



A-570-964
Administrative Review
11/01/2017-10/31/2018
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September 11, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Seamless Refined Copper Pipe and
Tube from the People's Republic of China: 2017-2018

I. SUMMARY

In response to requests from interested parties, the Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on seamless refined copper pipe and tube (copper pipe and tube) from the People's Republic of China (China),¹ in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is November 1, 2017 through October 31, 2018. We are rescinding this administrative review, in part, for the companies for which all review requests were timely withdrawn. We preliminarily determine that none of the companies for which an administrative review was requested, and not withdrawn, have demonstrated their eligibility for a separate rate and are, therefore, part of the China-wide entity.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess AD duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless otherwise extended, we intend to issue the final results of this administrative review no later than 120 days from the date of publication of preliminary results in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

¹ See *Seamless Refined Copper Pipe and Tube from Mexico and the People's Republic of China: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value from Mexico*, 75 FR 71070 (November 22, 2010) (*Order*).

II. BACKGROUND

On November 20, 2010, Commerce published in the *Federal Register* an AD order on copper pipe and tube from China.² On November 1, 2018, Commerce published a notice of opportunity to request an administrative review of the *Order*.³ On November 30, 2018, the Mueller Copper Tube Products, Inc. and Mueller Copper Tube Company, Inc. (collectively, the petitioners), timely requested that Commerce conduct an administrative review of the *Order* with respect to 16 companies.⁴ On February 6, 2019, Commerce initiated an administrative review of the companies for which a review was requested.⁵ In the *Initiation Notice*, Commerce also notified parties of the application process by which exporters may obtain separate-rate status in a non-market economy (NME) proceeding.⁶

On March 4, 2019, Commerce selected the Golden Dragon Entity as the sole mandatory respondent in this proceeding and issued it the initial questionnaire.⁷ On April 5, 2019, the Golden Dragon Entity timely submitted its response to section A of the initial questionnaire.⁸ On April 9, 2019, Commerce granted the Golden Dragon Entity an extension of time, until April 11, 2019, to submit its responses to sections C and D of the initial questionnaire.⁹ The Golden Dragon Entity, however, did not respond by the April 11, 2019, deadline. On April 18, 2019, the Golden Dragon Entity notified Commerce that it would not participate further in this administrative review.¹⁰ On May 6, 2019, the petitioners withdrew their requests for administrative review for all companies, except for the Golden Dragon Entity and Sinochem Ningbo Import & Export Co., Ltd.¹¹

² *Id.*

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 54912 (November 1, 2018).

⁴ See Petitioners' Letter, "Seamless Refined Copper Pipe and Tube from China: Request for Antidumping Duty Administrative Review," dated November 30, 2018.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 2159 (February 6, 2019) (*Initiation Notice*).

⁶ *Id.* at 2160.

⁷ See Memorandum, "Issuance of Questionnaire," dated March 4, 2019 (Respondent Selection Memorandum); see also Commerce's Letter, "2017-2018 Antidumping Duty Administrative Review of Seamless Refined Copper Pipe and Tube from the People's Republic of China," dated March 5, 2019. As explained in the Respondent Selection Memorandum, the Golden Dragon Entity is a collapsed entity that encompasses three of the companies initiated upon in the *Initiation Notice*, i.e., Golden Dragon Holding (Hong Kong) International Co., Ltd., Golden Dragon Precise Copper Tube Group, Inc., and Hong Kong GD Trading Co, Ltd.

⁸ See Golden Dragon Entity's Letter, "Section A Questionnaire Response, Seamless Refined Copper Pipe and Tube from China," dated April 5, 2019.

⁹ See Commerce's Letter, "Seamless Refined Copper Pipe and Tube from the People's Republic of China: Extension Request for Sections C through D Questionnaire Responses," dated April 9, 2019.

¹⁰ See Golden Dragon Entity's Letter, "Seamless Refined Copper Pipe and Tube from China: Notice of Non-Participation," dated April 18, 2019 (Non-Participation Letter).

¹¹ See Petitioners' Letter, "Seamless Refined Copper Pipe and Tube from China: Partial Withdrawal of Request for Administrative Review of Antidumping Order," dated May 6, 2019 (Withdrawal Request).

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.¹² The revised deadline for the preliminary results is now September 11, 2019.

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:

<u>ELEMENT</u>	<u>LIMITING CONTENT PERCENT BY WEIGHT</u>
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

¹² See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

Zr - Zirconium	0.3
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. RESPONDENT SELECTION

Section 777A(c)(1) of the Act directs Commerce to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives Commerce discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to determine an individual weighted average dumping margins for each known exporter and producer because of the large number of companies involved in the review.

In the *Initiation Notice*, Commerce stated that if any companies subject to this administrative review had previously been collapsed with other companies, Commerce would continue to treat the companies as a collapsed entity for respondent selection purposes.¹³ Further, Commerce stated that if it limited the number of respondents for individual examination in this administrative review, it intended to select respondents based on CBP data.¹⁴ Accordingly, to begin the respondent selection process, Commerce queried CBP’s Automated Commercial System for all entries of subject merchandise suspended pursuant to the *Order*, for the period November 1, 2017 through October 31, 2018, manufactured or exported by the companies on which Commerce initiated this administrative review. On February 15, 2019, Commerce placed the proprietary results of this query on the administrative record of this proceeding.¹⁵ The CBP data identified several companies, which had previously been collapsed into a single entity, as exporters of subject merchandise during the POR.¹⁶ Therefore, pursuant to Commerce’s practice

¹³ See *Initiation Notice*, 84 FR at 2159. Commerce previously treated (1) Golden Dragon Precise Copper Tube Group, Inc. (2) Golden Dragon Holding (Hong Kong) International Co., Ltd. (3) Hong Kong GD Trading Co., Ltd. (4) Shanghai Longyang Precise Copper Compound Copper Tube Co., Ltd. (5) Jiangsu Canghuan Copper Industry Co., Ltd. (6) Guangdong Longfeng Precise Copper Tube Co., Ltd. (7) Wuxi Jinlong Chuancun Precise Copper Tube Co., Ltd. (8) Longkou Longpeng Precise Copper Tube Co., Ltd. (9) Xinxiang Longxiang Precise Copper Tube Co., Ltd. (10) Coaxian Ailun Metal Processing Co., Ltd. and (11) Chongqing Longyu Precise Copper Tube Co., Ltd. as a single entity. See *Seamless Refined Copper Pipe and Tube from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 27688 (June 16, 2017) (*Seamless Final Results 2014-2015*). Therefore, Commerce continued to find that these companies operated in the same manner and collapsed them for purposes of respondent selection. See Respondent Selection Memorandum for further details.

¹⁴ See *Initiation Notice*, 84 FR at 2159.

¹⁵ See Memorandum, “2017-2018 Administrative Review of Seamless Refined Copper Pipe and Tube from the People’s Republic of China: Results of U.S. Customs and Border Protection Database Query” dated February 15, 2019.

¹⁶ See Respondent Selection Memorandum at 2.

as stated in the *Initiation Notice*,¹⁷ Commerce treated those companies as a collapsed single entity, *i.e.*, the Golden Dragon Entity, for respondent selection purposes.¹⁸ The proprietary results of the data query led Commerce to select the Golden Dragon Entity as the sole mandatory respondent in this administrative review.¹⁹

V. RESCISSION OF ADMINISTRATIVE REVIEW, IN PART

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. On May 6, 2019, the petitioners timely withdrew their requests for review of all companies named in their initial review request, except for the Golden Dragon Entity and Sinochem Ningbo Import & Export Co., Ltd.²⁰ Consequently, Commerce is rescinding this review, in part, with respect to the companies for which all requests for review were timely withdrawn, in accordance with 19 CFR 351.213(d)(1).²¹

VI. NON-MARKET ECONOMY COUNTRY

Commerce considers China to be an NME country.²² In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce.²³ None of the parties to this proceeding contested such treatment. Therefore, we continue to treat China as an NME country for purposes of these preliminary results.

VII. 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 Commerce. Accordingly, there is a rebuttable presumption that all

¹⁷ See *Initiation Notice*, 84 FR at 2159.

¹⁸ See Respondent Selection Memorandum.

¹⁹ *Id.* at 2.

²⁰ See Withdrawal Request. A request for an administrative review, therefore, remains in place for the Golden Dragon Entity and Sinochem Ningbo Import & Export Co., Ltd.

²¹ This administrative review is being rescinded for the following companies: Zhejiang Hailiang Co., Ltd.; Shanghai Hailiang Copper Co., Ltd.; Zhejiang Jiahe Pipes Inc.; Sinochem Ningbo Ltd.; Ningbo Jintian Copper Tube Co., Ltd.; Zhejiang Naile Copper Co., Ltd.; Guilin Lijia Metals Co., Ltd.; Foshan Hua Hong Copper Tube Co., Ltd.; Taicang City Jinxin Copper Tube Co. Ltd.; Hong Kong Hailiang Metal; China Hailiang Metal Trading; and Shanghai Hailiang Metal Trading Limited.

²² See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at "China's Status as a Non-Market Economy."

²³ See, *e.g.*, *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative Review and Preliminary Notice of Intent to Rescind the 2004/2005 New Shipper Review*, 71 FR 26736 (May 8, 2006), unchanged in *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006).

companies within China are subject to government control and, thus, should be assessed a single AD duty rate.²⁴

In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate-rate status in an NME proceeding.²⁵ It is Commerce's policy to assign all exporters of the merchandise subject to review 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, Commerce analyzes each exporting entity in an NME country under the test established in *Sparklers*,²⁶ as further developed by *Silicon Carbide*.²⁷ However, if Commerce determines that a company is wholly foreign-owned, then an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether it is independent from government control.²⁸

In order to demonstrate eligibility for separate-rate status, Commerce requires entities for which a review was requested, and which were assigned a separate rate in the most recent segment of this proceeding in which they participated, to submit a Separate Rate Certification (SRC) stating that they continue to meet the criteria for obtaining a separate rate.²⁹ For entities which currently do not have a separate rate from a completed segment of the proceeding, to demonstrate eligibility for a separate rate, Commerce requires a Separate Rate Application (SRA).³⁰ Companies that submit an SRA or SRC which are subsequently selected as mandatory respondents must respond to all parts of Commerce's questionnaire in order to be eligible for separate rate status.³¹

As stated previously, on April 18, 2019, the Golden Dragon Entity notified Commerce that it would not participate further in this administrative review.³² Furthermore, the Golden Dragon Entity failed to respond to sections C and D of Commerce's antidumping questionnaire; consequently, we preliminarily find that the Golden Dragon Entity is ineligible for separate rate status, as we are unable to verify its separate rate status.³³ Sinochem Ningbo Import & Export

²⁴ See, e.g., *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).

²⁵ See *Initiation Notice*, 84 FR at 2160.

²⁶ 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*).

²⁷ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

²⁸ See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

²⁹ See *Initiation Notice*, 84 FR at 2160.

³⁰ *Id.*

³¹ *Id.*

³² See Non-Participation Letter.

³³ *Initiation Notice*, 84 FR at 2160 ("For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.").

Co., Ltd. submitted neither an SRA nor an SRC and is, therefore, also ineligible for a separate rate.³⁴

VIII. THE CHINA-WIDE ENTITY

We preliminarily find that the Golden Dragon Entity is part of the China-wide entity in this administrative review, because it failed to respond fully to Commerce’s antidumping questionnaire after being selected as a mandatory respondent and because we are unable to verify its separate rate status. We also preliminarily find that Sinochem Ningbo Import & Export Co., Ltd. is a part of the China-wide entity in this administrative review, because it failed to submit either an SRA or an SRC.

Commerce’s policy regarding conditional review of the China-wide entity applies to this administrative review.³⁵ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in the instant review, the entity is not under review, and the entity’s current rate, *i.e.*, 60.85 percent,³⁶ is not subject to change.

IX. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

9/11/2019

X 

Signed by: JEFFREY KESSLER