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DATE: November 24, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Certain Cut-to-Length Carbon Steel Plate from the People's
Republic of China: Issue and Decision Memorandum for the Final
Results of the 2013-2014 Administrative Review

Summary

After analyzing the case brief submitted in the above-referenced administrative review (“AR”), we recommend making no changes to the Preliminary Results.¹ We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

Background

On August 11, 2015, the Department of Commerce (“Department”) published in the Federal Register the Preliminary Results of the 2013-2014 AR of the antidumping duty order on certain cut-to-length carbon steel plate (“CTL plate”) from the People’s Republic of China (“PRC”). We invited parties to comment on our Preliminary Results. On September 10, 2015, Nucor Corporation (“Petitioner”) submitted comments on the AR.² No other party commented on the Preliminary Results.

Scope of the Order

The product covered by the order is certain cut-to-length carbon steel plate from the PRC. Included in this description is hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-

¹ See Certain Cut-to-Length Carbon Steel Plate From the People’s Republic of China: Preliminary Results of Antidumping Administrative Review and Preliminary Determination of No Shipments; 2013-2014, 80 FR 48,073 (August 11, 2015) (“Preliminary Results”).

² See Letter from Petitioner to the Department, Re: “Certain Cut-to-Length Carbon Steel from the People’s Republic of China: Case Brief,” dated September 10, 2015.



rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters (“mm”) but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns of relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated nor coated with metal, whether or not painted, varnished, or covered with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150mm and measures at least twice the thickness. Included as subject merchandise in this order are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been “worked after rolling”) – for example, products which have been beveled or rounded at the edges. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7212.40.5000, and 7212.50.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive. Specifically excluded from subject merchandise within the scope of the order is grade X-70 steel plate.

Discussion of the Issues

Comment 1: Whether Hunan Valin Xiangtan Iron & Steel Co., Ltd. (“Hunan Valin”) has Demonstrated Eligibility for Separate Rate Status

Petitioner

- In the Preliminary Results, the Department correctly determined that Hunan Valin is not eligible for a separate rate. Hunan Valin did not submit either a certification that it made no shipments of subject merchandise during the period of review (“POR”) or a separate rate application.
- As a result, Hunan Valin failed to provide evidence that it was not subject to the control of the Chinese government, and thus, did not establish its eligibility for separate rate status. The Department should continue to treat Hunan Valin as part of the PRC-wide entity for the final results.

No other party commented on this issue.

Department’s Position:

We agree with Petitioner. In proceedings involving non-market economy (“NME”) countries, the Department maintains a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single dumping rate. It is the Department’s policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.³

³ See Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China, 56 FR 20588 (May 6, 1991) (“Sparklers”), as amplified by Notice of Final Determination of Sales at Less Than Fair Value:

In the notice initiating this review, the Department stated that all firms that wish to qualify for separate rate status in administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or separate rate certification.⁴ The Department went on to state in the Initiation Notice that in order to demonstrate separate rate eligibility, the Department requires entities under review, that were assigned a separate rate in the most recent segment of the relevant proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate.⁵ In addition, the Department stated in the Initiation Notice that if a producer or exporter named in the notice had no exports, sales, or entries during the POR, it must notify the Department within 60 days of publication of the notice in the Federal Register.⁶

During the course of this review, Hunan Valin did not submit a separate rate application or certification. In addition, Hunan Valin did not certify that it had no exports, sales or entries of subject merchandise during the POR. Therefore, Hunan Valin has not demonstrated its eligibility for separate rate status, nor has it certified that it had no reviewable entries during the POR such that its separate rates status should remain unchanged. As a result, the Department is treating Hunan Valin as part of the PRC-wide entity.⁷

Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"); see also 19 CFR 351.107(d).

⁴ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 76956, 76957 (December 23, 2014) ("Initiation Notice").

⁵ Id. at 79 FR 76957.

⁶ Id. at 79 FR 76956.

⁷ See, e.g., Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the Second Antidumping Duty Administrative Review, 76 FR 66903, 66906 (October 28, 2011) (where the Department assigned certain unresponsive mandatory respondents to the PRC-wide entity because they failed to demonstrate their separate rate eligibility) unchanged in Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Second Antidumping Duty Administrative Review, 77 FR 12553 (March 1, 2012).

Recommendation

Based on our analysis of the comment received, we recommend adopting the above position. If this recommendation is accepted, we will publish the final results of this review in the Federal Register.

Agree Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

24 November 2015
Date