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International Trade Administration
Washington, D.C. 20230

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DATE: June 15, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Prestressed Concrete Steel Rail Tie Wire from Mexico; 2013-2015

SUMMARY

We analyzed the case and rebuttal briefs of interested parties in the 2013-2015 administrative review of the antidumping duty (AD) order on prestressed concrete steel rail tie wire (PC tie wire) from Mexico. This review covers one producer/exporter of the subject merchandise, Aceros Camesa S.A. de C.V. (Camesa). As a result of our analysis, we made no changes to Camesa's preliminary margin calculation. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues for which we have received comments and rebuttal comments from the interested parties:

1. Clerical Error in the Draft Liquidation Instructions
2. General and Administrative (G&A) Expense Offset

BACKGROUND

On March 9, 2016, the Department published in the Federal Register the preliminary results of the 2013-2015 administrative review of the antidumping duty order on PC tire wire from Mexico.[1] The period of review (POR) is December 12, 2013, through May 31, 2015.

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[1] See Prestressed Concrete Steel Rail Tie Wire From Mexico: Preliminary Results of the Antidumping Duty Administrative Review; 2013-2105, 81 FR 12466 (March 9, 2016) (Preliminary Results).

We invited parties to comment on the Preliminary Results. We received a timely case brief from Camesa on April 8, 2016, and a timely rebuttal brief from the petitioners, Davis Wire Corp. and Insteel Wire Products, on April 11, 2016.

MARGIN CALCULATIONS

We calculated constructed export price and normal value using the methodology stated in the Preliminary Results.

SCOPE OF THE ORDER

The products covered by this order are 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 order is dispositive.

DISCUSSION OF THE ISSUES

Comment 1: Clerical Error in the Draft Liquidation Instructions

Camesa contends that the draft liquidation instructions to U.S. Customs and Border Protection (CBP) incorrectly reflect the assessment rate that would have been applicable if the Department had used the average-to-transaction method in the margin calculations, rather than the assessment rate resulting from the use of the average-to-average methodology. The petitioners did not comment on the alleged clerical error.

The Department's Position:

We agree with Camesa. We will instruct CBP to assess antidumping duties at the rate resulting from the average-to-average methodology.

Comment 2: Camesa's General and Administrative (G&A) Expense Offset

In calculating its G&A expense ratio, Camesa offset its G&A expenses with deferred revenue pursuant to an exclusive distribution agreement with its parent company, WireCo World Group (Cayman) Inc., with respect to sales of non-subject merchandise. In the Preliminary Results, we disallowed this offset.

Presuming that the Department disallowed the offset because it related to non-subject merchandise, Camesa contends that disallowing the offset on this basis is a deviation from the Department's long-standing practice, which is to use the fiscal year company-wide G&A rate without regard to whether the G&A expenses are related to a specific product.

The petitioners argue that the Department did not deny the offset because it was related to non-subject merchandise. They contend that the offset should be denied because deferred revenue from the distribution agreement is unearned income (i.e., income received in advance of actually earning it). Therefore, the petitioners assert, Camesa cannot use this deferred revenue to reduce or offset actual expenses incurred during the period, that relate to the general operations of the company.

The Department's Position:

Consistent with our decision in the less-than-fair-value investigation, we continue to find that it is not appropriate to offset Camesa's G&A expenses by the amount of deferred revenue received pursuant to an exclusive distribution agreement for merchandise that is not under consideration.[2]

Section 773(f)(l)(A) of the Act of 1930, as amended (the Act), states that the COP "shall normally be based upon the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country ... and reasonably reflect the costs associated with the production and sale of merchandise." Because there is no definition in the Act of what a G&A expense is, or how the G&A expense ratio should be calculated, the Department has, over time, developed a consistent and predictable practice for calculating and allocating G&A expenses, as described in the Department's standard section D questionnaire.[3] This reasonable, consistent, and predictable method is to calculate the rate based on the company-wide G&A costs incurred by the producing company allocated over the producing company's company-wide cost of goods sold, and not on a consolidated, divisional, or product-specific basis.[4] The rationale for this approach is that, by definition, G&A expenses relate to the general operations of the company as a whole, and not to specific products and processes. Accordingly, the Department's well-established practice is to include in the G&A expense ratio calculation certain expenses and revenues that relate to the general operations of the company as a whole.

Because the income item in question is generated exclusively from the sale and distribution of a particular product group, it is not, by definition, related to the general operations of the company as a whole.[5] Thus, it is not appropriate to reduce Camesa's reported G&A expenses by the deferred revenue it receives pursuant to an exclusive agreement between itself and WireCo WorldGroup (Cayman) with respect to this merchandise. Accordingly, we continue to disallow the claimed offset to Camesa's G&A expenses in the final results.

[2] See Prestressed Concrete Steel Rail Tie Wire From Mexico: Final Determination of Sales at Less Than Fair Value, 79 FR 25571 (May 5, 2014), and accompanying Issues and Decision Memorandum at Comment 6.
[3] See Section D of the Antidumping Duty Questionnaire at D-14.
[4] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Large Residential Washers From the Republic of Korea, 77 FR 75988 (December 26, 2012), and accompanying Issues and Decision Memorandum at Comment 7.
[5] See Camesa's December 1, 2015, Supplemental Questionnaire Response at 3.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions in these final results. If this recommendation is accepted, we will publish the final results of the review and the final weighted-average dumping margin for Camesa in the Federal Register.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

15 JUNE 2016
(Date)