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International Trade Administration
Washington, D.C. 20230

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December 30, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China

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Summary

In response to a request from Overseas Industrial Corporation ("OIC"), Home-well Hardware & Furniture Co., Ltd., and R.W. Beckett Corporation (collectively "OIC") submitted on April 28, 2014, the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on non-malleable cast iron pipe fittings ("NMPF") from the People's Republic of China ("PRC") for the period of review ("POR") April 1, 2013, through March 31, 2014. Because the Department preliminarily finds that OIC is not eligible for a separate rate, we preliminarily determine that OIC is part of the PRC-wide entity.

If these preliminary results of review are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on any OIC entries of subject merchandise during the POR at the rate previously established for the PRC-wide entity. Interested parties are invited to comment on the preliminary results of review. We intend to issue the final results of this review 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").

Background

On April 1, 2014, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on NMPF from the PRC.[1] On April 28, 2014, OIC

[1] See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 79 FR 18260 (April 1, 2014).

("Respondent") requested a review of OIC.[2] On May 29, 2014, the Department initiated a review of Overseas Industrial Corporation.[3]

On June 9, 2014, the Department sent the antidumping duty questionnaire to OIC.[4] On July 14, 2014, OIC submitted its section A questionnaire response, and on August 7, 2014, OIC submitted its sections C and D questionnaire responses.[5] OIC's responses to the Department's sections A, C and D questionnaire contained significant deficiencies. Specifically, the sales negotiations correspondence and sample sales documentation such as the sales confirmation, commercial invoice, packing list, bill of lading provided by OIC were for sales outside of the POR.[6] On October 10, 2014, the Department issued its first supplemental questionnaire to OIC.[7] On October 27, 2014, the Respondent notified the Department that OIC is "unable to respond to the Supplemental Questionnaire dated October 10, 2014."[8]

Scope of the Order

The products covered by the order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from 1/4 inch to 6 inches, whether threaded or unthreaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as "cast iron pipe fittings" or "gray iron pipe fittings." These cast iron pipe fittings are normally produced to ASTM A-126 and ASME B.16.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings. Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of the order. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to the American Water Works Association ("AWWA") specifications AWWA C110 or AWWA C153 are not included.

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[2] See Letter from OIC to the Department of Commerce, Re: "Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Request for Administrative Review," dated April1 28, 2014.
[3] See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 30809 (May 29, 2014) ("Initiation Notice").
[4] See Letter from the Department to OIC dated June 9, 2014.
[5] See OIC's section A response and letter from OIC Re: "Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Sections C and D questionnaire responses" dated August 7, 2014 ("OIC's sections C and D responses").
[6] See Letter from OIC Re: "Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Section A questionnaire response" dated July 14, 2014 ("OIC's section A response") at Exhibits A-5A, A-5B, A-11B and A-11C.
[7] See Letter from the Department to OIC Re: "2013-2014 Antidumping Administrative Review of Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Supplemental Questionnaire" ("Supplemental Questionnaire")
[8] See Letter from OIC to the Department of Commerce, Re: "Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Response to Supplemental Questionnaire," dated October 27, 2014.

Imports of subject merchandise are currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60, 7307.19.30.85, 7326.90.8588. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.[9]

DISCUSSION OF THE METHODOLOGY

Separate Rates

All companies within the PRC are considered to be subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. Such companies are thus assigned a single AD rate distinct from the separate rate(s) determined for companies that are found to be independent of government control with respect to their export activities. We consider the influence that the government has been found to have over the economy to warrant determining a rate for the entity that is distinct from the rates found for companies that have provided sufficient evidence to establish that they operate freely with respect to their export activities.[10]

The Department's separate rate practice requires companies requesting a separate rate to demonstrate a sale or export to the United States during the POR.[11] As noted in the background section above, OIC did not submit the evidence of POR sales required by the Department's Section A and separate rate questionnaires[12] as well as requested by the supplemental questionnaire.[13] Specifically, the Department requested copies of OIC's sales documentation for sales made by OIC during the POR. Because there is no supporting OIC documentation on the record for any of the POR sales reported in OIC's questionnaire responses,[14] there is no evidence on the record that OIC made a commercial sale to the United States during the POR. Since OIC has not provided any evidence that it made sales of NMPF during the POR to the United States, it did not fulfill the Department's requirements for separate rate eligibility. Therefore, OIC did not establish its eligibility for separate rate status. Further, OIC has not participated in, and does not have a separate rate from, prior segments of the proceeding.

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[9] On April 21, 2009, in consultation with CBP, the Department added the following HTSUS classification to the AD/CVD module for pipe fittings: 7326.90.8588. See Memorandum from Abdelali Elouaradia, Office Director, Import Administration, Office 4 to Stephen Claeys, Deputy Assistant Secretary, Import Administration regarding the Final Scope Ruling on Black Cast Iron Cast, Green Ductile Flange and Twin Tee, antidumping duty order on non-malleable iron cast pipe fittings from China, dated September 19, 2008; see also Memorandum to the file from Karine Gziryan, Financial Analyst, Office 4, regarding Module Update adding Harmonized Tariff Schedule Number for twin tin fitting included in the scope of antidumping order on non-malleable iron cast pipe fittings from China, dated April 22, 2009.

[10] 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, 53080 (September 8, 2006).

[11] See, e.g., Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2012-2013, 79 FR 57047 (September 24, 2014), and accompanying Issues and Decision Memorandum at Comment 12.

[12] See OIC's section A response at page 12 and Exhibits A-5A, A-5B, A-11B and A-11C.

[13] See Supplemental Questionnaire at question 6.

[14] See OIC's sections A, C and D responses.

In light of these facts, and consistent with the Department's current practice regarding reviews of the PRC-wide entity,[15] we preliminarily determine that OIC is part of the PRC-wide entity. Therefore if our determination is unchanged in the final results, entries for OIC will be liquidated at the rate previously established for the PRC-wide entity.[16]

Recommendation

We recommend adopting the above determination preliminarily finding that OIC subject to the review is part of the PRC-wide entity and therefore, because the PRC-wide entity is not subject to the review, under our current NME practice any of its entries during the POR will be subject to the rate previously established for the PRC-wide entity.

__________Agree   _________Disagree

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Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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(Date)

[15] See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963, 65970 (November 4, 2013).

[16] The current applicable rate for the PRC-wide entity, as established in a prior segment of the proceeding, is 75.50 percent. See Notice of Antidumping Duty Order: Non-Malleable Cast Iron Pipe Filings (Sic.) From the People's Republic of China, 68 FR 16765 (April 7, 2003).