions, Commerce issued the Final Remand

*Non-Alloy Steel Pipe from Korea*, 57 FR 49453 (November 2, 1992) (the *Order*).

<sup>3</sup> See Memorandum, "Final Scope Ruling on Certain Black, Circular Tubing Produced to ASTM A-513 Specifications by Productos Laminados de Monterrey, S.A. de C.V., and Prolamsa, Inc.," dated January 12, 2015 (Prolamsa Final Scope Ruling).

<sup>4</sup> See Maquilacero Scope Ruling.

<sup>5</sup> See *Maquilacero S.A. de C.V. v. United States*, Slip Op. 17-117, Court No. 15-00287 (CIT 2017).

<sup>6</sup> See *Maquilacero*, Slip Op. 17-117, at 29.

<sup>7</sup> See *Maquilacero*, Slip Op. 17-117, at 32.

<sup>8</sup> *Id.*, at 26.

<sup>9</sup> See *Maquilacero*, Slip Op. 17-117, at 32-33.

<sup>10</sup> *Id.*, at 33.

Results.<sup>11</sup> Consistent with the Court's instructions, Commerce found that the 46 products included in Maquilacero's scope ruling request are excluded from the *Order*, because those products meet all physical, chemical, and mechanical properties of mechanical tubing, notwithstanding that the products are not stenciled. On February 9, 2018, the Court sustained Commerce's Final Remand Results in their entirety.<sup>12</sup>

### Timken Notice

In its decision in *Timken*,<sup>13</sup> as clarified by *Diamond Sawblades*,<sup>14</sup> the United States Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's February 9, 2018, judgment in *Maquilacero*, sustaining Commerce's decision in the Final Remand Results that the 46 products included in Maquilacero's scope ruling request are excluded from the *Order* constitutes a final decision of the court that is not in harmony with the Maquilacero Scope Ruling. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, Commerce will continue the suspension of liquidation of the 46 products at issue pending expiration of the period to appeal or, if appealed, pending a final and conclusive court decision.

### Amended Final Scope Ruling

Because there is now a final court decision with respect to the Maquilacero Scope Ruling, Commerce is amending its final scope ruling. Commerce finds that the scope of the *Order* does not cover the products addressed in the Maquilacero Scope Ruling. Commerce will instruct U.S. Customs and Border Protection (CBP) that the cash deposit rate will be zero percent for the 46 products subject to Maquilacero's scope ruling request. In the event that the CIT's ruling is not appealed, or if appealed, upheld by the CAFC, Commerce will instruct CBP to liquidate entries of the 46 products at issue without regard to antidumping

and/or countervailing duties, and to lift suspension of liquidation of such entries.

### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: February 13, 2018.

#### Christian Marsh,

*Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-863, A-484-803, A-533-881, A-570-077, A-580-897, A-489-833]

### Large Diameter Welded Pipe From Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable February 9, 2018.

**FOR FURTHER INFORMATION CONTACT:** Susan Pulongbarit at (202) 482-4031 (Canada); Brittany Bauer at (202) 482-3860 (Greece); Jaron Moore at (202) 482-3640 (India); Kabir Archuletta at (202) 482-8024 (the People's Republic of China (China)); Jesus Saenz at (202) 482-8184 (the Republic of Korea (Korea)); and Rebecca Janz at (202) 482-2972 (the Republic of Turkey (Turkey)); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

#### The Petitions

On January 17, 2018, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) Petitions concerning imports of large diameter welded pipe (welded pipe) from Canada, China, Greece, India, Korea, and Turkey, filed in proper form on behalf of American Cast Iron Pipe Company, Berg Steel Pipe Corp., Dura-Bond Industries, Skyline Steel, and Stupp Corporation (collectively, the petitioners).<sup>1</sup> The AD Petitions were

accompanied by countervailing duty (CVD) Petitions concerning imports of welded pipe from China, India, Korea, and Turkey. The petitioners are domestic producers of welded pipe.<sup>2</sup>

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the initiation of these investigations is now February 9, 2018.<sup>3</sup>

On January 23, 24, 29, 30, and February 6, 2018, Commerce requested supplemental information pertaining to certain areas of the Petitions.<sup>4</sup> The

Republic of China, the Republic of Korea, and the Republic of Turkey: Petitions for the Imposition of Antidumping and Countervailing Duties," dated January 17, 2018 (the Petitions).

<sup>2</sup> See Volume I of the Petitions, at 2.

<sup>3</sup> See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

<sup>4</sup> See Commerce's Letters, "Petitions for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey and Countervailing Duties on Imports from India, the Republic of China, the Republic of Korea, and the Republic of Turkey: Supplemental Questions," (General Issues Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from {Canada}{sic}: Supplemental Questions;" "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from the People's Republic of China: Supplemental Questions;" "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from Greece: Supplemental Questions;" and "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from Turkey: Supplemental Questions." All of these documents are dated January 23, 2018. See also Commerce's Letters, "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from India: Supplemental Questions;" and "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from the Republic of Korea: Supplemental Questions," both dated January 24, 2018. See also Commerce's Letter, "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from the People's Republic of China: Supplemental Questions," dated January 29, 2018. See also "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from Greece: Additional Questions;" "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from India: Additional Questions;" "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from Korea: Additional Questions;" and "Petition for the Imposition of Antidumping Duties on Imports of Large Diameter Welded Pipe from Turkey: Additional Questions." These

<sup>11</sup> See Final Results of Redetermination Pursuant to Remand in *Maquilacero S.A. de C.V. v. United States*, Ct. No. 15-00287, November 27, 2017 (Final Remand Results).

<sup>12</sup> See *Maquilacero S.A. de C.V. v. United States*, Slip Op. 18-8, Court No. 15-00287 (CIT 2018).

<sup>13</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), at 341.

<sup>14</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 20 10) (*Diamond Sawblades*).

<sup>1</sup> See Petitioners' Letter, "Large Diameter Welded Pipe from Canada, Greece, India, the People's