



A-201-843
Investigation
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DATE: December 5, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation of Prestressed Concrete Steel
Tie Wire from Mexico

Summary

The Department of Commerce (the Department) is conducting an antidumping duty (AD) investigation of prestressed concrete steel rail tie wire (PC tie wire) from Mexico. This investigation covers one producer/exporter of the merchandise under consideration, Aceros Camesa S.A. de C.V. (Camesa). The period of investigation (POI) is April 1, 2012, through March 31, 2013. We have preliminarily found that sales of the merchandise under consideration have been made at less than fair value (LTFV).

Background

Since the initiation of this investigation on May 13, 2013, the following events have occurred.¹

In the Initiation Notice, the Department stated that it intended to select Camesa for examination as the sole known exporter and producer of the subject merchandise because the petition identifies this one company as accounting for virtually all of the imports of PC tie wire from Mexico and, furthermore, the Department knew of no other exporters or producers of the merchandise under consideration.² The Department invited interested parties to comment on respondent selection; however, the Department received no comments on respondent selection.

Also in the Initiation Notice, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of PC tie wire to

¹ See Prestressed Concrete Steel Rail Tie Wire From Mexico, the People's Republic of China, and Thailand: Initiation of Antidumping Duty Investigations, 78 FR 29325 (May 20, 2013) (Initiation Notice).

² See Initiation Notice, 78 FR at 29329-30.



be reported in response to the Department's AD questionnaire.³ In June 2013, the petitioners,⁴ the Siam Industrial Wire Co., Ltd. (SIW), and Silvery Dragon Group Technology and Trading Co., Ltd. (Tianjin), respondents in the companion investigations of PC tie wire from Thailand and the People's Republic of China, respectively, submitted comments regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. In June and September 2013, the petitioners and SIW submitted comments on the scope of these investigations.⁵

On June 14, 2013, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of PC tie wire from Mexico.⁶

On June 19, 2013, the Department issued the AD questionnaire to Camesa. From July through November 2013, Camesa submitted timely responses to the Department's AD questionnaire and corresponding supplemental questionnaires. In the same time frame, the petitioners submitted comments regarding those responses.

On September 4, 2013, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be fully extended pursuant to section 733(c)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(e). On September 19, 2013, pursuant to sections 733(c)(1)(A) and (c)(2) of the Act and 19 CFR 351.205(f), the Department published a postponement of the preliminary determination until no later than November 19, 2013.⁷

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.⁸ Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary determination in this investigation is now December 5, 2013.

On November 5, 2013, the petitioners filed comments for the Department to consider in its preliminary determination. No other party submitted comments regarding the preliminary determination.

We are conducting this investigation in accordance with section 733(b) of the Act.

³ *Id.*, 78 FR at 29325-26.

⁴ Davis Wire Corporation and Insteel Wire Products Company.

⁵ See Memorandum entitled "Scope Modification Requests," dated concurrently with this determination.

⁶ See Prestressed Concrete Steel Rail Tie Wire From China, Mexico, and Thailand, 78 FR 37236 (June 20, 2013).

⁷ See Prestressed Concrete Steel Rail Tie Wire From Mexico, Thailand, and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 78 FR 57619 (September 19, 2013).

⁸ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

Period of Investigation

The POI is April 1, 2012, through March 31, 2013. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was April 2013.⁹

Scope of the Investigation

The product covered by this investigation is high carbon steel wire; stress relieved or low relaxation; indented or otherwise deformed; meeting at a minimum the physical, mechanical, and chemical requirements of the American Society of Testing Materials (“ASTM”) A881/A881M specification; regardless of shape, size or alloy element levels; suitable for use as prestressed tendons in concrete railroad ties (“PC tie wire”). High carbon steel is defined as steel that contains 0.6 percent or more of carbon by weight.

PC tie wire is classified under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheading 7217.10.8045, but may also be classified under subheadings 7217.10.7000, 7217.10.8025, 7217.10.8030, 7217.10.8090, 7217.10.9000, 7229.90.1000, 7229.90.5016, 7229.90.5031, 7229.90.5051, 7229.90.9000, and 7312.10.3012. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.¹⁰

Postponement of Final Determination

Pursuant to section 735(a)(2) of the Act, on November 7 and 19, 2013, the petitioners and Camesa each requested that the Department postpone the final determination, and Camesa requested that provisional measures be extended. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b) and (e), because (1) our preliminary determination is affirmative, (2) the requesting exporter Camesa accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the Federal Register, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

Determination of the Comparison Method

A. Differential Pricing Analysis

Pursuant to 19 CFR 351.414(c) (2013), the Department calculates dumping margins by comparing weighted-average normal values (NVs) to weighted-average export prices (EPs) (or constructed export prices (CEPs)) (the average-to-average method) unless the Secretary

⁹ See 19 CFR 351.204(b)(1).

¹⁰ Since the initiation of this investigation, based on interested party comments, we modified the scope to add language to, and clarify the meaning of, the phrase “meeting at a minimum the American Society for Testing Materials (“ASTM”) A881/A881M specification,” and to include two additional HTSUS numbers. For further discussion, see the memorandum entitled “Scope Modification Requests,” dated concurrently with this determination.

determines another method is appropriate in a particular situation. The Department's regulations also provide that dumping margins may be calculated by comparing NVs, based on individual transactions, to the EPs (or CEPs) of individual transactions (transaction-to-transaction method) or, when certain conditions are satisfied, by comparing weighted-average NVs to the EPs (or CEPs) of individual transactions (average-to-transaction method).¹¹ In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-average method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1).¹² The Department may determine that in particular circumstances, consistent with section 777A(d)(1)(B) of the Act, that it is appropriate to use the average-to-transaction method. The Department will continue to develop its approach in this area based on comments received in this investigation and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used in this preliminary determination evaluates all purchasers, regions, and time periods to determine whether a pattern of significant price differences exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes reported by Camesa. Regions are defined using the reported destination code (i.e., zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI being examined based upon the reported date of sale. For purposes of analyzing sales transactions by customer, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest

¹¹ See 19 CFR 351.414(b)(1) and (2).

¹² See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (i.e., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of EPs that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, the Department finds that none of Camesa's CEP sales confirms the existence of a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. Accordingly, the Department has preliminarily determined to use the average-to-average method for all U.S. sales in making comparisons of CEP and NV for Camesa.

Discussion of the Methodology

A. Fair Value Comparisons

To determine whether sales of PC tie wire from Mexico to the United States were made at LTFV, we compared the CEP to the NV, as described in the “Constructed Export Price” and “Normal Value” sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average CEPs to POI weighted-average NVs.

B. Product Comparisons

Because Camesa had no viable comparison market, we made product comparisons using constructed value (CV), as discussed in the “Calculation of Normal Value Based on Constructed Value” section of this notice, below.

C. Date of Sale

Camesa reported the date of invoice to the first unaffiliated customer as the date of sale.¹³ Section 19 CFR 351.401(i) of the Department’s regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer’s records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹⁴ In this case, Camesa reported that some sales were shipped prior to invoicing. The Department has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.¹⁵ Therefore, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale, in accordance with our practice.¹⁶

D. Constructed Export Price

In accordance with section 772(b) of the Act, we used CEP for Camesa because the merchandise under consideration was sold in the United States by a U.S. seller affiliated with Camesa, and EP, as defined by section 772(a) of the Act, was not otherwise warranted. While Camesa classified its U.S. sales as EP sales, we preliminarily determined that these sales are more appropriately classified as CEP sales because the information Camesa reported indicates that the sales were executed in the United States.¹⁷ Specifically, record evidence establishes that

¹³ See Camesa’s August 12, 2013, Sections C and D Questionnaire Response at 9.

¹⁴ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

¹⁵ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 11.

¹⁶ See *id.*

¹⁷ See *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 63291 (October 16, 2012), and accompanying Issues and Decision Memorandum at Comment 13; and *AK Steel Corp. v. United States*, 226 F.3d 1361, 1371 (Fed. Cir. 2000).

Camesa's U.S. subsidiary took title to the subject merchandise and issued the commercial invoice to the first unaffiliated U.S. customer.¹⁸

We calculated the CEP based on a packed price to unaffiliated purchasers in, or for exportation to, the United States. We made deductions for any movement expenses (e.g., foreign and U.S. inland freight, insurance, and foreign and U.S. brokerage and handling), in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (i.e., imputed credit expenses) and indirect selling expenses (including inventory carrying costs). Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act. See Memorandum entitled "Preliminary Determination Margin Calculation for Aceros Camesa S.A. de C.V.," dated concurrently with this memorandum (Sales Calculation Memorandum).

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we use sales to the respondent's largest third country market, comprised of merchandise that is similar to the subject merchandise, as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, Camesa reported that it had no viable home or third country markets during the POI to permit a proper comparison to U.S. sales of the subject merchandise. Therefore, we used CV as the basis for calculating NV, in accordance with section 773(a)(4) of the Act.

B. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act,¹⁹ to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP. Pursuant to 19 CFR 351.412(c)(1), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on CV, the starting price of the sales from which we derive selling, general, and administrative (G&A) expenses and profit. Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (i.e., NV based on either home market or third country prices),²⁰ we

¹⁸ See Camesa's September 5, 2013, Supplemental Section A Questionnaire Response at 1.

¹⁹ See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

²⁰ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A expenses, and profit for CV, where possible.

consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.²¹

To determine whether comparison market sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.²² If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In this investigation, Camesa had no viable home or third country market during the POI. Therefore, we based NV on CV. When NV is based on CV, the NV LOT is that of the sales from which we derive selling, G&A expenses and profit.²³ In accordance with 19 CFR 351.412(d), the Department will make its LOT determination under paragraph (d)(1) of that section on the basis of sales of the foreign like product by the producer or exporter. Because it is not possible in this case to make an LOT determination on the basis of sales of the foreign like product in the home or third country market, the Department may use sales of different or broader product lines, sales by other companies, or any other reasonable basis. Because we based the selling expenses and profit for Camesa on selling expenses incurred and profits earned by Camesa's overall wire division, as discussed further below, and there is no information on the record pertaining to Camesa's selling activities with respect to its overall wire division sales, we could not determine the LOT of the sales from which we derived selling expenses and profit for CV. As a result, we could not determine whether there is a difference in LOT between any U.S. sales and CV. Therefore, we did not make a LOT adjustment or CEP offset to NV in this preliminary determination.²⁴ See "Calculation of Normal Value Based on Constructed Value" section of this notice below.

C. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, we based Camesa's NV on CV because Camesa had no viable home or third country markets.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Camesa's cost of materials and fabrication employed in producing the subject merchandise, plus amounts for G&A and U.S. packing costs. We calculated the cost of materials and fabrication, G&A and interest based on information submitted by Camesa in its original and supplemental questionnaire responses, except in instances where we determined that the information was not valued correctly. In one such instance, we adjusted Camesa's submitted costs to include an

²¹ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

²² See 19 CFR 351.412(c)(2)

²³ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 47081, 47086 (August 4, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004).

²⁴ We intend to request additional information concerning Camesa's selling activities for its wire division sales to Mexico. Based on this information, we will reconsider whether to grant a LOT adjustment or CEP offset to NV in the final determination.

unreconciled cost difference.²⁵ Additionally, we adjusted Camesa's submitted financial expense calculation. For a detailed explanation of these adjustments, see Memorandum to Neal M. Halper from Kristin Case entitled "Constructed Value Calculation Adjustments for the Preliminary Determination – Aceros Camesa S.A. de C.V.", dated concurrently with this memorandum (Cost Calculation Memorandum).

Because Camesa does not have a viable comparison market, the Department cannot determine selling expenses and profit under section 773(e)(2)(A) of the Act, which requires sales by the respondent in question in the ordinary course of trade in a comparison market. Therefore, we have relied on section 773(e)(2)(B) of the Act to determine Camesa's selling expenses and profit.

In situations where selling expenses and profit cannot be calculated under the preferred method, section 773(e)(2)(B) of the Act sets forth three alternatives. The statute does not establish a hierarchy for selecting among these alternative methodologies.²⁶ Nonetheless, we examined each alternative in searching for an appropriate method. Alternative (i) of section 773(e)(2)(B) of the Act specifies that selling expenses and profit may be calculated based on "actual amounts incurred by the specific exporter or producer ... on merchandise in the same general category" as subject merchandise. Because Camesa provided sales and cost information specific to its sales to Mexico of products generally classified as wire, we relied on alternative (i) for the preliminary determination to calculate Camesa's selling expense and profit rates.²⁷

For comparisons to CEP, we deducted from CV an amount for selling expenses, which we calculated by applying the selling expense ratio discussed above to the total cost of production.²⁸

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the date of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify information relied upon in making our final determination.

²⁵ We issued a supplemental questionnaire to Camesa which included questions related to the unreconciled cost difference, however we did not receive the response in time to consider it for the preliminary determination. We intend to verify this information and consider it for the final determination.

²⁶ See SAA at 840.

²⁷ See Cost Calculation Memorandum.

²⁸ See Sales Calculation Memorandum.

Conclusion

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

5 DECEMBER 2013
Date