

about 3 minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated, and those who were unable to participate are invited to submit written statements to the ACEHR, National Institute of Standards and Technology, 100 Bureau Drive, MS 8630, Gaithersburg, Maryland 20899-8630, via fax at (301) 975-5433, or electronically by e-mail to [info@nehrrp.gov](mailto:info@nehrrp.gov).

All participants of the meeting are required to pre-register to be admitted. Anyone wishing to participate must register by close of business Wednesday, April 21, 2010, in order to be admitted. Please submit your name, time of participation, e-mail address, and phone number to Tina Faecke. At the time of registration, participants will be provided with detailed instructions on how to dial in from a remote location in order to participate. Non-U.S. citizens must also submit their country of citizenship, title, employer/sponsor, and address with their registration. Tina Faecke's e-mail address is [tina.faecke@nist.gov](mailto:tina.faecke@nist.gov), and her phone number is (301) 975-5911.

Dated: April 6, 2010.

**Marc G. Stanley,**

*Acting Deputy Director.*

[FR Doc. 2010-8406 Filed 4-12-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Malcolm Baldrige National Quality Award Panel of Judges and Board of Overseers

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a joint meeting of the Panel of Judges and the Board of Overseers of the Malcolm Baldrige National Quality Award on June 16, 2010. The Panel of Judges and the Board of Overseers are each composed of twelve members prominent in the fields of quality, innovation, and performance management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of this meeting is to discuss

and review information received from the National Institute of Standards and Technology and from the Chair of the Judges Panel of the Malcolm Baldrige National Quality Award. The agenda will include: Baldrige Program (BNQP) Update, Baldrige Fellows Program Discussion, Baldrige Program Changes in 2010 and 2011, and Implementation of the Strategic Plan Actions.

**DATES:** The meeting will convene June 16, 2010, at 8:30 a.m. and adjourn at 3 p.m. on June 16, 2010.

**ADDRESSES:** The meeting will be held at the National Institute of Standards and Technology, Administration Building, Lecture Room A, Gaithersburg, Maryland 20899. All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, e-mail address and phone number to Diane Harrison no later than Monday, June 14, 2010, and she will provide you with instructions for admittance. Ms. Harrison's e-mail address is [diane.harrison@nist.gov](mailto:diane.harrison@nist.gov) and her phone number is (301) 975-2361.

**FOR FURTHER INFORMATION CONTACT:** Dr. Harry Hertz, Director, Baldrige National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975-2361.

Dated: April 5, 2010.

**Marc G. Stanley,**

*Acting Deputy Director.*

[FR Doc. 2010-8409 Filed 4-12-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Malcolm Baldrige National Quality Award Panel of Judges

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of closed meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a meeting of the Panel of Judges of the Malcolm Baldrige National Quality Award on June 15, 2010. The Panel of Judges is composed of twelve members prominent in the fields of quality, innovation, and performance management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of this meeting is to discuss

and review information received from the National Institute of Standards and Technology and from the Chair of the Judges Panel of the Malcolm Baldrige National Quality Award. The agenda will include: Review of the 2009 Judging Process, Baldrige Program and Judging Process Changes in 2010.

**DATES:** The meeting will convene June 15, 2010, at 8:30 a.m. and adjourn at 3 p.m. on June 15, 2010. The entire meeting will be closed.

**ADDRESSES:** The meeting will be held at the National Institute of Standards and Technology, Administration Building, Lecture Room A, Gaithersburg, Maryland 20899.

**FOR FURTHER INFORMATION CONTACT:** Dr. Harry Hertz, Director, Baldrige National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975-2361.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 3, 2009, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Public Law 94-409. The meeting, which involves examination of Award applicant data from U.S. companies and other organizations and a discussion of these data as compared to the Award criteria in order to recommend Award recipients, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, because the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person which is privileged or confidential.

Dated: April 6, 2010.

**Marc G. Stanley,**

*Acting Deputy Director.*

[FR Doc. 2010-8418 Filed 4-12-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-502]

#### Circular Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand, in response to requests from Allied Tube and Conduit Corporation (Allied Tube) and Wheatland Tube Company (Wheatland) (collectively, petitioners). This review covers the period March 1, 2008 through February 28, 2009. We preliminarily determine that U.S. sales of subject merchandise have been made by Saha Thai Steel Pipe (Public) Company, Ltd. (Saha Thai) below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the export price (EP) and the NV. We are also rescinding the administrative review of Pacific Pipe Company Limited (Pacific Pipe). We will instruct CBP to assess antidumping duties on entries of this merchandise produced by Pacific Pipe at the cash deposit rate required at the time of entry. Interested parties are invited to comment on these preliminary results. See the "Preliminary Results of Review" section of this notice.

**EFFECTIVE DATE:** April 13, 2010.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline Arrowsmith, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5255.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 11, 1986, the Department published in the **Federal Register** an antidumping duty order on circular welded carbon steel pipes and tubes from Thailand. See *Antidumping Duty Order: Circular Welded Carbon Steel Pipes and Tubes from Thailand*, 51 FR 8341 (March 11, 1986). On March 2, 2009, the Department published a notice of opportunity to request an administrative review of this order covering the period March 1, 2008 through February 28, 2009. See *Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 74 FR 9077 (March 2, 2009). On April 27, 2009, in response to timely requests by Saha Thai and Wheatland with respect to exports by Saha Thai during the period of review (POR), and to a timely request by Allied Tube with respect to exports by Pacific Pipe, the Department

published a notice of initiation of this antidumping duty administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 19042 (April 27, 2009).

On May 5, 2009, Pacific Pipe reported that it did not have any shipments or sales of subject merchandise for the last five months of the POR, from October 1, 2008 to February 28, 2009. The Department subsequently completed a new shipper review for Pacific Pipe covering the period March 1, 2008 through September 30, 2008. See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty New Shipper Review*, 75 FR 4529 (January 28, 2010) (*New Shipper Final Results*).

On June 3, 2009, we sent questionnaires to Saha Thai and Pacific Pipe. We received timely responses to our questionnaire from Saha Thai on July 13, 2009 and July 27, 2009. We sent supplemental questionnaires to Saha Thai on September 17, 2009 and December 9, 2009. We received timely responses to our supplemental questionnaires on October 6, 2009, October 19, 2009, January 5, 2010, and January 14, 2010.

On November 25, 2009, we published a **Federal Register** notice extending the deadline for these preliminary results of review by 120 days to March 31, 2010. See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 61657 (November 25, 2009). Subsequently the Department exercised its discretion to toll deadlines because of the closure of the Federal Government from February 5, 2010 through February 12, 2010. Thus, all deadlines in this segment of the proceeding were extended by seven days. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010. The revised deadline for the preliminary results of this review is April 7, 2010.

**Scope of the Order**

The products covered by this antidumping order are certain welded carbon steel pipes and tubes from Thailand. The subject merchandise has an outside diameter of 0.375 inches or more, but not exceeding 16 inches. These products, which are commonly referred to in the industry as "standard pipe" or "structural tubing" are hereinafter designated as "pipes and

tubes." The merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090. Although the HTSUS subheadings are provided for the convenience and purposes of CBP, our written description of the scope is dispositive.

**Partial Rescission of Review**

Section 351.213(d)(3) of the Department's regulations stipulates that the Secretary may rescind an administrative review of a producer if there were no entries, exports, or sales of the subject merchandise by that producer during the period covered by the review. Pacific Pipe, in a letter dated May 5, 2009, reported that it did not make any shipments or sales of subject merchandise for the last five months of the POR, from October 1, 2008 to February 28, 2009. The one shipment that Pacific Pipe did make during the first seven months of the POR, March 1, 2008 through September 30, 2008, was concurrently under review in a new shipper review. See *New Shipper Review Final Results*, 75 FR at 4529-4530 (January 28, 2010). Allied Tube responded to Pacific Pipe's letter on May 8, 2009, by arguing that the Department's regulations and recent practice permit the rescission of the new shipper review and continuance of the administrative review. Allied Tube argued that the Department should follow its practice in *Cut-to-Length Carbon Steel Plate from the People's Republic of China: Notice of Rescission of Antidumping Duty New Shipper Review*, 74 FR 15930 (April 8, 2009), where the Department rescinded the new shipper review and continued the administrative review. On September 4, 2009, the Department issued a "No Shipment Inquiry" to CBP and confirmed that there were no shipments or entries of circular welded carbon steel pipes and tubes from Thailand exported by Pacific Pipe from October 1, 2008 through February 28, 2009.

Record evidence establishes that there were no entries of subject merchandise produced by Pacific Pipe from October 1, 2008 through February 29, 2009, the final five months of this POR. Further, the sale and entry made by Pacific Pipe during the period from March 1, 2008 through September 30, 2008 was the subject of a new shipper review. See *New Shipper Review Final Results*, 75 FR at 4529-4530 (January 28, 2010). Therefore, the Department is rescinding the administrative review with respect to Pacific Pipe pursuant to 19 CFR

351.213(d)(3). The Department will issue appropriate assessment instructions to CBP within 15 days of publication of this notice.

### Analysis

#### Date of Sale

Saha Thai reported contract date as the date of sale for U.S. sales. The Department considers invoice date to be the presumptive date of sale. See section 351.401(i) of the Department's regulations. For purposes of this review, we examined whether invoice date or another date better represents the date on which the final material terms of sale were established. The Department examined sales documentation, including contracts and invoices, provided by Saha Thai for its U.S. sales and has preliminarily found that the material terms of sale are set on the contract date. Where there was a change in material terms for four sales subsequent to the original contract, Saha Thai issued an amended contract and the amended contract date was reported as date of sale.

We preliminarily determine that contract date (or amended contract date) is the appropriate date of sale for U.S. sales in this administrative review because it better represents the date upon which the final material terms of sale were established. This is consistent with the most recently completed administrative reviews of this order. See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 73 FR 61019 (October 15, 2008) (2006–2007 AR Final Results); see *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 71 FR 54266 (September 14, 2006) (2004–2005 AR Final Results).

In the home market, the date of invoice is when the material terms of sale are established. Therefore, we are using the invoice date as the date of sale for home market sales.

#### Export Price

In accordance with section 772(a) of the Tariff Act of 1930, as amended (the Act), export price is the price at which the subject merchandise is first sold (or agreed to be sold) by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser prior to the date of importation. We classified all of Saha Thai's sales to its U.S. customers as EP sales because, as in previous administrative reviews of this order, we found that Saha Thai is not affiliated with its distributors, which are the first

purchasers in the United States. See, e.g., 2006–2007 AR Final Results and 2004–2005 AR Final Results.

In accordance with section 772(c)(2) of the Act, we made deductions from the gross unit price for foreign inland freight, foreign brokerage and handling, foreign inland insurance, foreign warehousing, ocean freight, lighterage charges, U.S. brokerage and handling charges, and U.S. duties.

Section 772(c)(1)(B) of the Act states that EP should be increased by the amount of any import duties “imposed by the country of exportation which have been rebated, or which have not been collected by reason, of the exportation of the subject merchandise to the United States. . . .” Saha Thai claimed an adjustment to EP for the duties exempted on its imports of inputs (hot-rolled steel coil and zinc) into a bonded warehouse. In determining whether an adjustment should be made to EP for this exemption, we look for a reasonable link between the duties imposed and those rebated or exempted. We do not require that the imported input be traced directly from importation through exportation. We do require, however, that the company meet our “two-pronged” test in order for this addition to be made to EP. The first element is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another; the second element is that the company must demonstrate that there were sufficient imports of the imported material to account for the duty drawback or exemption granted for the export of the manufactured product. See, e.g., 2006–2007 AR Final Results; see also *Mittal Steel USA Inc. v. United States*, 31 CIT 1395, 1412–1413 (2007); and *Rajinder Pipes Ltd. v. United States*, 70 F. Supp. 2d 1350, 1358 (Ct. Intl. Trade, 1999).

Saha Thai has provided information that demonstrates that it meets both prongs of our “two-pronged” test. Therefore, for these preliminary results, we are making an upward adjustment to export price for these duty exemptions. See “Analysis Memorandum of Saha Thai Steel Pipe (Public) Company, Ltd. for the Preliminary Results of the Antidumping Duty Administrative Review of Circular Welded Carbon Steel Pipes and Tubes from Thailand for the Period 03/01/2008 through 02/28/2009, dated concurrently with this notice, (Preliminary Analysis Memorandum); see also 2006–2007 AR Final Results.

### Normal Value

#### A. Cost Averaging Methodology

The Department's normal practice is to calculate an annual weighted-average cost for the POR. See, e.g., *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (December 13, 2000), and accompanying Issues and Decision Memorandum at Comment 18; and *Notice of Final Results of Antidumping Duty Administrative Review of Carbon and Certain Alloy Steel Wire Rod from Canada*, 71 FR 3822 (January 24, 2006), and accompanying Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted-average cost for the entire period). However, the Department recognizes that possible distortions may result if our normal annual average cost method is used during a period of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted average cost, the Department evaluates the case-specific record evidence using two primary factors: (1) the change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant; and (2) the record evidence must indicate that sales during the shorter averaging periods could be reasonably linked with the cost of production (COP) or constructed value (CV) during the same shorter averaging periods. See, e.g., *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review* 75 FR 6631 (February 10, 2010) (*SSSS from Mexico*); see also *Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) and accompanying Issues and Decision Memorandum at Comment 4 (*SSPC from Belgium*).

#### 1. Significance of Cost Changes

In prior cases, the Department established 25 percent as the threshold (between the high and low quarter COM) for determining that the changes in COM are significant enough to warrant a departure from our standard annual costing approach. See *SSPC from Belgium* at Comment 4. In the instant case, record evidence shows that Saha Thai experienced significant changes (i.e., changes that exceeded 25 percent) between the high and low quarterly COM during the POR and that the change in COM is primarily attributable to the price volatility for hot-rolled coil, a major input consumed in the production of the carbon steel pipes and

tubes and used to produce the merchandise under consideration. See “Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results-Saha Thai Steel Pipe (Public) Company, Ltd.,” dated concurrently with this notice (*Preliminary Cost Calculation Memorandum*). We found that hot-rolled coil prices changed significantly throughout the POR and consequently directly affected the cost of the material inputs consumed by Saha Thai. See *Preliminary Cost Calculation Memo*. Specifically, the record data shows that the percentage difference between the high and the low quarterly COM clearly exceeded the 25 percent threshold for four of five control numbers (CONNUMs) sold in the home market and all five CONNUMs sold in the United States during the POR. See *Preliminary Cost Calculation Memo*. As a result, we have determined for the preliminary results that the changes in Saha Thai’s COM for hot-rolled coil are significant enough to warrant a departure from our standard cost approach, as these significant cost changes create distortions in the Department’s sales-below-cost test, as well as in the overall margin calculation.

## 2. Linkage between Cost and Sales Information

Consistent with past precedent, if the Department finds changes in costs to be significant in a given period of review, the Department subsequently evaluates whether there is evidence of linkage between the cost changes and the sales prices during the POR. The Department’s definition of linkage does not require direct traceability between specific sales and their specific production costs, but rather relies on whether there are elements that would indicate a reasonable correlation between the underlying costs and the final sales prices levied by the company. See, *SSPC from Belgium* at Comment 4. These correlative elements may be measured and defined in a number of ways depending on the associated industry and the overall production and sales processes. The Department acknowledges that being able to reasonably link sales prices and costs during a shorter cost period is important in deciding whether to depart from our annual average cost methodology. We believe that requiring too strict a standard for linkage, however, would unreasonably preclude this remedy for commodity-type products where there is no pricing mechanism in place and it may be very difficult to precisely link production costs to specific sales. We

requested that Saha Thai provide comparisons for its top five home market and its top five US CONNUMs over the twelve months of the POR. Saha Thai provided this information in its October 6, 2009 and January 14, 2010 responses. To determine whether a reasonable correlation existed between the sales prices and their underlying costs during the POR, we compared weighted-average quarterly prices to the corresponding quarterly COM for the five highest-volume home market CONNUMs. After reviewing this information and determining that the sales and costs generally trend in the same direction, we preliminarily determine that there is linkage between Saha Thai’s cost changes and sales prices during the POR. See *Preliminary Cost Calculation Memo*. See, e.g., *SSSS from Mexico*; see also *SSPC from Belgium*.

Because we have found significant cost changes in COM as well as reasonable linkage between costs and sales prices, we have preliminarily determined that a quarterly costing approach would lead to more appropriate comparisons in our antidumping duty calculation for Saha Thai.

## B. Home Market Viability

In accordance with section 773(a)(1) of the Act, to determine whether there was sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Saha Thai’s volume of home market sales of foreign like product to the volume of U.S. sales of subject merchandise. Pursuant to section 773(a)(1) of the Act and section 351.404(b) of the Department’s regulations, because the volume of Saha Thai’s home market sales of foreign like product was greater than five percent of the volume of U.S. sales of the subject merchandise during the POR, we determine that the home market is viable. Therefore, we used home market sales as the basis for NV in accordance with section 773(a)(1).

## C. Affiliated Party Transactions and Arm’s-Length Test

The Department’s practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are at arm’s-length prices. To examine whether home market sales were made at arm’s length, we compared the starting price of sales to affiliated customers to the starting price of sales to unaffiliated customers, net of all movement charges, direct selling expenses, discounts and packing. We made this comparison on a quarterly

basis consistent with our preliminary decision to use a quarterly costing approach. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the same or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated parties were at arm’s length. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). In accordance with the Department’s practice, in our margin analysis, we included only those sales to affiliated parties that were made at arm’s length. Where the affiliated party transactions did not pass the arm’s-length test, these sales were excluded from the NV calculation.

For each affiliated reseller, we requested Saha Thai to report the first sale to an unaffiliated customer. When the sale to the affiliated reseller did not pass the arm’s-length test and was therefore excluded from the normal value calculation, we included the sale by the affiliated reseller to the first unaffiliated customer in our margin analysis.

## D. COP Analysis

We found that Saha Thai made sales below the COP in the most recently completed segment of this proceeding in which Saha Thai was examined, and such sales were disregarded. Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Saha Thai made sales of the subject merchandise in its comparison market at prices below the COP in the current review period. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Saha Thai. For our complete analysis, see *Preliminary Cost Calculation Memo*.

### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated Saha Thai’s COP based on the sum of its costs of materials and conversion for foreign like product, plus an amount for home market SG&A expenses, interest expenses and packing costs. See the “Test of Comparison Market Sales Prices” section below for the treatment of comparison market selling expenses. We relied on home market sales and COP information provided by Saha Thai in its questionnaire responses, except where noted below:

a. We have adjusted Saha Thai’s cost of carbon steel hot-rolled coils obtained from an affiliated supplier to reflect the higher of transfer or market price in accordance with section 773(f)(2) of the

Act (transactions disregarded). Because we have determined that quarterly average costs are appropriate for the COP analysis, we have applied the transactions disregarded analysis and calculated the related adjustments on a quarterly basis.

b. We revised Saha Thai's general and administrative (G&A) expenses to reflect a rate calculated on non-consolidated producer-specific financial statements, rather than the consolidated financial statements.

c. We adjusted the cost of goods sold denominators used in the G&A and financial expense rates to reflect transactions disregarded adjustments and to include the cost of services.

d. We revised Saha Thai's reported duty exemptions on hot-rolled coil and zinc inputs to apply the adjustments as a ratio of the exempted duty amounts to total purchases of the respective input.

For more detail on these adjustments, refer to Preliminary Cost Calculation Memorandum.

#### E. Cost Test

In accordance with section 773(b) of the Act, we compared the quarterly COP to the home market sales price (less any applicable movement charges and discounts) by quarter, of the foreign like product on a product-specific basis in order to determine whether home market sales had been made at prices below COP.

In determining whether to disregard sales below COP, we examined, in accordance with sections 773(b)(1)(A) and whether such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. As noted in section 773(b)(1)(D) of the Act, prices are considered to provide for recovery of costs if such prices are above the weighted average per-unit COP for the period of investigation or review. In the instant case, we have relied on a quarterly costing approach. Similar to that used by the Department in cases of high-inflation (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Indonesia*, 64 FR 73164 (December 29, 1999) at Comment (1), this methodology restates the quarterly material costs on a year-end equivalent basis, calculates an annual weighted-average cost for the POR and then restates it to each respective quarter. We find that this quarterly costing method meets the requirements of section 773(b)(2)(D) of the Act.

Where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the indexed weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our cost test for Saha Thai revealed that, for home market sales of certain models, less than 20 percent of the sales of those models were at prices below the COP. Therefore, we retained all such sales in our analysis and used them as the basis for determining NV. Our cost test also indicated that for home market sales of other models, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

#### F. Home Market Price

To calculate Saha Thai's home market net price, we deducted discounts and movement expenses, which included inland freight and warehousing where appropriate. Pursuant to section 773(a)(6)(C)(iii) of the Act and section 351.410(c) of the Department's regulations, we made a circumstance of sale adjustment for home market and U.S. credit expenses, as well as U.S. bank charges. In addition, pursuant to section 773(a)(6)(A) of the Act, we deducted home market packing costs and added U.S. packing costs. In addition, where applicable, we made adjustments for differences in costs attributable to physical characteristics pursuant to section 773(a)(6)(C)(ii) of the Act and section 351.410 of the Department's regulations.

#### Level of Trade

Pursuant to section 773(a)(1)(B)(i) of the Act, to the extent practicable, NV is normally the price in the home market

that is at the same level of trade (LOT) as the EP. The NV LOT is that of the starting-price sale in the comparison market, or when NV is based on CV, that of the sales from which we derive SG&A and profit. For EP, the U.S. LOT is the level of the starting-price sale, which is usually from exporter to importer. To determine whether NV sales are at a different LOT than EP sales, we examine stages in the marketing and selling functions along the chain of distribution between the producer and unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects the price comparability, as manifested in a pattern of consistent price differences between sales at different levels of trade in the country in which NV is determined, we make an LOT adjustment under section 773(a)(7)(A) of the Act and under section 351.410(c) of the Department's regulations. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

For the U.S. market, Saha Thai reported only one LOT for its EP sales. For its home market sales, Saha Thai reported that its sales to unaffiliated customers were at the same level of trade as its U.S. sales. However, Saha Thai reported that, if the Department used the downstream sales of any of its affiliated resellers, these sales were made at a distinct level of trade, and Saha Thai's home market would consist of two levels of trade.

For Saha Thai's sales made through affiliated resellers, we consider the relevant functions to be the selling functions of both the producer and the reseller (*i.e.*, the cumulative selling functions along the chain of distribution) for purposes of comparing the selling activities related to each affiliate's sale with those related to the producer's sale to its unaffiliated customers. If the reseller performs selling functions that add substantial selling activity in making the sale, we may find that sales by the reseller are made at a different LOT than the sales made by the producer.

Saha Thai provided information about the marketing and selling functions performed by the affiliated resellers for its sales to unaffiliated customers. This information is sufficient to conduct an analysis of whether Saha Thai's sales in the home market were made at more than one LOT. For those affiliated resellers whose sales did not pass the arm's length test, we have analyzed the information that Saha Thai provided regarding the marketing and selling

functions for both Saha Thai and the affiliated resellers. We examined the information reported by Saha Thai and its affiliated resellers with respect to the selling and marketing functions, the freight functions, technical services/warranties functions, and inventory management functions of Saha Thai and its resellers. We examined the selling functions and the level of intensity at which Saha Thai performs those selling functions, as described in the narrative response and Exhibit 9 of Saha Thai's July 13, 2009 questionnaire response and Exhibit 8 of Saha Thai's October 19, 2009 supplemental questionnaire response. Information about the specific selling functions we examined, the intensity at which Saha Thai and its affiliated resellers performed them, and our analysis is business proprietary, and is detailed in the "Level of Trade" section in the *Preliminary Analysis Memorandum*.

Based on the facts and our analysis, we have concluded that Saha Thai's home market sales were made at two distinct levels of trade: sales directly from Saha Thai to its unaffiliated customers and sales from Saha Thai through its affiliated resellers to unaffiliated customers. See "Level of Trade" section in the *Preliminary Analysis Memorandum*; see also 2006–2007 AR Final Results.

Saha Thai reported that its U.S. sales are made at only one level of trade, to unaffiliated resellers in the United States. For the U.S. market, we also examined the information reported by Saha Thai with respect to the selling and marketing functions, the freight functions, technical services/warranties functions, and inventory management functions performed by Saha Thai for sales to its unaffiliated resellers. We examined the selling functions and the level of intensity at which Saha Thai performs these selling functions as described in its narrative response and Exhibit 9 of Saha Thai's July 13, 2009 Section questionnaire response and Exhibit 8 of Saha Thai's October 19, 2009 supplemental questionnaire response. Information about the specific selling functions we examined, the intensity at which Saha Thai performs those selling functions for its U.S. sales (to unaffiliated resellers) and our analyses is business proprietary, and is detailed in the "Level of Trade" section in the *Preliminary Analysis Memorandum*.

Based on the facts and our analyses, we preliminarily determine that all U.S. sales are made at one LOT. Furthermore, we find that the U.S. sales are at the same LOT as Saha Thai's home market sales to unaffiliated customers. For our

complete analysis, see "Level of Trade" section in the *Preliminary Analysis Memorandum*; see also 2006–2007 AR Final Results.

While we have preliminarily determined that there are two distinct levels of trade in the home market (LOT 1 and LOT 2) and that the LOT in the U.S. market matches LOT 1 in the home market, we must consider whether an LOT adjustment is warranted for those U.S. sales for which there is not a match in the home market at LOT 1. In accordance with section 773(a)(7)(A)(ii) of the Act, such an adjustment is warranted when the difference in LOT is demonstrated to affect price comparability, based on a pattern of consistent price differences, on both a CONNUM and a quantity basis, between sales at different levels of trade in the home market (the basis for NV). However, our decision to apply the quarterly cost methodology and to perform quarterly price-to-price comparisons, raises a novel issue with respect to the LOT analysis of pattern of price differences and any possible LOT adjustment based on that analysis. Therefore, we request parties comment on whether the application of the quarterly cost methodology necessarily requires an evaluation on a quarterly basis of the pattern of price differences and how any such differences should be analyzed for purposes of determining whether there is a pattern of price differences. In addition, we invite parties to comment on whether, if a pattern of price differences is found to exist, any LOT adjustment should be done on a yearly basis or on a quarterly basis. These comments should be submitted no later than ten days from the date of publication of this notice in the **Federal Register**.

*Currency Conversion*

We made currency conversions pursuant to section 351.415 of the Department's regulations based on rates certified by the Federal Reserve.

*Preliminary Results of Review*

Manufacturer/Exporter	Margin (percent)
Saha Thai Steel Pipe (Public) Company, Ltd. ....	4.35

**Assessment**

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries in accordance with section 351.212 of the Department's regulations. The Department intends to issue assessment instructions for Saha Thai directly to

CBP 15 days after the date of publication of the final results of this administrative review.

The Department clarified its "automatic assessment" regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for any intermediate company involved in the transaction. For a full discussion of this clarification, *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 239254 (May 6, 2003).

*Cash Deposit Requirements*

The following cash deposit rates will be effective with respect to all shipments of subject merchandise entered, or withdrawn from warehouse for consumption, on or after the publication date of the final results, as provided for by section 751(a)(1) of the Act: (1) for Saha Thai, the cash deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer of the subject merchandise is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate shall be the "all other" rate established in the LTFV investigated, which is 15.67 percent. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Public Comment**

Pursuant to section 351.224(b) of the Department's regulations, the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to section 351.309 of the Department's regulations, interested parties may submit written comments in response to those preliminary results.

Unless extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) statement of the issues; and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Also, pursuant to section 351.310(c) of the Department's regulations, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location.

The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, no later than 120 days after publication of the preliminary results, unless extended. *See* section 351.213(h) of the Department's regulations.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations 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.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-8420 Filed 4-12-10; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-840]

#### **Certain Orange Juice From Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part**

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

**SUMMARY:** In response to a request by the petitioners and two producers/exporters of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain orange juice (OJ) from Brazil of those two producers/exporters of the subject merchandise to the United States. This is the third period of review (POR), covering March 1, 2008, through February 28, 2009.

We have preliminarily determined that sales to the United States have been made below normal value (NV). If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

**DATES:** *Effective Date:* April 13, 2010.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood or Hector Rodriguez, 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) 482-3874 or (202) 482-0629, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In March 2006, the Department published in the **Federal Register** an antidumping duty order on certain orange juice from Brazil. *See Antidumping Duty Order: Certain Orange Juice from Brazil*, 71 FR 12183 (Mar. 9, 2006) (*OJ Order*). Subsequently, on March 2, 2009, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain orange juice from Brazil for the period March 1, 2008, through February 28, 2009. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 74 FR 9077 (Mar. 2, 2009).

In accordance with 19 CFR 351.213(b)(2), in March 2009, the

Department received requests to conduct an administrative review of the antidumping duty order on OJ from Brazil from two producers/exporters of the subject merchandise, Fischer S.A. Comercio, Industria, and Agricultura (Fischer) and Sucocitrico Cutrale, S.A. (Cutrale). In Cutrale's request for an administrative review, Cutrale also requested revocation of the antidumping duty order with respect to its sales of subject merchandise, pursuant to 19 CFR 351.222(b).

In accordance with 19 CFR 351.213(b)(1), also in March 2009, the petitioners (Florida Citrus Mutual, A. Duda & Sons, Citrus World Inc., and Southern Gardens Citrus Processing Corporation), requested that the Department conduct an administrative review for Cutrale and Fischer. In April 2009, the Department initiated an administrative review for each of these companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 19042 (Apr. 27, 2009). In May 2009, we issued questionnaires to Cutrale and Fischer.

In June 2009, we received responses to section A of the questionnaire (*i.e.*, the section covering general information) from Cutrale and Fischer, as well as responses to sections B and C of the questionnaire (*i.e.*, the sections covering sales in the home market and United States) and section D (*i.e.*, the section covering cost of production (COP)/constructed value (CV)).

In June, August, and September 2009, we issued four supplemental sales questionnaires to Fischer, three supplemental questionnaires to Cutrale and one cost questionnaire and supplemental each to Cutrale and Fischer. We received responses to these supplemental questionnaires from July through October 2009.

In September and October 2009, the Department verified the U.S. sales data reported by Fischer's U.S. affiliate, Citrusuco North America Inc. (CNA), and the COP/CV data reported by Fischer, respectively.

On October 28, 2009, the Department extended the deadline for the preliminary results in this review until no later than March 31, 2010. *See Certain Orange Juice from Brazil: Notice of Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 55540 (Oct. 28, 2009).

In November and December 2009, the Department verified Cutrale's and Fischer's sales information in Brazil and the U.S. sales data reported by Cutrale's U.S. affiliate, Citrus Products Inc (CPI). Also, in November, we issued and