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MEMORANDUM TO: Carole Showers
Executive Director, Office of Policy
performing the duties of Deputy Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Seamless Refined Copper Pipe and Tube from the People's
Republic of China: Decision Memorandum for the Preliminary
Results of the 2015-2016 Antidumping Duty Administrative
Review

I. Summary

The Department of Commerce (the Department) is conducting the 6th administrative review of the antidumping duty (AD) order on seamless refined copper pipe and tube (copper pipe) from the People's Republic of China (PRC) covering the period November 1, 2015, through October 31, 2016.^{1, 2} The Department preliminarily determines that the five companies that remain under review, China Hailiang Metal Trading (China Hailiang), Shanghai Hailiang Metal Trading Limited (Shanghai Hailiang Trading), Hong Kong Hailiang,³ Shanghai Hailiang, and Zhejiang Hailiang, did not demonstrate that they are entitled to a separate rate. Accordingly, we consider

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 4294 (January 13, 2017) (*Initiation Notice*). See also *Initiation of Antidumping and Countervailing Duty Reviews*, 82 FR 10457 (February 13, 2017) (*Revision Initiation Notice*).

² In the *Initiation Notice*, we initiated on the incorrectly spelled names for Hong Kong Hailiang Metal Trading Limited (Hong Kong Hailiang), Shanghai Hailiang Cooper Co., Ltd. (Shanghai Hailiang), and Zhejiang Hailiang Co., Ltd. (Zhejiang Hailiang). Hong Kong Hailiang, Shanghai Hailiang, and Zhejiang Hailiang (collectively "Hailiang") notified the Department that the *Initiation Notice* was incorrect and the Department issued the *Revision Initiation Notice* based on the correct name spellings identified in Hailiang's Correct Name Submission. See *Initiation Notice*, 82 FR at 4297; *Revised Initiation Notice*, 82 FR at 10462; and Letter from Hailiang, "Correct Name of Hailiang: Administrative Review of the Antidumping Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China," dated January 18, 2017 (Hailiang's Correct Name Submission).

³ In the *Revision Initiation Notice*, the Department initiated on Hong Kong Hailiang Metal as the correct name identified in Hailiang's Correct Name Submission. However, in reviewing Hailiang's Correct Name Submission, the Department found that Hong Kong Hailiang Metal Trading Limited (Hong Kong Hailiang) was identified as the correct spelling for Hong Kong Hailiang. See Hailiang's Correct Name Submission at 1.



these five companies to be part of the PRC-Wide Entity.

If we adopt these preliminary results in the final results of the review, we will instruct U.S. Customs and Border Protection (CBP) to assess ADs on all appropriate entries of subject merchandise during the period of review (POR). We invite interested parties to comment on these preliminary results. We expect to issue final results no later than 120 days from the date of publication of this notice pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

II. Background

On November 30, 2016, the Department received a request from the petitioners⁴ to conduct an administrative review of 16 producers and/or exporters for copper pipe from the PRC.⁵ No other party requested an administrative review. On January 13, 2017, the Department published in the *Federal Register* the notice of initiation of the 6th administrative review of the AD order on copper pipe from the PRC.⁶ On January 18, 2017, Hailiang (*i.e.*, Hong Kong Hailiang, Shanghai Hailiang, and Zhejiang Hailiang) notified the Department that the spelling of each company's name in the *Initiation Notice* was incorrect.⁷ Accordingly, on February 13, 2017, the Department published in the *Federal Register* a revision of the notice of initiation of the 6th administrative review of the AD order due to a spelling error in certain companies' names.⁸

On February 24, 2017, Hailiang (*i.e.*, Hong Kong Hailiang, Shanghai Hailiang, and Zhejiang Hailiang) submitted a notice of non-participation in this review.⁹ On March 14, 2017, the petitioners timely withdrew their request for review with respect to 11 companies,¹⁰ but did not withdraw their request for review on the following five companies: China Hailiang, Shanghai Hailiang Trading, Hong Kong Hailiang, Shanghai Hailiang, and Zhejiang Hailiang.¹¹ Accordingly, these five companies remain under review.

Of the five remaining companies under review, two companies, China Hailiang and Shanghai Hailiang Trading, did not submit no shipment letters or separate rate applications/certifications

⁴ The petitioners are the Ad Hoc Coalition for Domestically Produced Seamless Refined Copper Pipe and Tube; and its individual members, Cerro Flow Products, LLC; Wieland Copper Products, LLC; Mueller Copper Tube Products, Inc.; and Mueller Copper Tube Company, Inc. (the petitioners).

⁵ See Letter from the petitioners, "Seamless Refined Copper Pipe and Tube from China: Request for Antidumping Duty Administrative Review," dated November 30, 2016.

⁶ See *Initiation Notice*, 82 FR at 4297.

⁷ See Hailiang's Correct Name Submission.

⁸ See *Revision Initiation Notice*.

⁹ See Letter from Hailiang, "Hailiang Notice of Non-Participation in Review: Administrative Review of the Antidumping Duty Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China," dated February 24, 2017 (Hailiang Notice of Non-Participation Submission).

¹⁰ These 11 companies are: Foshan Hua Hong Copper Tube Co., Ltd.; Golden Dragon Precise Copper Tube Group, Inc; Golden Dragon Holding (Hong Kong) International Co., Ltd.; Guilin Lijia Metals Co., Ltd.; Hong Kong GD Trading Co., Ltd.; Ningbo Jintian Copper Tube Co., Ltd.; Sinochem Ningbo Ltd.; Sinochem Ningbo Import & Export Co., Ltd.; Taicang City Jinxin Copper Tube Co., Ltd.; Zhejiang Jiahe Pipes Inc.; and Zhejiang Naile Copper Co., Ltd.

¹¹ See Letter from the petitioners, "Seamless Refined Copper Pipe and Tube from China: Partial Withdrawal of Request for Administrative Review," dated March 14, 2017 (Partial Withdrawal of Request for Administrative Review).

by the specified deadlines.¹² As noted above, Hong Kong Hailiang, Zhejiang Hailiang, and Shanghai Hailiang notified the Department that they would not be participating in this review and did not submit no shipment letters or separate rate applications/certifications by the specified deadlines.¹³

III. Scope of the Order

For the purpose of this order, the products covered are all seamless circular refined copper pipes and tubes, including redraw hollows, greater than or equal to six inches (152.4 mm) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter (OD), regardless of wall thickness, bore (e.g., smooth, enhanced with inner grooves or ridges), manufacturing process (e.g., hot finished, cold-drawn, annealed), outer surface (e.g., plain or enhanced with grooves, ridges, fins, or gills), end finish (e.g., plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (e.g., plastic, paint), insulation, attachments (e.g., plain, capped, plugged, with compression or other fitting), or physical configuration (e.g., straight, coiled, bent, wound on spools).

The scope of this order covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials (“ASTM”) ASTM-B42, ASTM-B68, ASTM-B75, ASTM-B88, ASTM-B88M, ASTM-B188, ASTM-B251, ASTM-B251M, ASTM-B280, ASTM-B302, ASTM-B306, ASTM-359, ASTM-B743, ASTM-B819, and ASTM-B903 specifications and meeting the physical parameters described therein. Also included within the scope of this order are all sets of covered products, including “line sets” of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase “all sets of covered products” denotes any combination of items put up for sale that is comprised of merchandise subject to the scope.

“Refined copper” is defined as: (1) metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the content by weight of any other element does not exceed the following limits:

ELEMENT	LIMITING CONTENT PERCENT BY WEIGHT
Ag - Silver	0.25
As - Arsenic	0.5
Cd - Cadmium	1.3
Cr - Chromium	1.4
Mg - Magnesium	0.8
Pb - Lead	1.5
S - Sulfur	0.7
Sn - Tin	0.8
Te - Tellurium	0.8
Zn - Zinc	1.0
Zr - Zirconium	0.3

¹² See *Initiation Notice*, 82 FR at 4294-5.

¹³ *Id.*; see also Hailiang Notice of Non-Participation Submission, at 1-2.

Other elements (each) 0.3

Excluded from the scope of this order are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length. The products subject to this order are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the HTSUS. Products subject to this order may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

IV. Discussion of the Methodology

A. Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation.

As noted above, the petitioners withdrew their request for review on 11 companies.¹⁴ Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. The petitioners' withdrawal of the review request for these 11 companies was submitted within the deadline set forth under 19 CFR 351.213(d)(1), and no other party requested a review of these 11 companies. Accordingly, the Department is rescinding this review, in part, with respect to these 11 companies, in accordance with 19 CFR 351.213(d)(1).

B. NME Country Status

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a non-market economy (NME) country shall remain in effect until revoked by the Department. The Department considers the PRC to be an NME country.¹⁵ Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

C. Separate Rates

Pursuant to section 771(18)(C)(i) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within an NME country are subject to government control, and thus, should be

¹⁴ See Partial Withdrawal of Request for Administrative Review, at 1-2

¹⁵ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

assessed a single AD rate.¹⁶ In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.¹⁷ It is the Department's policy to assign all exporters of the subject merchandise in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,¹⁸ as amplified by *Silicon Carbide*.¹⁹ However, if the Department determines that a company is wholly foreign-owned by individuals or companies located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.²⁰

As noted above, China Hailiang and Shanghai Hailiang Trading, did not submit no shipment letters nor separate rate applications/certifications by the specified deadlines; and Hong Kong Hailiang, Zhejiang Hailiang, and Shanghai Hailiang, notified the Department that they would not be participating in this review and also did not submit no shipment letters nor separate rate applications/certifications by the specified deadlines.²¹ Accordingly, these five companies did not demonstrate that they are each entitled to a separate rate. Thus, we consider all five companies to be part of the PRC-Wide Entity. Because no review was requested of the PRC-Wide Entity, the pre-existing PRC-Wide rate of 60.85 percent will apply to entries of their subject merchandise into the United States during the POR.²²

¹⁶ See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); and *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

¹⁷ See *Initiation Notice*, 82 FR at 4294-5.

¹⁸ 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*).

¹⁹ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586 (May 2, 1994) (*Silicon Carbide*); and 19 CFR 351.107(d).

²⁰ See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China; Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284 (February 20, 2008), unchanged in *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sale at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008).

²¹ See Hailiang Notice of Non-Participation Submission, at 1-2.

²² See *Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 60725 (October 1, 2010).

V. Recommendation

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

8/2/2017

X *Carole Showers*

Signed by: CAROLE SHOWERS

Carole Showers
Executive Director, Office of Policy
performing the duties of Deputy Assistant Secretary
for Enforcement and Compliance