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DATE: November 29, 2012

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Certain Circular Welded Non-Alloy
Steel Pipe from Mexico

SUMMARY

In response to requests by interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico. This administrative review covers mandatory respondents Pytco, S.A. de C.V. (PYTCO), Conduit S.A. de C.V. (Conduit); Mueller Comercial de Mexico, S. de R.L. de C.V. (Mueller); Lamina y Placa Comercial, S.A. de C.V. (Lamina y Placa); and Tuberia Nacional, S.A. de C.V. (TUNA). The period of review (POR) is August 1, 2010, through July 31, 2011. We recommend preliminarily determining that the respondents did not have reviewable sales, shipments, or entries during the POR.

BACKGROUND

On November 2, 1992, the Department published the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico.¹ On November 30, 2011, petitioner Allied Tube and Conduit (Allied) requested administrative reviews of the following companies: Conduit; Mueller; PYTCO; Lamina y Placa; and TUNA. On November 30, 2011, petitioner Wheatland Tube Company (Wheatland) requested administrative reviews of the following companies: Galvak, S.A. de C.V. (Galvak); Hylsa, S.A. de C.V. (Hylsa); Industrias Monterrey S.A. de C.V. (IMSA); Mueller; Southland Pipe Nipples Co., Inc. (Southland); Lamina y Placa; Ternium Mexico, S.A. de C.V. (Ternium); and TUNA. On November 30, 2011, petitioner U.S. Steel Corporation (U.S. Steel) requested administrative reviews of the following companies: Conduit; Mueller; Southland; Lamina y Placa; Ternium; and TUNA.

¹ 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 Non-Alloy Steel Pipe from Korea, 57 FR 49453 (November 2, 1992) (Antidumping Duty Order).

On December 30, 2011, the Department published in the Federal Register its notice of initiation of administrative review of certain circular welded non-alloy steel pipe from Mexico, which included ten exporters or producers for which we received timely requests.² On January 27, 2012, the Department issued to all parties with administrative protective order (APO) access a memorandum from Mark Flessner to the File entitled, “Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Placement on the Record of U.S. Customs and Border Patrol Information for 2010-2011 Period of Review,” dated January 27, 2012 (CBP Documents Memorandum). We invited interested parties to comment on these data; the Department received no comments.

On January 30, 2012, Wheatland requested that the Department conduct a duty absorption inquiry with regard to each of the companies for whom an administrative review had been requested. See the “Duty Absorption” section below.

On February 28, 2012, the Department received a letter from Ternium which stated that during the POR, “neither Ternium, nor its affiliates and/or predecessors Galvak, Hylsa, and IMSA, had exports of subject pipe to the United States, sales of subject pipe to the United States, or entries of subject pipe into the United States.” These companies requested rescission of the administrative review with respect to each company; Ternium restated this position on April 4, 2012. Also on February 28, 2012, Lamina y Placa claimed that it and TUNA (on whose behalf it was responding) had made no shipments or entries for consumption of subject merchandise to the United States during the POR.

The Department stated in its initiation of this review that it intended to rely on CBP data to select respondents if respondent selection was considered appropriate. See Initiation Notice. For the purpose of potential respondent selection, we made a data inquiry to CBP and placed certain documents from this data query on the record.³ For further discussion of these documents, see the “No Shipments Claims” section below. The Department selected Ternium and PYTCO as mandatory respondents and issued its standard antidumping questionnaire to Ternium and PYTCO on March 13, 2012.

On March 29, 2012, Wheatland withdrew its requests for administrative review with regard to all companies for whom it had requested an administrative review. Also on March 29, 2012, U.S. Steel withdrew its requests for administrative review with regard to all companies for whom it had requested an administrative review. The remaining companies for whom administrative reviews had been requested were TUNA, Lamina y Placa, Mueller, PYTCO, and Conduit. With regard to Ternium, Galvak, Hylsa, IMSA, and Southland, see the “Partial Rescission of Administrative Review” section below.

On April 2, 2012, the Department received a letter from PYTCO in which it stated that PYTCO “did not have any exports, sales, or entries of subject merchandise to the United States during the above-referenced period of review.” On April 6, Allied submitted comments with respect to PYTCO’s claim of no shipments.

² See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 76 FR 82268 (December 30, 2011) (Initiation Notice).

³ See the memorandum from Mark Flessner to Richard Weible entitled “Administrative Review of the Antidumping Duty Order on Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Respondent Selection Memorandum,” dated March 13, 2012.

On May 15, 2012, the Department issued a questionnaire to PYTCO with regard to its claim of no shipments. PYTCO responded to this questionnaire on June 1, 2012. On June 12, 2012, Allied submitted comments with regard to PYTCO's questionnaire response. On June 27, 2012, the Department issued a supplemental questionnaire to PYTCO with regard to its claim of no shipments. On July 26, 2012, PYTCO responded to this supplemental questionnaire. On August 3, 2012, Allied submitted comments with regard to PYTCO's supplemental questionnaire response. On September 21, 2012, Allied placed information from a concurrent scope inquiry⁴ on the record of this proceeding. On September 24, 2012, the Department issued a second supplemental questionnaire to PYTCO with regard to its claim of no shipments; in addition, the Department required PYTCO to fully respond to sections A, B, and C of the Department's standard antidumping questionnaire which had been issued to PYTCO on March 13, 2012. On October 10, 2012, PYTCO responded to this second supplemental questionnaire. On October 15, 2012, PYTCO responded to sections A, B, and C of the Department's March 13, 2012, standard antidumping questionnaire. On October 25, 2012, the Department issued a supplemental section A questionnaire to PYTCO. On November 5, 2012, PYTCO responded to this supplemental section A questionnaire. On November 6, 2012, Allied submitted comments with respect to PYTCO's response to the supplemental section A questionnaire.

SCOPE OF THE ORDER

The products covered by the order are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A-53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of the order, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in the order.

The merchandise covered by the order and subject to this review are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

⁴ "Certain Circular Welded Non-Alloy Steel Pipe From Mexico: Scope Inquiry Request Regarding Finished Conduit and Finished Electrical Metallic Tubing," A-201-805, submitted by LDA Incorporado on August 21, 2012.

ANALYSIS

A. No Shipments Claim -- PYTCO

As noted above, PYTCO submitted a letter to the Department indicating that it made no shipments or entries of subject merchandise to the United States during the POR that are subject to this administrative review. In response to the Department's query, CBP data showed that a single entry of subject merchandise may have entered for consumption into the United States during the POR. See CBP Documents Memorandum at Attachment 1. In its claim of no shipments, PYTCO did not address the status of this single entry. As noted in the Background section, above, through multiple questionnaire responses, PYTCO provided additional documentation which demonstrated that the single entry in question had (a) been mischaracterized as subject merchandise and (b) did not involve an actual sale. We received no information from CBP to contradict the results of our data query and the claims made by this respondent. In addition, despite close questioning on the subject of sales by its POR affiliates, no evidence of sales by PYTCO's affiliates was established on the record of this proceeding. Therefore, because the evidence on the record indicates that PYTCO (and its affiliates) made no shipments of subject merchandise to the United States during the POR, we preliminarily determine that there are no reviewable transactions during the POR for PYTCO.

B. Duty Absorption

On January 30, 2012, Wheatland requested that the Department conduct a duty absorption inquiry with regard to each of the companies for whom an administrative review had been requested. Section 751(a)(4) of the Tariff Act of 1930, as amended (the Act), provides for the Department, if requested, to determine during an administrative review initiated two or four years after publication of the order whether antidumping duties have been absorbed by the foreign producer or exporter if the subject merchandise is sold in the United States through an affiliated importer. See also 19 CFR 351.213(j). First, only PYTCO was selected as a respondent in this administrative review. Second, Wheatland has withdrawn all its requests for administrative review. Notwithstanding, because this review was not initiated at the two-year or four-year interval from publication of the antidumping duty order, a duty absorption inquiry is not authorized. See Antidumping Duty Order.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

Date