DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Notice of Decision of the Court of International Trade: Certain Cased Pencils from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 7, 2006, the Court of International Trade (CIT) sustained the Department of Commerce's (the Department's) voluntary redetermination regarding the 2001–2002 antidumping duty administrative review of certain cased pencils (pencils) from the People's Republic of China (PRC). In its redetermination, the Department selected a new surrogate value for pencil cores which it used to recalculate the respondents' dumping margins. Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *The Timken Company v. United States and China National Machinery and Equipment Import and Export Corporation*, 893 F. 2d 337 (Fed. Cir. 1990) *(Timken)*, the Department is publishing this notice of the CIT's decision which is not in harmony with the Department's determination in the 2001–2002 antidumping duty administrative review of pencils from the PRC.

EFFECTIVE DATE: April 3, 2006.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Howard Smith at (202) 482–4162 or (202) 482–5193, respectively; AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 2004, the Department published in the **Federal Register**, the final results of its 2001–2002 antidumping duty administrative review of pencils from the PRC. *See Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*; 69 FR 29266 (May 21, 2004). In that review, the Department used 2002 Monthly Statistics of the Foreign Trade of India (MSFTI) to value pencil cores.

During July 2004, several respondents in the 2001–2002 administrative review filed complaints with the CIT contesting, among other things, the Department's valuation of black and color pencil cores. On September 1, 2004, the Department filed a motion for a voluntary remand with the CIT with respect to the pencil core issue. On September 20, 2004, the CIT remanded this case to the Department to conduct further proceedings concerning the valuation of pencil cores. On December 20, 2004, the Department issued its redetermination in which it recalculated the respondents' dumping margins using a new surrogate value for pencil cores (*i.e.*, 2001 MSFTI data, adjusted for inflation, rather than 2002 MSFTI data). The recalculated dumping margins are as follows: 4.21 percent for Shandong Rongxin Import & Export Company, Ltd., 5.63 percent for Orient International Holding Shanghai Foreign Trade Co., Ltd., and 16.50 for China First Pencil Company, Ltd./Three Star Stationery Industry Corp.. The PRC–wide rate was not changed. See Final Results of Voluntary Redetermination Pursuant to Court Order, December 20, 2004. On March 7, 2006, the CIT sustained the Department's decision, including the redetermination. *See China First Pencil Co., Ltd., et al v. United States and Sanford Corporation, et al.* Slip Op. 06–34.

Notification

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish notice of a CIT decision which is ''not in harmony'' with the Department's determination. With respect to the valuation of pencil cores, the above–referenced CIT decision is not in harmony with the Department's determination in the final results of the 2001–2002 antidumping duty administrative review of pencils from the PRC. Therefore, publication of this notice fulfills the Department's obligation under 19 U.S.C. 1516a(e).

The Department will continue to suspend liquidation pending the expiration of the period to appeal the CIT's March 7, 2006, decision, or, if that decision is appealed, pending a ''conclusive'' decision by the Federal Circuit. Upon expiration of the period to appeal, or if the CIT's decision is appealed and the Federal Circuit's decision is not in harmony with the Department's determination in the 2001–2002 antidumping duty administrative review of pencils from the PRC, the Department will publish in the **Federal Register** a notice of amended final results for the 2001–2002 administrative review of pencils.

March 24, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–4747 Filed 3–31–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–427–808)

Certain Corrosion–Resistant Carbon Steel Flat Products from France: Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On December 12, 2005, the Department of Commerce (the Department) published a notice of intent to rescind an administrative review of the antidumping duty (AD) order on certain corrosion–resistant carbon steel flat products (CORE) from France for the period August 1, 2004, through July 31, 2005. The Department received comments only from domestic interested parties. There were no requests for a public hearing in response to the intent to rescind notice. The Department is rescinding this administrative review pursuant to section 351.213(d) of the Department's regulations.

EFFECTIVE DATE: April 3, 2006.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Dena Crossland at (202) 482–0193 or (202) 482–3362, respectively; AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1993, the Department published an AD order on CORE from France. *See Antidumping Duty Order and Amendments to Final Determinations of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products, Certain Cold–Rolled Carbon Steel Flat Products, Certain Corrosion–Resistant Carbon Steel Flat Products and Certain Cut–to-Length Carbon Steel Plate from France*, 58 FR 44169 (August 19, 1993). On August 1, 2005, the Department published a notice of opportunity to request an administrative review of the AD order on CORE from France for the period August 1, 2004, through July 31, 2005.

See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 70 FR 44085 (August 1, 2005). On August 31, 2005, United States Steel Corporation, petitioner, and Duferco Coating SA and Sorral SA, French producers and exporters of the subject merchandise, and Duferco Steel, Inc. (the U.S. importer of subject merchandise exported to the United States by Duferco Coating SA and Sorral SA) (collectively ''Duferco''), made timely requests that the Department conduct an administrative review of Duferco.[1] In its August 31, 2005, submission, Duferco requested that the Department conduct a review of its sale of subject merchandise to an unaffiliated customer during the period of review (POR), pursuant to section 351.213(e)(1), which states that an administrative review ''normally will cover, as appropriate, entries, exports, or sales of subject merchandise during the 12 months immediately preceding the most recent anniversary month.'' Duferco also requested that the Department rely on the entry summary date (August 11, 2004) for administrative review purposes, or align the AD administrative review period with the countervailing duty review period (*i.e.*, initiate an AD review for the period January 1, 2004, through December 31, 2004).

On September 23, 2005, petitioner formally objected to Duferco's request that the Department align the AD and CVD reviews, stating that this practice is not based on the statute, the Department's regulations, or precedent. On September 28, 2005, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), the Department published in the **Federal Register** a notice of initiation of this AD administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). On October 7, 2005, the Department issued its AD questionnaire to Duferco.

On December 12, 2005, the Department published its intent to rescind the administrative review of the antidumping duty order on CORE from France for the period August 1, 2004, through July 31, 2005. *See Certain Corrosion–Resistant Carbon Steel Flat Products From France: Notice of Intent To Rescind Administrative Review*, 70 FR 73433 (December 12, 2005) (''*CORE Intent to Rescind Notice*''). On December 30, 2005, and January 3, 2006, respectively, Mittal Steel USA ISG, Inc. (Mittal Steel USA) and Nucor Corporation (Nucor), domestic interested parties, filed case briefs fully supporting the Department's decision. Duferco did not file either a case or rebuttal brief.

Scope of the AD Order

For purposes of this order, the products covered are corrosion–resistant carbon steel flat products, which covers flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in the order are flat–rolled products of non–rectangular 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. Excluded from the order are flat–rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin–free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from the order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from the order are certain clad stainless flat–rolled products, which are three–layered corrosion–resistant carbon steel flat–rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat–rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

These HTSUS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Analysis of Comments Received

In their case briefs, Mittal Steel USA and Nucor state that the Department should continue to: (1) Not deviate from its long–standing practice of reviewing ''entries'' rather than ''sales;'' (2) rely on the entry release date rather than the entry summary date; and, accordingly, (3) continue to conclude that there is no basis for continuing the instant administrative review.

Citing *Stainless Steel Sheet and Strip in Coils from Taiwan: Final Results of Antidumping Duty Administrative Review*, 67 FR 6682 (February 13, 2002) (*SSSS in Coils from Taiwan*), Nucor states that the Department determined that because Ta Chen, the Taiwanese respondent, had no entries of subject merchandise during the POR, rescission as to Ta Chen was warranted. See SSSS in Coils from Taiwan and accompanying Issues and Decision Memorandum at Comment 31. Nucor notes that the Department has also rescinded reviews due to the absence of entries during the POR in other cases.[2] Nucor asserts that this Departmental practice is consistent with the antidumping statute, which requires that the duties assessed on the subject merchandise correspond to the entries of such merchandise. *See* section 751(a)(2)(c) of the Act.

According to Mittal Steel USA, Duferco does not allege any other entries during the instant POR; therefore, there is no entry for which to

[1] On October 6, 2005, October 26, 2005, and November 15, 2005, respectively, Ispat Inland Inc., Mittal Steel USA ISG Inc., and Nucor Corporation submitted their entries of appearance as interested parties.

[2] *See, e.g., Stainless Steel Plate in Coils from Taiwan; Final Rescission of Antidumping Duty Administrative Review*, 69 FR 20859, 20861 (April 19, 2004); *Stainless Steel Bar from Italy; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 17656 (April 7, 2005); *Petroleum Wax Candles from the People's Republic of China; Preliminary Intent To Rescind the Antidumping New Shipper Review of Shanghai R&R Import/Export Co. Ltd.*, 69 FR 46509 (August 3, 2004); and *Stainless Steel Butt-Weld Pipe Fittings from Taiwan; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 40859 (July 7, 2004).

assess cash deposit rates, and thus, no review for the Department to conduct. Both Mittal Steel and Nucor note that both the Court of Appeals for the Federal Circuit (''CAFC'') and the United States Court of International Trade (''CIT'') have upheld the Department's practice of only conducting a review where there were entries during the POR.[3]

Furthermore, Mittal Steel USA argues that the circumstances by which the Department may use its discretion to review ''sales'' rather than ''entries'' are not present in the instant case, *e.g.*, middleman dumping is alleged or examined, where the Department imposes an antidumping duty order on sales.[4]

Regarding the question of whether the Department should use the ''entry summary date'' for Duferco's subject merchandise as the ''entry date,'' Nucor states that Duferco does not contest the fact that the subject merchandise entered the United States before the POR; rather, Duferco argues in the alternative that the ''entry summary date'' reported in box 3 of CBP Form 7501 falls within the POR. Nucor argues that for the Department to continue the instant review based on an entry prior to the POR is not only contrary to the statute and the Department's precedents, but also allows Duferco to have ''two bites at the apple,'' given that Duferco also had an opportunity to request a review of this entry in the 2003–2004 administrative review. Mittal Steel USA adds that the Department's determination was based on the fact that the date of release is the date that the subject merchandise entered the U.S. for consumption. Thus, according to Mittal Steel USA and Nucor, the Department properly denied Duferco's request to use the entry summary date and should instead rely on the entry release date, which reflects that there were no entries for consumption during the POR.

Department's Position

We agree with Mittal Steel USA and Nucor. Pursuant to section 351.213(d)(3) of the Department's regulations, the Department will rescind an administrative review in whole or only with respect to a particular exporter or producer if we conclude that during the POR there were ''no entries, exports, or sales of the subject merchandise.'' As stated in the *CORE Intent to Rescind Notice*, it is the Department's consistent, long–standing practice, supported by substantial precedent, to require that there be entries during the POR upon which to assess antidumping duties, irrespective of the export–price or constructed export–price designation of the U.S. sales. *See, e.g., Granular Polytetrafluoroethylene Resin from Japan: Notice of Rescission of Antidumping Duty Administrative Review*, 70 FR 44088 (August 1, 2005), and *Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review*, 69 FR 20859 (April 19, 2004). Moreover, as stated above in Mittal Steel USA's and Nucor's comments, in *Allegheny Ludlum*, the CAFC upheld the Department's discretion to determine not to conduct annual reviews, where there were no entries during the POR. *See Allegheny Ludlum*, 346 F.3d 1368 (Fed. Cir. 2003). As also stated in the *CORE Intent to Rescind Notice*, Duferco was given the opportunity to request a review of its entries in the review period in which such entries occurred. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745 (Sept. 22, 2004).

There is sufficient information on the record to establish the absence of entries or shipments with respect to Duferco during the POR. In particular, the Department conducted an internal customs data query, which determined that Duferco had no entries of subject merchandise into the United States during the POR. Additionally, the Department carefully examined U.S. Customs and Border Protection (CBP) entry documentation provided by Duferco and noted that the entry release date was prior to the current POR. *See* Duferco Coating SA and Sorral SA, and Duferco Steel Inc. submission regarding documentation relating to all entrie(s) or sale(s) made by Duferco during the review period, dated November 2, 2005. As discussed in the *CORE Intent to Rescind Notice*, and contrary to Duferco's previous arguments in its August 31, 2005, submission, (as noted above Duferco did not submit any comments for purposes of these final results), the Department relied on entry release date (the entry date in box 4 on CBP Form 7501) rather than entry summary date, because under the circumstances here, this is the date CBP uses to establish the date when merchandise has been entered, or withdrawn from warehouse, for consumption in the United States. *See also Certain Cut–to-Length Carbon Steel Plate from Romania: Final Results of Antidumping Duty Administrative Review*, 66 FR 2879 (January 12, 2001) and corresponding Issues and Decision Memorandum at Comment 1.

Given that Duferco had no entries of subject merchandise during the POR and that Duferco has no entry under suspension of liquidation that corresponds to the sale which occurred during the POR, we would be unable to assess any antidumping duties resulting from this administrative review. Furthermore, the record in this proceeding does not support a conclusion that the Department should deviate from our normal practice of conducting administrative reviews of entries rather than sales. Accordingly, we are rescinding the 2004–2005 administrative review of CORE from France pursuant to section 351.213(d)(3) of the Department's regulations.

Rescission of Administrative Review

Pursuant to section 351.213(d)(3), the Department will rescind an administrative review in whole or only with respect to a particular exporter or producer if we conclude that during the period of review there were ''no entries, exports or sales of the subject merchandise, as the case may be.'' The Department's practice, supported by substantial precedent, is to review entries during the period of review, because the Department requires entries upon which to assess antidumping duties, irrespective of the export–price or constructed export–price designation of U.S. sales. *See, e.g., Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review*, 68 FR 63067 (November 7, 2003); *Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review*, 69 FR 20859 (April 19, 2004). Accordingly, we are rescinding this administrative review.

Assessment

The Department will instruct CBP to assess antidumping duties on all appropriate entries. In accordance with the Department's clarification of its assessment policy (*see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003)), in the event any entries of merchandise produced by Duferco were made during the POR through intermediaries under the CBP case number for Duferco, the Department will instruct CBP to liquidate such entries at the all–others rate in effect on the date of entry. The

[3] *See, e.g., Allegheny Ludlum v. United States*, 346 F.3d 1368 (Fed. Cir. 2003); *Chia Far Industrial Factory Co., Ltd. v. United States*, 343 F.2d 1344, 1373-74 (CIT 2004).

[4] *See Antidumping Duty Order and Amendments to Final Determinations of Sales at Less Than Fair Value: Certain Corrosion-Resistant Carbon Steel Flat Products from France, et al.*, 58 FR 44169, 44170 (August 19, 1993) (assessing antidumping duties on ''entries'' of CORE from France).

Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice.

Cash Deposit Rates

For Duferco, the cash deposit rate will continue to be 29.41 percent. *See Certain Hot–Rolled Carbon Steel Flat Products, Certain Cold–Rolled Carbon Steel Flat Products, Certain Corrosion–Resistant Carbon Steel Flat Products, and Certain Cut–to-Length Carbon Steel Plate From France; Notice of Final Court Decision and Amended Final Determinations*, 61 FR 51274, October 1, 1996. This cash deposit rate shall remain in effect until publication of the final results of the next administrative review involving Duferco.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is published in accordance with section 777(i) of the Act and section 351.213(d)(4) of the Department's regulations.

Dated: March 24, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–4742 Filed 3–31–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–331–802]

Notice of Extension of Time Limit for the Preliminary Results of New Shipper Review: Certain Frozen Warmwater Shrimp from Ecuador

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: April 3, 2006.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–3773, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2005, the Department of Commerce (''the Department'') published the notice of initiation of this new shipper review of the antidumping duty order on frozen warmwater shrimp from Ecuador, covering the period August 4, 2004, through July 31, 2005. *See Notice of Initiation of New Shipper Antidumping Duty Review: Certain Frozen Warmwater Shrimp from Ecuador*, 70 FR 57562 (October 3, 2005). The preliminary results for this new shipper review are currently due no later than March 27, 2006.

Extension of Time Limits for Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214(i)(2), require the Department to issue preliminary results within 180 days after the date on which the new shipper review was initiated. However, if the Department concludes that the case is extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2) allow the Department to extend the 180-day period to a maximum of 300 days.

Pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the

Department determines that this review is extraordinarily complicated. In particular, we recently issued the verification report and have determined that additional time is needed to fully evaluate items raised in the report, including the basis for normal value. Accordingly, we are extending the time period for issuing the preliminary results of review by an additional 120 days, or until July 26, 2006, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2). The final results will be due 90 days after the date of issuance of the preliminary results, unless extended.

We are issuing and publishing this notice in accordance with sections 751(a)(2) and 777(i)(1) of the Act.

Dated: March 24, 2006.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E6–4743 Filed 3–31–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–827]

Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico: Notice of Intent to Rescind Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On September 28, 2005, we published the notice of initiation of this antidumping duty administrative review with respect to Tubos de Acero de Mexico, S.A. (''TAMSA''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). We have preliminarily determined that the review of TAMSA should be rescinded.

EFFECTIVE DATE: April 3, 2006.

FOR FURTHER INFORMATION CONTACT: Victoria Cho or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 480–5075 or (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2005, the Department of Commerce (''the Department'') published in the **Federal Register** the notice of the ''Opportunity to Request Administrative Review'' of the antidumping duty order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe (''SLP'') from Mexico, for the period August 1, 2004, through July 31, 2005 (70 FR 44085). On October 19, 2005, we received a request from the petitioner[1]

[1] The petitioner is United States Steel Corporation.