

record. See section 776(b) of the Act. Section 776(c) provides, however, that, when the Department relies on secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870. The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* As discussed in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. In the preliminary margin calculation, numerous sales by CEMEX had margins greater than 73.74 percent. Therefore, we find that the adverse facts-available rate is relevant to this POR. Unlike other types of information, such as input costs or selling expenses, there are no independent sources from which the Department can calculate dumping margins. The only source for margins is administrative determinations. Thus, with respect to an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. Thus, the Department finds that the information is reliable. See *Freshwater Crawfish Tail Meat from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 68 FR 19504 (April 21, 2003).

#### Currency Conversion

Pursuant to section 773A(a) of the Act, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of U.S. sales as certified by the Federal Reserve Bank.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine the dumping margin for the collapsed parties, CEMEX

and GCCC, for the period August 1, 2001, through July 31, 2002, to be 71.77 percent.

We will disclose calculations performed in connection with these preliminary results to parties within five days of the date of publication of this notice. See 19 CFR 351.224(b). Interested parties may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held at the main Commerce Department building three business days after submission of rebuttal briefs.

Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. Case briefs from interested parties may be filed no later than 30 days after publication of this notice. Rebuttal briefs, limited to the issues raised in case briefs, may be submitted no later than five days after the deadline for filing case briefs.

Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

Upon completion of this review, the Department will determine, and the U.S. Bureau of Customs and Border Protection (BCBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific assessment rate for merchandise subject to this review. If these preliminary results are adopted in the final results of review, we will direct the BCBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's entries during the review period.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(1) of the Act:

(1) The cash-deposit rate for the respondent will be the rate determined in the final results of review; (2) for previously reviewed or investigated companies not mentioned 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 in the original 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) the cash-deposit rate for all other manufacturers

or exporters will be 61.35 percent, the all-others rate from the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

In conducting recent reviews of CEMEX/GCCC, the Department has observed a pattern of significant differences between the weighted-average margins and the assessment rates it has determined for this respondent in those reviews. This pattern of differences suggests that the collection of a cash deposit for estimating antidumping duty based on net U.S. price may result in the undercollection of estimated antidumping duties at the time of entry. We are considering whether it would be appropriate in this case to establish a per-unit cash-deposit requirement for CEMEX/GCCC. See preliminary analysis memo dated May 5, 2003. The Department invites interested parties to comment on this issue.

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 Act.

Dated: May 5, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-11743 Filed 5-9-02; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-791-817]

#### Initiation of Antidumping Duty Investigation: Hydraulic Magnetic Circuit Breakers from South Africa

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

**EFFECTIVE DATE:** May 12, 2003.

**FOR FURTHER INFORMATION CONTACT:** Fred W. Aziz, Thomas Schauer, or Richard Rimlinger, Import Administration, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4023, (202) 482-0410 or (202) 482-4477, respectively.

#### SUPPLEMENTARY INFORMATION:

##### The Petition

On April 14, 2003, the Department of Commerce ("the Department") received a petition on imports of hydraulic magnetic circuit breakers ("HMCBs") from South Africa filed in proper form by Airpax Corporation, LLC (referred to hereafter as "the petitioner"). On April 22, 2003, the Department requested additional information and clarification of certain areas of the petition. The petitioner filed a supplement to the petition on April 25, 2003.

In accordance with section 732(b) of the Tariff Act of 1930, as amended ("the Act"), the petitioner alleges that imports of HMCBs from South Africa are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring and threaten to injure an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(c) of the Act. Furthermore, with respect to the antidumping duty investigation the petitioner is requesting the Department to initiate, it has demonstrated sufficient industry support (see "Determination of Industry Support for the Petition" below).

##### Scope of Investigation

This investigation covers all hydraulic magnetic circuit breakers (sometimes referred to as magnetic hydraulic circuit breakers ("HMCBs"), incorporating a tripping means of a magnetic coil surrounding a tube and plunger, restrained by air, liquid or spring, whether or not sealed, whether or not of molded case, of any voltage less than 72.5 kilovolts, of any amperage rating, with single or multiple poles, of any mounting or connection means and of any terminal type, whether or not having a magnetic latch, and excluding thermal and thermal magnetic circuit breakers. The subject merchandise is classified under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 8535.21.00 and 8536.20.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner

to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27296, 27323), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

##### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition must be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering agency shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("the ITC"), which is responsible for determining whether "the domestic industry" has been materially injured, must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding

the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to time and information limitations. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.<sup>1</sup>

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic-like-product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

In its April 14th petition, petitioner claims it has industry support. The petitioner states that it compromises virtually all U.S. production of HMCBs. However, the petition identifies three additional U.S. entities engaged in the sale of HMCBs in the domestic market. According to the petition, none of the three maintain commercial production in the United States. The petitioner asserts that virtually all of those firms' manufacturing is done in other countries and that any domestic manufacturing is limited to samples in non-commercial quantities. Based on all available information, we agree that the petitioner compromises virtually all domestic commercial production of HMCBs.

Our review of the data provided in the petition and other information readily available to the Department indicates that the petitioner has established industry support representing over 50 percent of total production of the domestic like product, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. In addition, the Department received no opposition to the petition from domestic producers of the like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. Furthermore, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product

<sup>1</sup> See *Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) of the Act also are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

With regard to the definition of domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. On April 30, 2003, Circuit Breaker Industries, Ltd. ("CBI"), a South African producer of the subject merchandise, challenged industry support for the petition pursuant to sections 732(b)(3) and 732(c)(4)(D) of the Act. On May 1, 2003, the petitioner filed its reply to CBI's challenge.

Based on our analysis of the information presented by the petitioner, we have determined that there is a single domestic like product, hydraulic magnetic circuit breakers, which is defined in the "Scope of Investigation" section above, and we have analyzed industry support in terms of this domestic like product. For more information on our analysis and the data upon which we relied, see Import Administration Antidumping Investigation Initiation Checklist ("Initiation Checklist"), Industry Support section and Appendix 1, dated May 5, 2003, on file in the CRU of the main Department of Commerce building.

#### **Period of Investigation**

The anticipated period of investigation is April 1, 2002, through March 31, 2003.

#### **Constructed Export Price and Normal Value**

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to U.S. price and normal value are discussed in greater detail in the Initiation Checklist dated May 5, 2003. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculations, if appropriate.

#### **Constructed Export Price**

The petitioner identified CBI and its affiliate CBI, Inc. (hereinafter "CBI USA") as the primary producer and importer, respectively, of the subject merchandise. As the sole South African producer of HMCBs, CBI accounts for all

exports of HMCBs to the United States from South Africa. Therefore, the petitioner established U.S. price based on constructed exported price ("CEP"). According to the petitioner, CBI's sales in the United States are sold by CBI's subsidiary, CBI USA, which holds inventory in its U.S. warehouse prior to shipment to unaffiliated buyers. In order to obtain ex-factory prices, the petitioner deducted international transportation (by sea) and estimated profit and expense mark-up. Because the petitioner did not provide adequate support for its profit and expense figure, we recalculated the CEPs to not deduct this expense. With this exception, we reviewed the information provided regarding CEP and have determined that it is adequate and accurate and represents information reasonably available to the petitioner (see Initiation Checklist, Re: Less-Than-Fair-Value Allegation).

Because the petitioner provided price quotes for actual products and we determine that these price quotes are sufficient for initiation purposes, we did not use the ITC Dataweb values that petitioner provided to estimate dumping margins. To the extent necessary, we will consider the appropriateness of the petitioner's alternative during the course of this proceeding.

#### **Normal Value**

With respect to normal value, the petitioner provided home-market prices at which the foreign like product is offered for sale for consumption in the exporting country, adjusted as required by the statute. These home market prices were obtained directly from CBI, the sole South African producer of the subject merchandise.

In calculating its estimated margins, the petitioner compared prices for single pole B, C, D, and E frame HMCBs sold in the home market with similar products offered for sale in the United States by CBI USA. For purposes of initiation, however, we made an adjustment to the estimated margin calculated for D frame HMCBs. Specifically, the petitioner, in its April 14th petition, compared a home market price for D-frame HMCBs with an amperage rating between 61 and 100 amperes to a U.S. price for D frame HMCBs with an amperage rating between 10 and 50 amperes. Because the petitioner presented the Department with several different home market prices for D frame HMCBs, we have recalculated the estimated margin using the home-market price for D-frame HMCBs with a comparable amperage rating (i.e., between 5 and 60 amperes).

See Initiation Checklist, Re: Normal Value.

With this exception, we determined that the information the petitioner used for the calculation of home-market price is adequate and accurate and represents information reasonably available to it.

#### **Fair-Value Comparison**

Based on the data provided by the petitioner, there is reason to believe that imports of HMCBs from South Africa are being, or are likely to be, sold in the United States at less than fair value. As a result of the comparison of CEP to normal value, we recalculated estimated dumping margins for imports of HMCBs from South Africa that range from 129.43 percent to 721.95 percent.

#### **Allegations and Evidence of Material Injury and Causation**

The petition alleges that the U.S. industry producing the domestic like product is being materially injured and is threatened with material injury by reason of the imports of the subject merchandise sold at less than normal value. The petitioner contends that its injured condition is evidenced by declining trends in market share, pricing, production levels, profits, sales, and utilization of capacity. Furthermore, the petitioner contends that injury and threat of injury is evidenced by negative effects on its cash flow, ability to raise capital, and growth. These allegations are supported by relevant evidence including import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation (see Initiation Checklist dated May 5, 2003, Re: Material Injury).

#### **Initiation of Antidumping Investigation**

Based upon our examination of the petition on HMCBs from South Africa and other information reasonably available to the Department, we find that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of HMCBs from South Africa are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

#### **Distribution of Copies of the Petition**

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been

provided to the representatives of the government of South Africa. We will attempt to provide a copy of the public version of the petition to each producer named in the petition, as appropriate.

#### International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, no later than May 29, 2003, whether there is a reasonable indication that imports of HMCBs are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in this investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: May 5, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-485-805]

#### Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Romania: Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to a request by S.C. Silcotub S.A. (Silcotub), a producer/exporter of subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe (seamless pipe) from Romania. The period of review (POR) is August 1, 2001, through July 31, 2002.

We preliminarily find that sales have not been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct

the U.S. Bureau of Customs and Border Protection (BCBP) to assess no antidumping duties on the subject merchandise that was exported by Silcotub and entered during the POR.

**EFFECTIVE DATE:** May 12, 2003.

**FOR FURTHER INFORMATION CONTACT:** Martin Claessens or Monica Gallardo, Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5451 or (202) 482-3147, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 10, 2000, the Department published an antidumping duty order on certain small diameter carbon and alloy seamless standard, line and pressure pipe from Romania. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Romania*, 65 FR 48963 (August 10, 2000) (*Amended Final Determination*). On August 29, 2002, Silcotub requested an administrative review. On August 30, 2002, United States Steel Corporation (U.S. Steel), a domestic producer of seamless pipe and an interested party to this proceeding, also requested an administrative review. On September 20, 2002, the Department initiated the current administrative review. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Review*, 67 FR 60210 (September 25, 2002). Since the initiation of this administrative review, the following events have occurred:

On October 21, 2002, we issued an antidumping questionnaire to Silcotub. We received questionnaire responses from Silcotub on November 22 and December 13, 2002. We issued a supplemental questionnaire on January 22, 2003, to which we received responses on February 25 and February 28, 2003. On April 4, 2003, U.S. Steel requested that the Department extend the deadline for the preliminary results. The deadline was not extended.

##### Scope of the Order

The products covered by the order are seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-335, ASTM A-

589, ASTM A-795, and the API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of the order also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification. Specifically included within the scope of the order are seamless pipes and redraw hollows, less than or equal to 4.5 inches (114.3 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 7304.10.10.20, 7304.10.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

Specifications, Characteristics, and Uses: 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 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.