
DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-956]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances, in Part

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

DATES: *Effective Date:* September 21, 2010.

SUMMARY: The Department of Commerce ("the Department") has determined that certain seamless carbon and alloy steel standard, line, and pressure pipe from the People's Republic of China ("PRC")

are being, or are likely to be, sold in the United States at less than fair value (“LTFV”) as provided in section 735 of the Tariff Act of 1930, as amended (“the Act”). The final dumping margins for this investigation are listed in the “Final Determination Margins” section below. The period covered by the investigation is January 1, 2009, through June 30, 2009 (the “POI”).

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Background

The Department published in the *Federal Register* its preliminary determination of sales at LTFV on April 28, 2010.¹ The Department published in the *Federal Register* its amended preliminary determination of sales at LTFV on May 28, 2010, after identifying and correcting certain ministerial errors.² Between May 10, 2010, and May 14, 2010, the Department conducted a verification of Hengyang Steel Tube Group Int’l Trading Inc., and its affiliates Hengyang Valin Steel Tube Co., Ltd., and Hengyang Valin MPM Tube Co., Ltd., (collectively, Hengyang) at its facilities in Hengyang City, China. Between May 17, 2010, and May 26, 2010, the Department conducted a verification of Tianjin Pipe (Group) Corporation and Tianjin Pipe International Economic Trading Corporation (collectively, TPCO) at its facilities in Tianjin City, China. Between June 7, 2010, and June 9, 2010, the Department conducted a verification of TPCO Enterprise Inc. (“TEI”), an affiliate of TPCO, at its facilities in Houston, Texas. See the “Verification” section of this notice below for additional information.

On May 24, 2010, Salem Steel North America LLC (Salem Steel), a U.S. importer of cold drawn seamless mechanical tubing, submitted a request

to the Department that it reconsider its preliminary decision to include cold drawn mechanical tubing within the scope of the antidumping duty investigation. On May 27, 2010, Petitioners,³ Salem Steel and a number of other importers and end-users of mechanical tubing met with Department officials to discuss the May 24, 2010, submission filed by Salem Steel. Subsequently, a number of interested parties filed comments regarding excluding mechanical tubing from the scope of the investigation. Additionally, on July 2, 2010, Petitioners submitted a request to the Department that it exclude from the scope seamless pipe made to the American Society for Testing and Materials (“ASTM”) A-335 specification. The Department has issued proposed modifications to the scope language addressing mechanical tubing and pipe meeting the ASTM A-335 specification and interested parties have commented on the proposed modifications. See the “Scope Comments” section of this notice below for additional information.

On July 9, 2010, Mr. Daniel Porter of Winston Strawn LLP, counsel to TPCO, submitted an affidavit in response to the Department’s verification report. The Department subsequently rejected the affidavit because it contained untimely new factual information and Mr. Porter resubmitted the affidavit on July 22, 2010. The Department responded to the affidavit on August 16, 2010. United States Steel Corporation and TPCO filed comments regarding the Department’s response to the affidavit on August 18, 2010. United States Steel Corporation filed rebuttal comments on August 20, 2010. See the “Verification” section of this notice below for additional information.

On June 7, 2010, Petitioners, Hengyang, and TPCO filed surrogate value information. On June 17, 2010, Petitioners filed rebuttal surrogate value information.

In response to the Department’s invitation to comment on the *Preliminary Determination* and *Amended Preliminary Determination*, on July 14, 2010, Petitioners, Hengyang, TPCO, Salem Steel North America LLC (“Salem Steel”), Toyota Tsusho America, Inc. (“TAI”) and MC Tubular Products, Inc. (“MC Tubular”) filed case briefs. Petitioners, Hengyang, TPCO and the Government of China filed rebuttal briefs on July 21, 2010, and TPCO’s

rebuttal brief was resubmitted on July 26, 2010.

On July 16, 2010, the Department placed additional data on the record of the investigation and notified interested parties that it would be reconsidering its valuation of the labor wage rate in this investigation as a result of the recent decision in *Dorbest Limited et al. v. United States*, 604 F.3d 1363 (Fed. Cir. 2010) (*Dorbest*) issued by the United States Court of Appeals for the Federal Circuit (“CAFC”) on May 14, 2010.⁴ The Department invited interested parties to comment on the narrow issue of the labor wage rate in light of the CAFC’s decision. On July 21, 2010, TPCO and United States Steel Corporation submitted comments on the export data. On August 10, 2010, the Department released additional information relating to the wage rate to interested parties.⁵ United States Steel Corporation submitted comments on the additional information on August 12, 2010.

Analysis of Comments Received

All of the issues raised in the case and rebuttal briefs submitted in this investigation are addressed in the “Issues and Decision Memorandum for the Final Determination” dated September 10, 2010, which is hereby adopted by this notice (“Issues and Decision Memorandum”). Appendix I to this notice contains a list of the issues addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum, which is a public document, is on file in the Central Records Unit (“CRU”) at the Main Commerce Building, Room 7046, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we have made the following changes to our preliminary determination. The following changes have been made to surrogate values: (1) We calculated financial ratios based on data contained within the financial statements of Jindal Steel & Power, Ltd., Oil Country Tubular Ltd., and Lloyds Line Pipe, Ltd. (see Comment 6 in the Issues and Decision Memorandum); (2) we valued steel billets using Indonesian

¹ See *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination*, 75 FR 22372 (April 28, 2010) (“*Preliminary Determination*”).

² See *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value*, 75 FR 29972 (May 28, 2010) (“*Amended Preliminary Determination*”).

³ Petitioners are United States Steel Corporation, V&M Star L.P., TMK IPSCO, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (hereinafter, “Petitioners”).

⁴ See Memorandum to The File, through Howard Smith, Program Manager, AD/CVD Operations, Office 4, concerning, “Data on Labor Wage,” dated July 16, 2010.

⁵ See Memorandum to The File, through Howard Smith, Program Manager, AD/CVD Operations, Office 4, concerning, “Honduras Data on Labor Wage Rate,” dated August 10, 2010.

World Trade Atlas (“WTA”) import data under Harmonized Tariff Schedule (“HTS”) number 7201.20.100 (see Comment 7 in the Issues and Decision Memorandum); (3) we valued iron ore using the simple average of iron ore lump prices from the financial statements of Kirloskar Ferrous Industries, Limited and KIOCL, Limited (see Comment 9 in the Issues and Decision Memorandum); (4) we valued compressed air based on the value of electricity used to generate the air (see Comment 14 in the Issues and Decision Memorandum); (5) we revised our calculation of the value of labor (see Comment 5 in the Issues and Decision Memorandum); and (6) we valued calcium silicide (Si Ca cable and SICAWIRE) using HTS number 2850.00.41 (see Comment 12 in the Issues and Decision Memorandum).

The following TPCO-specific changes have been made: (1) We have not granted TPCO a by-product offset for electricity (see Comment 26 in the Issues and Decision Memorandum); (2) as partial adverse facts available (“AFA”), we assigned each model (control number (CONNUM)) of seamless pipe sold by TPCO to the United States during the POI the highest purchased-billet consumption quantity reported by TPCO (see Comment 16 in the Issues and Decision Memorandum); (3) we updated the AFA rate applied to TPCO’s downstream sales to reflect the highest CONNUM-specific dumping margin calculated for TPCO (see Comment 17 in the Issues and Decision Memorandum); (4) we calculated a value for compressed air in TPCO’s margin program (see Comment 14 in the Issues and Decision Memorandum); (5) as partial AFA, we based the consumption quantity for steel strap on the average of the three highest usage rates for steel strap reflected in Hengyang’s factors of production (“FOP”) database (see Comment 27 in the Issues and Decision Memorandum); (6) we deducted inland freight insurance from TPCO’s reported U.S. prices (see Comment 23 in the Issues and Decision Memorandum); (7) we valued steel scrap based on both market economy prices and a surrogate value based on WTA Indian import data (see Comment 19 in the Issues and Decision Memorandum); (8) we reduced TPCO’s reported by-product offset for steel scrap by the quantity of further processed steel scrap for which TPCO never reported the inputs used for further processing (see Comment 20 in the Issues and Decision Memorandum); (9) we corrected the conversion factor for argon gas (see Comment 24 in the Issues

and Decision Memorandum); and (10) we added truck freight to TPCO’s cost of manufacturing to account for TPCO’s costs associated with transporting semi-finished pipes for further processing (see Comment 21 in the Issues and Decision Memorandum).

The following Hengyang-specific changes have been made: (1) We adjusted the market-economy and non-market economy (“NME”) percentages of pig iron purchased (see Comment 33 in the Issues and Decision Memorandum); (2) we did not value dolomite and dolomite powder (see Comment 13 in the Issues and Decision Memorandum); and (3) we made several corrections to the *Preliminary Determination* margin calculation program (see Hengyang Analysis Memorandum).

Scope Comments

As noted above, on May 24, 2010, Salem Steel, submitted comments on the scope of this investigation. Salem requested that the Department amend the scope of this investigation to exclude cold drawn seamless mechanical tubing (“mechanical tubing”). On May 27, 2010, Petitioners, Salem Steel and a number of other importers and end-users of mechanical tubing met with Department officials to discuss the May 24, 2010, submission filed by Salem Steel. On June 4, 2010, Salem Steel submitted proposed scope language to exclude mechanical tubing from the scope of the investigation. On June 8, 2010, MC Tubular Products, Inc. (“MC Tubular”) and Toyota Tsusho America, Inc. (“TAI”) submitted comments supporting Salem’s proposed scope exclusion language. On June 23, 2010, the Department issued a proposed scope modification to interested parties and requested comments.⁶ Specifically, the Department’s proposed scope modification language excluded “all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, *i.e.*, outside diameter and wall thickness of ASTM A–53, ASTM A–106 or APL 5L specifications.”⁷ On June 30, 2010, TAI, MC Tubular and Salem Steel submitted comments supporting the exclusion of mechanical tubing from the scope of the investigation and providing suggestions for additional modifications to the scope of the investigation. Primarily parties’ comments involved modifying the language so that all forms of mechanical

tubing, regardless of whether they conform to the dimensional requirements of certain seamless pipe specifications, are excluded from the scope. On July 2, 2010, Petitioners submitted a request that the Department exclude from the scope seamless pipe produced to the ASTM A–335 specification. On August 19, 2010, the Department issued an additional proposed scope modification which excludes all pipes meeting the chemical requirements of ASTM A–335 whether finished or unfinished. On August 23, 2010, TAI submitted comments supporting the Department’s proposed exclusion of ASTM A–335. After considering parties’ comments, the Department has determined to remove ASTM A–335 from the list of covered specifications included within the scope of this investigation, and include the following exclusion language in the scope:

Specifically excluded from the scope of these investigations are: (1) All pipes meeting aerospace, hydraulic, and bearing tubing specifications; (2) all pipes meeting the chemical requirements of ASTM A–335, whether finished or unfinished; and (3) unattached couplings. Also excluded from the scope of these investigations are all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, *i.e.*, outside diameter and wall thickness of ASTM A–53, ASTM A–106 or API 5L specifications.

See Comment 1 of the accompanying Issues and Decision Memorandum for additional information.

Scope of Investigation

The merchandise covered by this investigation is certain seamless carbon and alloy steel (other than stainless steel) pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (*e.g.*, hot-finished or cold-drawn), end finish (*e.g.*, plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish (*e.g.*, bare, lacquered or coated). Redraw hollows are any unfinished carbon or alloy steel (other than stainless steel) pipe or “hollow profiles” suitable for cold finishing operations, such as cold drawing, to meet the American Society for Testing and Materials (“ASTM”) or American Petroleum Institute (“API”) specifications referenced below, or comparable specifications. Specifically included within the scope are seamless carbon and alloy steel (other than stainless steel) standard, line, and pressure pipes produced to the ASTM A–53, ASTM A–106, ASTM A–333,

⁶ See Letter to Interested Parties, Regarding the “Antidumping Duty Investigation of Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China,” dated June 23, 2010.

⁷ *Id.*

ASTM A-334, ASTM A-589, ASTM A-795, ASTM A-1024, and the API 5L specifications, or comparable specifications, and meeting the physical parameters described above, regardless of application, with the exception of the exclusion discussed below.

Specifically excluded from the scope of the investigation are: (1) All pipes meeting aerospace, hydraulic, and bearing tubing specifications; (2) all pipes meeting the chemical requirements of ASTM A-335, whether finished or unfinished; and (3) unattached couplings. Also excluded from the scope of the investigation are all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, *i.e.*, outside diameter and wall thickness of ASTM A-53, ASTM A-106 or API 5L specifications.

The merchandise covered by the investigation is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers: 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Verification

As provided in section 782(i) of the Act, we conducted verifications of Hengyang, TPCO, and TEI.⁸ In conducting the verifications, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by Hengyang, TPCO, and TEI. As noted above, on July 9, 2010, Mr. Daniel Porter of Winston Strawn LLP, counsel to TPCO, submitted an affidavit in response to the Department's verification report concerning TPCO,

⁸ See the Department's verification reports for Hengyang and TPCO, both on file in the CRU.

addressing the ratio TPCO calculated to distinguish between self-produced and purchased billets, as well as the Department's verification findings regarding certain market economy purchases of steel scrap. Specifically, Mr. Porter alleged that, at verification, the Department refused to accept a corrected chart and support documentation that revised its ratio of self-produced and purchased billets and erred in finding that TPCO's market economy purchases of steel scrap were less than the Department's 33 percent threshold for using a market economy price to value all of the input. The Department requested that Mr. Porter resubmit this affidavit to omit certain untimely new factual information; Mr. Porter complied and resubmitted the affidavit on July 22, 2010. On August 16, 2010, the Department issued a memorandum in response to Mr. Porter's affidavit. Specifically, the Department stated that it would not have accepted such information at verification because it would have been considered new information. On August 18, 2010, Petitioners submitted comments supporting the Department's response. On August 18, 2010, TPCO submitted comments contesting the facts in the Department's memorandum and arguing that the Department should have accepted its revisions and that information on the record prior to verification would have supported its ratio revisions. On August 20, 2010, Petitioners submitted comments arguing that TPCO's data for its consumption of steel billets could not be verified. See Comment 16 of the accompanying Issues and Decision Memorandum for additional information.

Surrogate Country

In the *Preliminary Determination*, pursuant to section 773(c) of the Act, we selected India as the appropriate surrogate country because it is at a level of economic development comparable to the PRC, and because it is a significant producer of merchandise comparable to subject merchandise. Additionally, we determined that reliable Indian data for valuing FOPs are readily available.⁹ No party has commented on our selection of India as the appropriate surrogate country. We continue to find India to be the appropriate surrogate country in this investigation.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all

⁹ See *Preliminary Determination*, 75 FR at 22376-22377.

companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.¹⁰

In the *Preliminary Determination*, we found that TPCO, Hengyang, Xigang Seamless Steel Tube Co., Ltd. ("Xigang"), Jiangyin City Changjiang Steel Pipe Co., Ltd., Pangang Group Chengdu Iron & Steel Co., Ltd., Yangzhou Lontrin Steel Tube Co., Ltd., and Yangzhou Chengde Steel Tube Co., Ltd., demonstrated their eligibility for, and were hence assigned, separate rate status. No party has commented on the eligibility of these companies for separate rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by these companies demonstrates both a *de jure* and *de facto* absence of government control with respect to their exports of the merchandise under investigation and that these companies are thus eligible for separate rate status.¹¹

Critical Circumstances

In the *Preliminary Determination*, the Department determined that, in accordance with section 733(e)(1) of the Act, critical circumstances exist with respect to Hengyang and the PRC-wide entity but not for TPCO or the separate rate companies, including Xigang. After the *Preliminary Determination*, TPCO and Hengyang placed additional shipment data on the record for use in the Department's critical circumstances analysis. Furthermore, Hengyang contended that the Department must revisit its critical circumstances analysis using Hengyang's final antidumping duty margin. We have examined the additional shipment information placed on the record, as adjusted for verification findings, and reviewed Hengyang's final antidumping margin and, for the final determination, we continue to find that critical circumstances exist with respect to Hengyang and the PRC-wide entity but

¹⁰ See, *e.g.*, *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994); see also 19 CFR 351.107(d).

¹¹ See *Preliminary Determination*, 75 FR at 22377-22378.

not for TPCO or the separate rate companies, including Xigang.

The PRC-Wide Rate

In the *Preliminary Determination*, the Department considered certain non-responsive PRC producers/exporters to be part of the PRC-wide entity because they did not respond to our requests for information and did not demonstrate that they operated free of government control over their export activities.¹² No additional information regarding these entities has been placed on the record since the publication of the *Preliminary Determination*. Since the PRC-wide entity did not provide the Department with requested information, pursuant to section 776(a)(2)(A) of the Act, we continue to find it appropriate to base the PRC-wide rate on facts otherwise available. Moreover, given that the PRC-wide entity did not respond to our request for information, we continue to find that it failed to cooperate to the best of its ability to comply with a request for information. Thus, pursuant to section 776(b) of the Act, and consistent with the Department's practice, we have continued to use an adverse inference in selecting from among the facts otherwise available.¹³

Pursuant to section 776(b) of the Act, the Department may select, as AFA, information derived from: (1) The petition; (2) the final determination from the LTFV investigation; (3) a previous administrative review; or (4) any other information placed on the record. To induce respondents to provide the Department with complete and accurate information in a timely manner, the Department's practice is to select, as AFA, the higher of: (a) The highest margin alleged in the petition; or (b) the highest calculated rate for any respondent in the investigation.¹⁴

Since we begin with the presumption that all companies within an NME country are subject to government control and only the exporters listed under the "Final Determination Margins" section below have overcome

that presumption, consistent with the Department's practice, we are applying a single antidumping rate (*i.e.*, the PRC-wide rate) to all exporters of subject merchandise from the PRC, other than the exporters listed in the "Final Determination Margins" section of this notice.¹⁵

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information, rather than on information obtained in the course of an investigation as facts available ("FA"), it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the Statement of Administrative Action ("SAA") as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise."¹⁶ The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value.¹⁷ The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.¹⁸ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.¹⁹

As total AFA, the Department preliminarily selected the rate of 98.37

¹⁵ See *Synthetic Indigo From the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000) (applying the PRC-wide rate to all exporters of subject merchandise in the PRC based on the presumption that the export activities of the companies that failed to respond to the Department's questionnaire were controlled by the PRC government).

¹⁶ See SAA, accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 at 870.

¹⁷ See *id.*

¹⁸ See *id.*

¹⁹ See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

percent from the "Petition for the Imposition of Antidumping Duties: Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China," dated September 16, 2009 ("Petition"). In the *Preliminary Determination*, we preliminarily found the rate of 98.37 percent to be the highest Petition margin that could be corroborated within the meaning of section 776(c) of the Act. For the final determination, we find that this rate, as adjusted to reflect the CAFC's decision in *Dorbest* (98.74), is within the range of CONNUM-specific margins calculated for the mandatory respondents in this proceeding. Therefore, we consider the rate to have probative value. See Hengyang and TPCO Analysis Memoranda. Therefore, we continue to find that the margin based on the petition has probative value. Accordingly, we find that the rate of 98.74 percent is corroborated within the meaning of section 776(c) of the Act.

Partial AFA for TPCO

As in the *Preliminary Determination*, the Department has continued to apply partial AFA with respect to the unreported downstream sales of TPCO's U.S. affiliate which TPCO failed to timely submit to the Department. Because this information is not on the record and TPCO significantly impeded this proceeding by its failure to timely submit the information, we have continued to rely upon the FA with respect to the unreported sales pursuant to sections 776(a)(1) and (2)(C) of the Act. Further, because the Department finds that TPCO failed to cooperate to the best of its ability, pursuant to section 776(b) of the Act, the Department has determined to use an adverse inference when applying FA in this investigation. As partial AFA, the Department is applying to the unreported sales the highest control number-specific dumping margin calculated for TPCO. For further details, see Comment 17 of the Issues and Decision Memorandum.

Also, the Department finds that the correct ratios of purchased and self-produced billets which TPCO used to produce subject merchandise are not on the record because the information regarding these ratios that was provided by TPCO could not be verified, pursuant to sections 776(a)(1) and (2)(D) of the Act. Accordingly, the Department is using FA. Moreover, because the Department finds that TPCO failed to cooperate by not acting to the best of its ability, pursuant to section 776(b) of the Act, the Department has determined to use an adverse inference when applying partial facts available. As partial AFA,

¹² See *id.*, 75 FR at 22379-22380.

¹³ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000) (where the Department applied an adverse inference in determining the Russia-wide rate); *Final Determination of Sales at Less Than Fair Value: Certain Artists Canvas from the People's Republic of China*, 71 FR 16116, 16118-19 (March 30, 2006) (where the Department applied an adverse inference in determining the PRC-wide rate).

¹⁴ See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decisions Memorandum at "Facts Available."

the Department is using the highest purchased billet usage rate of any CONNUM sold to the United States during the POI, reported in TPCO's FOP database, as the usage rate for purchased steel billets for all other CONNUMs. For further details, *see* Comment 16 of the Issues and Decision Memorandum.

In addition, the Department finds that necessary information is not on the record to determine TPCO's steel strap usage because TPCO did not report its steel strap usage by the deadline established by the Department, pursuant to sections 776(a)(1) and (2)(B) of the Act. Thus, the Department has determined to use FA. Moreover, because the Department finds that TPCO failed to cooperate by not acting to the best of its ability to report steel strap usage, pursuant to section 776(b) of the Act, the Department has determined to use an adverse inference when applying partial facts available. As partial AFA, we have assigned the average of the two

highest consumption rates for steel strap provided on the record of this investigation by Hengyang, the other mandatory respondent in this investigation, to all CONNUMs reported in TPCO's FOP database. For further details, *see* Comment 27 of the Issues and Decision Memorandum.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.²⁰ This practice is described in Department Policy Bulletin 05.1, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," which states:

{W}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its {non-market economy}

investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.²¹

Final Determination Margins

We determine that the following weighted-average dumping margins exist for the period January 1, 2009, through June 30, 2009:

Exporter & producer	Weighted-average margin (percent)
Tianjin Pipe International Economic and Trading Corporation	48.99
Produced by: Tianjin Pipe (Group) Corporation.	
Hengyang Steel Tube Group Int'l Trading Inc.	82.03
Produced by: Hengyang Valin Steel Tube Co., Ltd., and Hengyang Valin MPM Tube Co., Ltd..	
Xigang Seamless Steel Tube Co., Ltd.	65.51
Produced by: Xigang Seamless Steel Tube Co., Ltd., and Wuxi Seamless Special Pipe Co., Ltd..	
Jiangyin City Changjiang Steel Pipe Co., Ltd.	65.51
Produced by: Jiangyin City Changjiang Steel Pipe Co., Ltd..	
Pangang Group Chengdu Iron & Steel Co., Ltd.	65.51
Produced by: Pangang Group Chengdu Iron & Steel Co., Ltd..	
Yangzhou Lontrin Steel Tube Co., Ltd.	65.51
Produced by: Yangzhou Lontrin Steel Tube Co., Ltd..	
Yangzhou Chengde Steel Tube Co., Ltd.	65.51
Produced by: Yangzhou Chengde Steel Tube Co., Ltd..	
PRC-Wide Rate	98.74

Disclosure

We will disclose to parties the calculations performed within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, and consistent with our finding of critical circumstances with respect to Hengyang

and the PRC-wide entity, pursuant to section 733(e)(2) of the Act, the Department will instruct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all entries of certain seamless carbon and alloy steel standard, line, and pressure pipe from the PRC, as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption on or after January 28, 2010, which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**.

However, because we have determined that critical circumstances does not exist for TPCO or the separate rate companies (including Xigang), we will instruct CBP to continue to suspend liquidation of all entries of the merchandise under consideration from the PRC entered, or withdrawn from warehouse, for the consumption on or after April 28, 2010, the date of publication of the *Preliminary Determination*.

²⁰ See Certain *Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Initiation of*

Antidumping Duty Investigation, 74 FR 52744, 52748 (October 14, 2009) ("*Initiation Notice*").

²¹ See Policy Bulletin 05.1 can be found on the Import Administration Web site at the following address: <http://ia.ita.doc.gov/policy/bull05-1.pdf>.

Additionally, the Department determined in its final determination for the companion countervailing duty (“CVD”) investigation that TPCO’s and Hengyang’s merchandise benefited from export subsidies.²² Therefore, we will instruct CBP to require a cash deposit or posting of a bond equal to the weighted-average amount by which normal value exceeds U.S. price for TPCO and Hengyang, as indicated above, minus the amount determined to constitute an export subsidy.²³

With respect to the companies other than TPCO and Hengyang that are receiving a separate rate, we have applied to these companies the average of the rates calculated for TPCO and Hengyang. In the companion CVD investigation, the Department found that TPCO’s and Hengyang’s merchandise benefited from export subsidies during the POI, and, consequently all other exporters (besides TPCO and Hengyang) were found to have benefited from export subsidies based upon TPCO’s and Hengyang’s results. Therefore, we will instruct CBP to require a cash deposit or posting of a bond equal to the weighted-average amount by which normal value exceeds U.S. price for TPCO and Hengyang, as indicated above, minus the amount determined to constitute an export subsidy.

With respect to the PRC-wide entity, as AFA, we applied the highest rate from the Petition, as adjusted to reflect the CAFC’s decision in *Dorbest*, that we were able to corroborate. See the *Corroboration* section above.

Cash Deposit

The Department will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate the Department has determined in this final determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the PRC-wide entity rate; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination

²² See *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, dated concurrently with this notice.

²³ See *Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 from India*, 69 FR 67306, 67307 (November 17, 2004).

that supplied that non-PRC exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise within 45 days of this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 10, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix I

- Comment 1: Scope Issues
- Comment 2: Double Remedy
- Comment 3: Zeroing
- Comment 4: Whether to Deduct Chinese VAT from U.S. Price
- Comment 5: The Appropriate Surrogate Value for Labor
- Comment 6: The Appropriate Financial Statements

- Comment 7: The Appropriate Surrogate Value for Steel Billets
- Comment 8: The Appropriate Surrogate Value for Pig Iron
- Comment 9: The Appropriate Surrogate Value for Iron Ore and Iron Powder
- Comment 10: The Appropriate Surrogate Value for Oxygen and Nitrogen
- Comment 11: The Appropriate Surrogate Value for Medium Chromium
- Comment 12: The Appropriate Surrogate Value for SiCa Cable
- Comment 13: The Appropriate Surrogate Value for Dolomite and Dolomite Powder
- Comment 14: The Appropriate Surrogate Value for Compressed Air
- Comment 15: The Appropriate Surrogate Value for Steam Coal
- Comment 16: Whether to Apply AFA Because of Errors in the FOP Database
- Comment 17: Whether TPCO is Affiliated with One of its U.S. Customers and Whether AFA or Partial AFA Should be Applied Because of Unreported Downstream Sales
- Comment 18: Whether Targeted Dumping Exists
- Comment 19: Whether Market Economy Purchase Prices Should be Used to Value Steel Scrap
- Comment 20: Whether to Disallow a By-Product Offset for Steel Scrap
- Comment 21: Calculating Freight Expenses for Transporting Pipe for Further Processing
- Comment 22: Whether Certain Materials are Inputs or Overhead
- Comment 23: Whether to Deduct Domestic Inland Insurance from the U.S. Price
- Comment 24: Whether to Correct the Conversion Factor for Argon
- Comment 25: Whether to Calculate a Factor for Pipeline Transmission
- Comment 26: Whether to Disallow a By-Product Offset for Electricity
- Comment 27: Whether to Apply Partial AFA to Unreported Steel Strap
- Comment 28: Whether to Deduct Warranty Expenses from the U.S. Price
- Comment 29: Whether to Deduct Unreported Stevedoring Expenses from the U.S. Price
- Comment 30: Whether the 33 Percent Threshold Test is Appropriate When Deciding to Use Market Economy Purchase Prices
- Comment 31: Whether the Ratio for Pig Iron was Calculated Correctly
- Comment 32: Whether Freight Cost Should be Added to TPCO’s Consumption of Water
- Comment 33: Pig Iron Market Economy Purchases

- Comment 34: Export Price Sales
Classification to a U.S. Customer
- Comment 35: Steel Scrap Offset
- Comment 36: By-product Offset for the
Recovery of Blast Furnace Gas
- Comment 37: Whether Hengyang Failed
to Report Certain Alloying Materials
- Comment 38: Treating Certain Ancillary
Materials as Inputs
- Comment 39: Application of Certain
Adjustment to the Factors for Sintered
Iron Ore
- Comment 40: Critical Circumstances

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