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August 3, 2015

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of the
Antidumping Duty Administrative Review of Certain Cut-to-
Length Carbon Steel Plate from the People's Republic of China

Summary

In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate ("CTL plate") from the People's Republic of China ("PRC") ("Order") for the period of review ("POR") November 1, 2013, through October 31, 2014. This review covers six companies.¹ The Department preliminarily finds that five of the companies under review did not establish their eligibility for separate rate status. Thus, the Department preliminarily finds these companies to be part of the PRC-wide entity. The Department preliminarily finds that one of the companies under review made no shipments of subject merchandise during the POR.

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 all appropriate entries of subject merchandise during the POR. 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").

¹ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 76956 (December 23, 2014) ("Initiation Notice"). The companies under review are as follows: Hebei Iron & Steel Co., Ltd. ("Hebei Iron"); Hunan Valin Xiangtan Iron & Steel Co., Ltd. ("Hunan Valin"); Jiangyin Xingcheng Plastic Chemical Co., Ltd. ("Jiangyin Plastic"); Jiangyin Xingcheng Special Steel Works Co., Ltd. ("Jiangyin Steel"); Wuyang Iron & Steel Co., Ltd. ("Wuyang Iron"); and Xiamen C&D Paper & Pulp Co., Ltd. ("Xiamen Paper").



Background

On November 3, 2014, the Department published a notice of opportunity to request an administrative review of the Order.² On November 26, 2014, Nucor Corporation (“Petitioner”) requested a review of six companies (i.e., Hebei Iron; Hunan Valin; Jiangyin Plastic; Jiangyin Steel; Wuyang Iron; and Xiamen Paper).³ On December 23, 2014, the Department initiated a review of these six companies.⁴

On January 9, 2015, the Department placed a memorandum on the record stating that its query of CBP data did not identify any entries of subject merchandise into the United States during the POR for any of the companies under review.⁵ On January 12, 2015, Wuyang Iron submitted a letter stating that it had no exports, sales, or entries of the subject merchandise to the United States during the POR.⁶ On January 16, 2015, Petitioner and Wuyang Iron commented on the Results of the CBP Query.⁷

On January 26, 2015, Petitioner responded to Wuyang Iron’s CBP Comments and placed additional information on the record.⁸ On February 24, 2015, Petitioner placed additional information on the record regarding one of the companies under review, claiming this information indicates the company may have shipped subject merchandise during the POR.⁹ Based all of the forgoing, proprietary information, Petitioner requested that the Department send (“Q&V”) questionnaires to all named respondents and require the respondents to provide documents supporting any claims that steel plate that they shipped to the United States during the POR is not subject merchandise.

On June 22, 2015, the Department sent a request to CBP to provide any information that it might have regarding any imports of subject merchandise from Wuyang Iron during the POR.¹⁰ The

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 79 FR 65176 (November 3, 2014).

³ See Letter from Petitioner to the Department, Re: “Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China: Request for Administrative Review,” dated November 26, 2014.

⁴ See Initiation Notice.

⁵ See Memorandum from Patrick O’Connor, International Trade Compliance Analyst, to the File, Re: “Results of Customs and Border Protection Query,” dated January 9, 2015 (“Results of CBP Query”).

⁶ See Letter from Wuyang Iron to the Department, Re: “Administrative Review of Certain Cut-to-Length Carbon Steel Plate from China: Wuyang Iron & Steel’s No Shipment Letter,” dated January 12, 2015 (“Wuyang Iron No Shipment Letter”).

⁷ See Letter from Petitioner to the Department, Re: “Certain Cut-to-Length Carbon Steel from the People’s Republic of China: Comments on Results of CBP Query,” dated January 16, 2015 (“Petitioner’s CBP Comments”); see also Letter from Wuyang Iron to the Department, Re: “Administrative Review of Certain Cut-to-Length Carbon Steel Plate from China: Comments on Results of CBP Data Query,” dated January 16, 2015 (“Wuyang Iron’s CBP Comments”).

⁸ See Letter from Petitioner to the Department, Re: “Certain Cut-to-Length Carbon Steel from the People’s Republic of China: Response to Wuyang Steel’s Comments on Results of CBP Data Query,” dated January 26, 2015.

⁹ See Letter from Petitioner to the Department, Re: “Certain Cut-to-Length Carbon Steel from the People’s Republic of China: Submission of Factual Information,” dated February 23, 2015. See also memorandum from Patrick O’Connor to the File, Re: “Proprietary Information Relating to Issues in the August 3, 2015, Issues and Decision Memorandum,” dated concurrently with this memorandum (“BPI Memorandum”) at Note 4.

¹⁰ See CBP Message Number 5173301 dated June 22, 2015 (“CBP No Shipment Inquiry”).

Department received no information from CBP that there were entries of Wuyang Iron's subject merchandise during the POR.

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-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 METHODOLOGY

Companies that Have Not Demonstrated Eligibility for Separate Rate Status.

Hunan Valin, Hebei Iron, Jiangyin Plastic, Jiangyin Steel, and Xiamen Paper did not claim that they made no exports, sales, or entries shipments of subject merchandise during the POR nor did they submit a separate rate application or certification. The Department stated in the Initiation Notice that "{i}f a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review ("POR"), it must notify the Department within 60 days of publication of this notice in the Federal Register."¹¹ Moreover, the Department stated in the Initiation Notice that "{a}ll firms listed below that wish to qualify for separate rate status in the administrative reviews involving {non-market economy} NME countries must complete, as appropriate, either a separate rate application or certification, as described below."¹² The PRC is an NME country. Given the foregoing, we find that these companies have not established their eligibility for separate rate status. Therefore, we are preliminarily treating Hunan Valin, Hebei Iron, Jiangyin Plastic, Jiangyin Steel, and Xiamen Paper as part of the PRC-wide entity.

¹¹ See Initiation Notice, 79 FR 76956.

¹² Id. at 76957.

Preliminary Determination of No Shipments

Wuyang Iron submitted a timely-filed certification that it had no exports, sales, or entries of subject merchandise during the POR,¹³ and the Results of CBP Query did not show any POR entries of Wuyang Iron's subject merchandise.¹⁴ In addition, CBP did not identify any entries of subject merchandise from Wuyang Iron during the POR in response to our no shipment inquiry asking CBP for such information.¹⁵

Furthermore, in its comments, Wuyang Iron stated that the Results of CBP Query confirm its no shipments claim and during the POR it only shipped non-subject merchandise to the United States.¹⁶ Wuyang Iron placed documentation for one of its shipments on the record, including a Steel Import and Monitoring Analysis System ("SIMA") import license, entry summary, and mill certificates, to support its claim.¹⁷ Although Petitioner raised a number of concerns with the information that Wuyang Iron provided which it claims call into question Wuyang Iron's no shipments claim, most of these concerns involve circumstantial evidence.¹⁸ While Petitioner concludes that such concerns warrant further investigation of Wuyang Iron's no shipments claim, for the reasons explained below in the section "Allegation of Duty Evasion" we have not requested additional information from Wuyang Iron.

Additionally, even though Petitioner argues that the data from its secondary source show POR shipments which may be subject merchandise, when determining whether entries were made, the Department's preference is to use CBP data because they are a primary source, as opposed to a secondary source, which may be prone to errors in the data collection and aggregation process. Moreover, the Department weighs CBP data more heavily because they contain the actual entry information for shipments. The data that Petitioner put on the record reflect secondary information, derived from shipping manifests, and are not necessarily a representation of products that have entered for consumption. Also, the data from the secondary sources which Petitioner cited in its claim that Wuyang Iron made shipments of subject merchandise do not clearly indicate that the merchandise is subject merchandise.¹⁹ For example, the description of the imported products in Petitioner's SIMA query includes "Alloy Steel Plate" and there is no way to determine what quantities of subject CTL plate, if any, may be reflected in this query.²⁰ Thus, we find that the CBP data are a more reliable source.

Given that Wuyang Iron certified that it made no shipments of subject merchandise to the United States during the POR and there is no CBP information calling this claim into question, we preliminarily determine that Wuyang Iron did not have any reviewable transactions during the POR. However, consistent with its refinement to its assessment practice in NME cases, the Department finds that it is not appropriate to rescind the review with respect to Wuyang Iron in

¹³ See Wuyang Iron No Shipment Letter.

¹⁴ See Results of CBP Query.

¹⁵ See CBP No Shipment Inquiry.

¹⁶ See Wuyang Iron's CBP Comments. See also BPI Memorandum at Note 2.

¹⁷ See Wuyang Iron's CBP Comments at Exhibit 1.

¹⁸ See BPI Memorandum at Note 5.

¹⁹ See Petitioner's CBP Comments at Exhibit 1. See also BPI Memorandum at Note 6.

²⁰ See Petitioner's CBP Comments at Exhibit 2.

these circumstances but, rather, to complete the review with respect to Wuyang Iron and issue appropriate instructions to CBP based on the final results of the review.²¹

Allegation of Duty Evasion

As stated above, Petitioner claims that although the Results of the CBP Query did not provide evidence of reviewable entries of CTL plate during the POR, SIMA data purportedly shows that imports of CTL plate from the PRC have increased nearly 100 percent from 2013 to 2014, despite being subject to high antidumping duties.²² Petitioner also provided secondary information from a third party subscription service and claimed that all of the exporters under review made shipments of CTL-plate during the POR.²³ Petitioner argues that the record information suggests that companies under review could be evading the Order by misreporting entry types, and given that PRC exporters have a history of circumventing the Order, Petitioner urges the Department to obtain CBP entry documents with respect to the entries of CTL plate of all of the companies under review, to determine whether these companies misclassified subject merchandise entries as non-subject merchandise entries. With respect to Wuyang Iron, Petitioner noted a number of concerns about the evidence that Wuyang Iron provided to support its no shipments claim, and hence Petitioner requested that the Department issue a supplemental questionnaire to Wuyang Iron to obtain additional information regarding this matter.²⁴

We have not obtained CBP entry documentation as requested by Petitioner. The central contention made by Petitioner is that the companies under review are misclassifying entries of subject merchandise as entries of non-subject merchandise. However, this is a matter within the jurisdiction of CBP and hence any determination as to whether entries have been misclassified should be made by that agency. Application of the laws and regulations relevant to this matter can only rightfully be made by the agency charged with administering those laws and regulations, namely CBP.

Nevertheless, the Department is committed to preventing the evasion of antidumping duties. Given that the issues raised by Petitioner fall within the jurisdiction of CBP, the Department has provided CBP with Petitioner's allegations.

²¹ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

²² See Petitioner's CBP Comments at Exhibit 2.

²³ See BPI Memorandum at Note 1

²⁴ See BPI Memorandum at Note 3.

RECOMMENDATION

We recommend applying the above methodology for the preliminary results of review.

✓

Agree

Disagree

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement & Compliance

August 3, 2015

(Date)