A-583-008
Administrative Review
POR: 05/01/2011-04/30/2012
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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty Administrative Review of Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan; 2011-2012

Summary

We have analyzed the case and rebuttal briefs of interested parties in the 2011-2012 antidumping duty administrative review of the order on certain circular welded carbon steel pipes and tubes from Taiwan. As a result of our analysis, we have made changes to the dumping margin calculations. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments from the parties:

Issue 1: Reported Cost Offset Involving Non-Subject Merchandise
Issue 2: Reported Cost Offset Involving Prepayment of Facilities

Background

On June 7, 2013, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan, covering the period of review (POR) May 1, 2011, through April 30, 2012.[1] The administrative review covers one respondent, Shin Yang Steel Co., Ltd. (Shin Yang).

United States Steel Corporation (Petitioner) submitted a case brief on July 22, 2013. Shin Yang submitted a rebuttal brief on July 29, 2013. No hearing was requested, so none was held.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the

[1] See Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012, 78 FR 34335 (June 7, 2013) (Preliminary Results).

closure of the Federal Government from October 1, through October 16, 2013.[2] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the final results of this review is now November 22, 2013.

Scope of the Order

The merchandise subject to the order is certain circular welded carbon steel pipes and tubes from Taiwan, which are defined as: welded carbon steel pipes and tubes, of circular cross section, with walls not thinner than 0.065 inch, and 0.375 inch or more but not over 4.5 inches in outside diameter, currently classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.5025, 7306.30.5032, 7306.30.5040, and 7306.30.5055. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.[3]

Discussion of the Issues

Issue 1: Reported Cost Offset Involving Non-Subject Merchandise

Petitioner's Comments: Petitioner argues that Shin Yang incorrectly reduced the reported costs by reward rebates associated with non-subject merchandise (i.e., American Petroleum Institute specification merchandise). Petitioner contends that the Department should not allow these cost reductions for the final results.

Shin Yang's Comments: Shin Yang agrees that the reward rebates associated with non-subject merchandise should be excluded from the reported costs.

Department's Position: We agree with both parties that the reward rebates which relate to non-subject merchandise should not be allowed as an offset to the reported costs. Record evidence shows that Shin Yang reduced the reported costs by the reward rebates related to non-subject merchandise.[4] Thus, for the final results, we excluded this offset to the reported costs.[5]

Issue 2: Reported Cost Offset Involving Prepayment of Facilities

Petitioner's Comments: Petitioner argues that Shin Yang erroneously offset the reported material costs by an adjustment for prepayment of facilities, which relates to trial runs on new forming lines. Petitioner states that the Department normally calculates costs of production based on the respondent's records, if such records are kept in accordance with the generally accepted accounting principles (GAAP) of the country of export and reasonably reflect the cost

[2] See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).
[3] See Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Antidumping Duty Order, 49 FR 19369 (May 7, 1984).
[4] See Shin Yang's March 13, 2013, section D submission at exhibit 33 and May 13, 2013, section D submission at exhibit 5.
[5] For details of the recalculation, see the cost memorandum dated concurrently with this notice, "Cost of Production and Constructed Value Calculation Adjustments for the Final Results – Shin Yang Steel Co., Ltd."

associated with the production and sale of the merchandise. Petitioner contends that the prepayment of facilities should not be used to offset the reported material costs because it has nothing to do with the actual costs of production of the merchandise under consideration and, thus, such treatment does not reasonably reflect the cost associated with producing the merchandise under review.[6] Also, petitioner asserts that Shin Yang neither requested a start-up adjustment for new pipe forming lines, nor has it provided any evidence that the new lines meet the threshold criteria for such an adjustment.[7] Petitioner argues that Shin Yang should not be permitted to treat this item differently than it does in its normal books and records and, thus, the Department should not allow this offset for the final results.

Shin Yang's Comments: Shin Yang argues that the adjustment for prepayment of facilities is recorded in its normal books and records. According to Shin Yang, this accounting adjusts the value of the new production lines which were in the trial run phase during the POR. Shin Yang asserts that this adjustment becomes part of the acquisition cost of the new fixed assets and, in turn, will be reflected in depreciation costs, once the new line trial run phase is over. Shin Yang contends that excluding this offset item from the reported costs would raise certain problems. Specifically, the acquisition costs of the old facilities were valued by incorporating the same type of adjustment. Thus, excluding this amount from the reported costs without adjusting the calculation of depreciation costs of the old facilities would lead to inconsistent treatment. Further, according to Shin Yang, excluding this amount would also raise an issue of how to calculate the depreciation costs of the new facilities once they are capitalized. Excluding this amount without adjusting the depreciation costs of the new facilities once capitalized will lead to a double counting situation in future PORs. Shin Yang argues that this adjustment is recorded in its normal books, in accordance with Taiwanese GAAP, and it reasonably reflects the cost of producing the merchandise under review. Accordingly, Shin Yang maintains that the Department should continue to allow this adjustment in the reported costs.

Department's Position: We agree with Shin Yang that the adjustment for prepayment of facilities should be allowed. The Department's practice is to rely on a company's normal books and records if such records are kept in accordance with the GAAP of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise.[8] Evidence on the record of this review shows that the adjustment for prepayment of facilities is related to the trial runs on new forming lines. In Shin Yang's normal books and records, this amount is transferred out of the cost of goods sold to the prepayment of facilities account. The prepayment of facilities account is capitalized upon completion of the new forming line and subsequently recognized as an expense when the forming line equipment is depreciated.[9] Furthermore, Shin Yang's treatment of this item is consistent with Taiwanese GAAP (i.e., Shin Yang's financial statements have been audited by independent auditors).[10] In addition, we note

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[6] See Notice of Final Results of the Seventh Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy and Determination to Revoke in Part, 70 FR 6832 (February 9, 2005), and companying Issues and Decision Memorandum at Comment 1.

[7] See Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review, 68 FR 47543 (August 11, 2003), and companying Issues and Decision Memorandum at Comment 2 (Stainless Steel Bar).

[8] See sections 773(b) and 773(f)(1)(A) of the Tariff Act of 1930, as amended (the Act).

[9] See March 13, 2013 section D submission page 23.

[10] See March 13, 2013 section D submission exhibit 33; May 13, 2013 section D submission exhibit 5; and

that Shin Yang's adjustment for prepayment of facilities is reasonable and consistent with U.S. GAAP. According to Wiley GAAP 2008: Interpretation and Application of Generally Accepted Accounting Principles 2008, Barry J. Epstein, Ralph Nach, and Steven M. Bragg: John Wiley & Sons, Inc. (2007) at page 417 (Wiley GAAP), upon acquisition, the reporting entity capitalizes all the costs necessary to deliver the asset to its intended location and prepare it for its productive use. The examples of such costs include testing and breaking-in costs of equipment. This compatibility with the U.S. GAAP reinforces our finding that Shin Yang's reported costs reasonably reflect costs associated with the production and sale of the merchandise.

Petitioner's argument that the Department should exclude this offset because Shin Yang never claimed a start-up adjustment is off point. There was no need for Shin Yang to claim a start-up adjustment, as section 773(f)(1)(C) of the Act does not apply in this context. As noted above, Shin Yang's accounting treatment of the prepayment of facilities account was consistent with its normal books and records, in accordance with its home country GAAP, and reasonably reflected costs. When costs such as pre-operative expenditures are capitalized and amortization over the life of the related assets begins after commercial production begins, and the treatment is consistent with the company's normal books and records and kept in accordance with the GAAP of the producing country, there is no need to consider or request a startup adjustment, as the costs will be properly matched to the accounting period when the corresponding revenues are earned.[11] Section 773(f)(1)(C) of the Act applies when home country GAAP does not provide for a start-up adjustment in a company's particular situation, but they believe that it is reasonable to claim a start-up adjustment for purposes of reporting to the Department. Shin Yang was not making such a claim.

In sum, the record shows that the amount in question represents costs incurred relative to Shin Yang's testing of its new pipe forming lines, that Shin Yang reported its costs to the Department following its normal accounting treatment for these costs in accordance with its home country GAAP, and that the costs reasonably reflect costs associated with the production and sale of the merchandise in question. Thus, in accordance with section 773(f)(1)(A) of the Act, we find that it is not unreasonable for Shin Yang to capitalize amounts associated with the early production trial runs of its new production lines (e.g., testing of new production lines). Consequently, for the final results, we allowed the inclusion of the prepayment of facilities adjustment account in the reported costs.

September 17, 2012 section A submission exhibit 14.

[11] See Notice of Final Determination of Sales at Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India, 70 FR 13451 (March 21, 2005), and Accompanying Issues and Decision Memorandum at Comment 13.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above changes and positions. If accepted, we will publish the final results of this review and the final weighted-average dumping margins in the Federal Register.

AGREE __________ DISAGREE __________

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Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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Date