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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Seamless Refined Copper Pipe and Tube from Mexico: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2012-2013

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on seamless refined copper pipe and tube (pipe and tube) from Mexico. The review covers two producers/exporters of the subject merchandise, Golden Dragon[1] and Nacional de Cobre, S.A. de C.V. (Nacobre). The period of review (POR) is November 1, 2012, through October 31, 2013. We have preliminarily found that sales of the subject merchandise have been made at prices below normal value (NV).

BACKGROUND

In November 2010, the Department published in the Federal Register an AD order on pipe and tube from Mexico.[2] Subsequently, on November 1, 2013, the Department published in the

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[1] The Department uses the name Golden Dragon when referring to the collective group of Golden Dragon companies, which includes: 1) GD Copper Cooperatief U.A.; 2) Hong Kong GD Trading Co. Ltd.; 3) Golden Dragon Holding (Hong Kong) International, Ltd.; 4) GD Copper U.S.A. Inc.; 5) GD Affiliates Servicios S. de R.L. de C.V.; and 6) GD Affiliates S. de R.L. de C.V. See, e.g., Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty New Shipper Review, 77 FR 59178 (September 26, 2012), and accompanying Issues and Decision Memorandum (NSR Copper Pipe and Tube from Mexico).

[2] See Seamless Refined Copper Pipe and Tube From Mexico and the People's Republic of China: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value From Mexico, 75 FR 71070 (November 22, 2010) (Order).

Federal Register a notice of opportunity to request an administrative review of the AD order on pipe and tube from Mexico for the period November 1, 2012, through October 31, 2013.[3]

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), in November 2013, the Department received requests to conduct an administrative review of the AD order on pipe and tube from Mexico from the petitioners (Cerro Flow Products, LLC, Wieland Copper Products, LLC, Mueller Copper Tube Products, Inc., and Mueller Copper Tube Company, Inc.) for the following companies: Golden Dragon; IUSA, S.A. de C.V. (IUSA); Luvata Juarez S. de R.L. de C.V. (Luvata Juarez) and Luvata Monterrey S. de R.L. de C.V. (Luvata Monterrey); and Nacobre. In accordance with 19 CFR 351.213(b)(2), the Department also received requests to conduct an administrative review from Golden Dragon and Nacobre.

In December 2013, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review for IUSA, Golden Dragon, Luvata Juarez, Luvata Monterrey, and Nacobre.[4] In the Initiation Notice, the Department indicated that, in the event that we would limit the respondents selected for individual examination in accordance with section 777A(c)(2) of the Act, we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data. See Initiation Notice, 77 FR at 19639. On January 13, 2014, we received comments on the issue of respondent selection from Golden Dragon.

On January 28, 2014, after considering the large number of potential producers/exporters involved in this administrative review, and the resources available to the Department, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review was requested.[5] As a result, pursuant to section 777A(c)(2)(B) of the Act, we determined that we could reasonably individually examine only the two largest producers/exporters accounting for the largest volume of pipe and tube from Mexico during the POR (i.e., Golden Dragon and Nacobre). Accordingly, we issued the AD questionnaire to these companies.

In February and March 2014, respectively, we received responses from Golden Dragon and Nacobre to section A (i.e., the section related to general information) of the questionnaire. In March and April 2014, we received responses from Golden Dragon and Nacobre to the remaining sections of the questionnaire.

[3] See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 78 FR 65612 (November 1, 2013).

[4] See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 78 FR 79392 (December 30, 2013).

[5] See Memorandum to James Maeder, Director, Office II, AD/CVD Operations, from Dennis McClure, Senior International Trade Analyst, Office II, AD/CVD Operations entitled, "Seamless Refined Copper Pipe and Tube from Mexico, 2012/13 Administrative Review: Selection of Respondents for Individual Examination," dated January 28, 2014 (Respondent Selection Memo).

In March 2014, the petitioners withdrew their review requests for all companies; in April 2014, Nacobre also withdrew its review request. However, because Nacobre's request: 1) was submitted after the 90-day deadline set forth in 19 CFR 351.213(d)(1); and 2) did not involve extraordinary circumstances, we denied this request as untimely.[6] In May 2014, we rescinded the administrative review with respect to IUSA, Luvata Juarez, and Luvata Monterrey, pursuant to 19 CFR 351.213(d)(1).[7]

From May 2014 through September 2014, we issued supplemental questionnaires to Golden Dragon and Nacobre. We received responses to these supplemental questionnaires from June 2014 through September 2014.

In July 2014, we extended the deadline for the preliminary results by 120 days, to December 2, 2014.[8]

In August and September 2014, we conducted on-site verifications of the sales data reported by Golden Dragon and Nacobre. In October 2014, we conducted an on-site verification in Mexico of the cost data reported by Nacobre. We intend to verify Golden Dragon's cost response in December 2014.

In November 2014, Golden Dragon and Nacobre submitted revised home market and U.S. sales databases at the Department's request.

We are conducting the administrative review of the order in accordance with section 751(a) of the Act.

SCOPE OF THE ORDER

The products covered by the order are all seamless refined copper pipes and tubes, including redraw hollows, greater than or equal to 6 inches (152.4 millimeters (mm)) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter (OD), regardless of wall thickness, bore (e.g., smooth, enhanced with inner grooves or ridges), manufacturing process (e.g., hot finished, cold-drawn, annealed), outer surface (e.g., plain or enhanced with grooves, ridges, fins, or gills), end finish (e.g., plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (e.g., plastic, paint), insulation, attachments (e.g., plain, capped, plugged, with compression or other fitting), or physical configuration (e.g., straight, coiled, bent, wound on spools).

[6] See the Department's letter to Nacobre, dated April 8, 2014.

[7] See Seamless Refined Copper Pipe and Tube From Mexico: Rescission, in Part, of Antidumping Duty Administrative Review, 79 FR 30542 (May 28, 2014).

[8] See Memorandum from Dennis McClure, Senior Analyst, Antidumping and Countervailing Duty Operations, Office II, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, "Seamless Refined Copper Pipe and Tube from Mexico: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review; 2012-2013," dated July 14, 2014.

The scope of the order covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials (ASTM) ASTM-B42, ASTM-B68, ASTM-B75, ASTM-B88, ASTM-B88M, ASTM-B188, ASTM-B251, ASTM-B251M, ASTM-B280, ASTM-B302, ASTM-B306, ASTM-359, ASTM-B743, ASTM-B819, and ASTM-B903 specifications and meeting the physical parameters described therein. Also included within the scope of the order are all sets of covered products, including "line sets" of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase "all sets of covered products" denotes any combination of items put up for sale that is comprised of merchandise subject to the scope.

"Refined copper" is defined as: (1) Metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the content by weight of any other element does not exceed the following limits:

ELEMENT	LIMITING CONTENT PERCENT BY WEIGHT
Ag - Silver	0.25
As - Arsenic	0.5
Cd - Cadmium	1.3
Cr - Chromium	1.4
Mg - Magnesium	0.8
Pb - Lead	1.5
S - Sulfur	0.7
Sn - Tin	0.8
Te - Tellurium	0.8
Zn - Zinc	1.0
Zr - Zirconium	0.3
Other elements (each)	0.3

Excluded from the scope of the order are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length. The products subject to the order are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the order may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Normal Value Comparisons

Pursuant to section 773(a)(1)(B)(ii) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Golden Dragon's and Nacobre's sales of pipe and tube from Mexico were made in the United States at less than NV, we compared the constructed export price (CEP) to the NV as described in the "Constructed Export Price" and "Normal Value" sections of this notice.

For purposes of determining an appropriate product comparison to the U.S. sale, in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of the Order" section of this notice, above, that were in the ordinary course of trade. If contemporaneous sales of identical comparison market merchandise were reported, as described below, we made comparisons to the monthly weighted-average comparison market prices that were based on all such sales. If there were no contemporaneous sales of identical merchandise in the comparison market, then we identified sales of the most similar merchandise that were contemporaneous with the U.S. sales, in accordance with 19 CFR 351.414(e).

Golden Dragon argues that, in determining what constitutes a contemporaneous match for its sales, the Department should take into account the date that the copper price for the sale is fixed (i.e., the "metal date"). Golden Dragon argues that for some original equipment manufacturer (OEM) customers, Golden Dragon's U.S. affiliate has agreements indicating the metal price and the fabrication charge.[9] Golden Dragon explains that the price of copper is treated as a pass through and the customer indicates the basis on which the metal should be priced. Moreover, Golden Dragon argues that the price of copper fluctuates daily, and because the metal date establishes the key component of the transaction, the metal date must be considered in the Department's sales matching. However, consistent with our practice in the three most recent segments of this proceeding, we do not find that this case warrants special treatment.[10] Therefore, there is no reason to take into consideration the metal date in our comparisons.

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) (or CEPs) (the average-to-average method), unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in

[9] Golden Dragon explained that for these agreements the buyer and seller agree to fix the price of the copper component of the tube based on published prices on a global commodity exchange such as the London Metal Exchange. See Golden Dragon's February 26, 2014, submission at A-18.

[10] See Seamless Refined Copper Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty New Shipper Review, 77 FR 25136, 25139 (April 27, 2012), unchanged in NSR Copper Pipe and Tube From Mexico; Seamless Refined Copper Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2010-2011, 77 FR 73422 (December 10, 2012), and the accompanying Preliminary Issues and Decision Memorandum (First AR Mexican Copper Pipe Preliminary Results) at 5, unchanged in Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 35244 (June 12, 2013) (First AR Mexican Copper Pipe Final Results); and Seamless Refined Copper Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 77651 (Dec. 24, 2013), and the accompanying Preliminary Issues and Decision Memorandum (Second AR Mexican Copper Pipe Preliminary Results) at 4-5, unchanged in Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 36719 (June 30, 2014) (Second AR Mexican Copper Pipe Final Results).

administrative reviews is analogous to the issue in antidumping duty investigations.[11] In recent investigations, pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act, the Department has applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation.[12] The Department finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, as well as the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination zip code and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these

[11] See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

[12] See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and the accompanying Issues and Decision Memorandum at Comment 3; and Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013), and the accompanying Issues and Decision Memorandum at Comment 3.

thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large threshold (i.e., 0.8).

Next, the "ratio test" assesses the extent of the significance of the price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent but less than 66 percent of the value of total sales, then the results support the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support the application of an alternative to the average-to-average method.

If both tests in the first stage (i.e., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

For Golden Dragon, based on the results of the differential pricing analysis, the Department finds that between 33 percent and 66 percent of Golden Dragon's export sales pass the Cohen's *d* test, which confirms the existence of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions or time periods. Further, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margins move across the de minimis threshold when calculated using the average-to-average method and an alternative method based on the average-to-transaction method applied to those U.S. sales which passed the Cohen's *d* test. Accordingly, the Department has determined to use the average-to-transaction method for those U.S. sales which passed the Cohen's *d* test and the average-to-average method for those U.S. sales which do not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Golden Dragon.

For Nacobre, based on the results of the differential pricing analysis, the Department finds that less than 33 percent of Nacobre's export sales passed the Cohen's *d* test, which does not confirm the existence of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions or time periods. Accordingly, the Department has used the average-to-average method for all U.S. sales to calculate Nacobre's weighted-average dumping margin.

Product Comparisons

Pursuant to 19 CFR 351.414(e), we compared U.S. sales of pipe and tube to sales of pipe and tube made in the home market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale. In making the product comparisons, we matched foreign like products based on the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are type and ASTM specification, copper alloy unified number system, outer diameter, wall thickness, physical form, temper designation, bore, outer surface, and attachments.

Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, the Department will use the date of invoice, as recorded in the producer or exporter's records kept in the ordinary course of business, as the date of sale.

In Golden Dragon's response to the Department's questionnaire, Golden Dragon explained that it reported the invoice date as the date of sale in both markets because the quantity of each transaction is not fixed until the shipment is made or, in the case of consignment sales, the product is withdrawn from the warehouse by the customer.[13] Accordingly, we preliminarily find invoice date to be the appropriate date of sale with respect to Golden Dragon's sales to the United States and comparison markets, unless shipment occurred prior to invoice date. Consistent with the Department's practice, we used the shipment date as the date of sale where the shipment date occurred before the invoice date because the quantity is fixed at the time of shipment.[14]

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[13] See Golden Dragon's February 26, 2014, submission at A-18.

[14] See Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 71 FR 18074, 18079-80 (April 10, 2006), unchanged in Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Final Results and Rescission of Antidumping Duty Administrative Review in Part, 72 FR 4486 (January 31, 2007) (SSSSC from Korea), and the accompanying Issues and Decision Memorandum at Comments 4 and 5. See Second AR Mexican Copper Pipe Preliminary Results at 8, unchanged in Second AR Mexican Copper Pipe Final Results.

Regarding the date of sale for Nacobre's comparison market and U.S. sales, Nacobre reported that it made two types of sales in both markets during the POR: 1) sales made pursuant to "fixed price" quotes where Nacobre stated that the price was fixed at the time of the customer's order; and 2) sales made under "price in effect" agreements, where Nacobre stated that the price is dependent on the market price of copper on the date the invoice is issued. Nacobre stated that it reported the invoice date as the date of sale for "price in effect" sales. However, for "fixed price" sales, Nacobre reported the date it entered the order into its computer system as the date of sale. As noted above, 19 CFR 351.401(i) provides that the Department may use a date other than the date of invoice if the different date better reflects the date on which the material terms of sale are established. In this instance, we find that the essential terms of sale are not set as of the date of order entry because Nacobre stated that the actual shipment quantity changed by more than a ten percent tolerance from the original order quantity for certain comparison market and U.S. sales.[15] Accordingly, we find it appropriate to use invoice date as the date of sale for Nacobre's comparison market and U.S. sales, except in those instances where shipment occurred prior to the invoice date.[16] Consistent with the Department's practice, we used the shipment date as the date of sale where the shipment date occurs before the invoice date because the price and quantity are fixed at the time of shipment.[17]

Constructed Export Price

In accordance with section 772(b) of the Act, we based U.S. price on CEP for Golden Dragon and Nacobre because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer and EP was not otherwise indicated.

A. *Golden Dragon*

We calculated CEP based on the delivered price to unaffiliated purchasers in the United States. Where appropriate, we made deductions for foreign inland freight expenses, foreign brokerage and handling expenses, inland insurance expenses, U.S. inland freight expenses, U.S. brokerage and handling expenses, and U.S. warehousing expense, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses (imputed credit expenses) and indirect selling expenses (inventory carrying costs and other indirect selling expenses). We also made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by

[15] See Nacobre's March 5, 2014, submission at 28.

[16] Moreover, the Department has based Nacobre's date of sale for both "fixed price" and "price in effect" sales consistently on the earlier of invoice or shipment date since the time of the first administrative review of this order. See First AR Mexican Copper Pipe Preliminary Results at 8, unchanged in First AR Mexican Copper Pipe Final Results. See also Second AR Mexican Copper Pipe Preliminary Results at 9, unchanged in Second AR Mexican Copper Pipe Final Results.

[17] See, e.g., SSSSC from Korea at Comments 4 and 5.

Golden Dragon and its U.S. affiliate on their sales of the foreign like product in the comparison market and their sales of the subject merchandise in the United States and the profit associated with those sales.

B. *Nacobre*

We calculated CEP based on the delivered price to unaffiliated purchasers in the United States. Where appropriate, we made deductions for early payment discounts. We also made deductions, where appropriate, for foreign inland freight expenses, foreign warehousing expenses, foreign inland insurance expenses, foreign brokerage and handling expenses, U.S. brokerage and handling expenses, U.S. warehousing expenses, and U.S. inland freight expenses, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (imputed credit expenses) and indirect selling expenses (inventory carrying costs and other indirect selling expenses). We also made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Nacobre and its U.S. affiliate on their sales of the foreign like product in the comparison market and their sales of the subject merchandise in the United States and the profit associated with those sales.

Normal Value

A. *Home Market Viability as Comparison Market*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Golden Dragon's and Nacobre's respective home market sales of the foreign like product to the volume of their respective U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that both respondents had viable home markets during the POR.[18]

B. *Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).[19] Substantial differences in selling activities are a necessary, but not sufficient, condition for

[18] See Golden Dragon's February 26, 2014, submission at Exhibit A-1; and Nacobre's March 5, 2014, submission at Appendix A-1.

[19] See 19 CFR 351.412(c)(2).

determining that there is a difference in the stages of marketing.[20] In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (i.e., NV based on either home market or third country prices),[21] we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.[22]

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (i.e., no LOT adjustment was possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.[23]

In this administrative review, we obtained information from the respondents regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

1. Golden Dragon

Golden Dragon reported that it made CEP sales during the POR to OEMs through three channels of distribution in the United States (i.e., direct to the customer (Channel 1), customer pick up at a third party warehouse (Channel 2), and consignment sales (Channel 3)). We examined the selling activities performed for these sales and found that Golden Dragon performed the following selling functions: packing, order input/processing, freight and delivery, and inventory maintenance.[24]

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[20] Id; see also Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999, 51001 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

[21] Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) expenses, and profit for CV, where possible.

[22] See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

[23] See, e.g., OJ from Brazil, at Comment 7.

[24] See Golden Dragon's June 26, 2014, submission at Exhibit SA-7.

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support.[25] Based on these selling function categories, we find that Golden Dragon performed sales and marketing, freight and delivery, and inventory maintenance and warehousing for U.S. sales. Because Golden Dragon's selling functions were the same for each channel of distribution, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Golden Dragon reported that it made sales to home market OEM and distributor customers through five channels of distribution (i.e., sales shipped directly to the customer (Channel 1), sales picked up by the customer from Golden Dragon in Mexico (Channel 2), consignment sales (Channel 3), sales picked up from a warehouse (Channel 4), and sales shipped from the warehouse to the customer (Channel 5)). In addition, Golden Dragon reported that its U.S. affiliate made sales to home market customers, through one channel of distribution (i.e., sales shipped directly to the customer (Channel 1)). According to Golden Dragon, the selling functions it performed did not vary by the channel of distribution.

Golden Dragon reported that its Mexico office performed the following selling functions for all home market sales during the POR: sales forecasting, strategic/economic planning, engineering services, sales promotion, packing, inventory maintenance, order input/processing, employment of direct sales personnel, sales/marketing support, technical assistance, provision of after-sales services, sales negotiations, and collection of payment. Golden Dragon also reported that its Mexico office also provided freight and delivery to its home market customers in Channels 1, 3, 4, and 5.[26] In addition, Golden Dragon performed the same selling functions noted above for home market sales through its U.S. affiliate, and its U.S. affiliate also performed sales forecasting, strategic/economic planning, engineering services, order/input processing, employment of direct sales personnel, sales/marketing support, technical assistance, provision of cash discounts, payment of commissions, provision of after-sales services, sales negotiations, collection of payment, and warranty service.[27] Accordingly, based on the four selling function groups listed above, we find that Golden Dragon performed sales and marketing, freight and delivery, inventory maintenance and warehousing, and warranty and technical support for home market sales. Because the sales in the home market are made at two different stages in the marketing process and the selling functions are greater for sales made by the U.S. affiliate, we preliminarily determine that there are two LOTs in the home market (i.e., sales made by Golden Dragon in Mexico and sales made by its U.S. affiliate).

Finally, we compared the U.S. LOT to both home market LOTs and found that the selling functions performed for U.S. and home market customers differ significantly. We preliminarily determine that sales to the home market during the POR were made at a more advanced LOT

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[25] See OJ from Brazil at Comment 7; and Certain Frozen Warmwater Shrimp From India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review, 74 FR 9991, 9996 (March 9, 2009), unchanged in Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 74 FR 33409 (July 13, 2009) (Shrimp from India).

[26] See Golden Dragon's June 26, 2014, submission at Exhibit SA-7.

[27] Id.

than the sales in the U.S. LOT. In addition, we preliminarily determine that sales made by Golden Dragon in Mexico are at the closest LOT to the U.S. LOT, and sales made by its U.S. affiliate are at the next closest LOT to the U.S. LOT. We did not make an LOT adjustment under 19 CFR 351.412(e) because Golden Dragon did not sell subject merchandise at a common LOT in the home and U.S. markets and thus we were unable to identify a pattern of consistent price differences attributable to differences in LOTs.[28] Accordingly, pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f), we are preliminarily granting a CEP offset to Golden Dragon.

2. Nacobre

Nacobre reported that it made CEP sales through two channels of distribution in the United States (i.e., sales made from inventory in the United States (Channel 1) and sales directly shipped from Mexico to U.S. customers (Channel 2)). According to Nacobre, the selling activities it performed did not vary by the channel of distribution. We examined the selling activities performed for Nacobre's U.S. sales and found that Nacobre performed the following selling functions: order input/processing, strategic/economic planning, provision of freight and delivery, packing, and inventory maintenance (performed only for Channel 2 sales).

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support.[29] Based on these selling function categories, we find that Nacobre performed sales and marketing and freight and delivery for both U.S. channels of distribution, and inventory maintenance and warehousing only for its Channel 2 U.S. sales. Because the selling activities performed for Nacobre's two channels of distribution did not differ significantly, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Nacobre reported that it made sales through three channels of distribution (i.e., sales from branch office inventory (Channel 1), direct shipments (Channel 2), and consignment sales (Channel 3)). According to Nacobre, the selling functions it performed did not vary by channel of distribution. We examined the selling activities performed for home market sales and found that Nacobre performed the following selling functions: order input/processing, employment of direct sales personnel, sales/marketing support, market research, technical assistance, provision of rebates (performed only for Channel 1 sales), provision of guarantees, provision of after-sales services, provision of freight and delivery to customers, sales forecasting, strategic/economic planning, personnel training/exchange, engineering services, advertising, sales promotion, distributor/dealer training, procurement/sourcing services, packing, and inventory maintenance. Accordingly, based on the four selling function categories listed above, we find that Nacobre performed sales and marketing, freight and delivery, inventory maintenance and warehousing, and warranty and technical support for home market sales.

[28] See 19 CFR 351.412(d).

[29] See OJ from Brazil at Comment 7 and Shrimp from India, 74 FR at 9996.

Although Nacobre indicated that it performs the same selling functions in both of its home market sales channels, Nacobre stated that its Channel 1 sales required considerable investments in sales personnel, storage facilities, planning, and the stocking of inventory to meet local business requirements. As a result, Nacobre argued that the functions performed for its Channel 1 sales were at a distinct, and higher, LOT. However, because Nacobre has reported no changes since the first administrative review in the selling activities it performs for home market sales (except for the merger of Nacobre and its affiliate Productos Nacobre, S.A. de C.V. during the first administrative review) and we found that Nacobre's channels of distribution constituted one LOT in both the first and second administrative reviews,[30] we find that the differences claimed by Nacobre are insufficient to warrant treating Channel 1 sales as a different LOT. Thus, because the selling activities performed for Nacobre's three channels of distribution did not differ significantly, we preliminarily determine that there is one LOT in the home market for Nacobre.

Finally, we compared the U.S. LOT to the home market LOT and found that the selling functions performed for U.S. and home market customers differ significantly. We preliminarily determine that sales to the home market during the POR were made at a more advanced LOT than the sales in the U.S. LOT. We did not make an LOT adjustment under 19 CFR 351.412(e) because Nacobre did not sell subject merchandise at a common LOT in the home and U.S. markets and thus we were unable to identify a pattern of consistent price differences attributable to differences in LOTs.[31] Accordingly, pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f), we are preliminarily granting a CEP offset to Nacobre.

C. *Cost of Production Analysis*

We found that Golden Dragon and Nacobre made sales below the cost of production (COP) in the most recently-completed segment of this proceeding for each company as of the date of initiation of this review, and such sales were disregarded.[32] Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Golden Dragon and Nacobre made home market sales at prices below the cost of producing the merchandise in the current POR.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated each respondent's COPs based on the sum of materials and conversion for the foreign like product, plus amounts for G&A expenses and interest expenses (see "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses). We examined the reported cost data and

[30] See First AR Mexican Copper Pipe Preliminary Results at 13, unchanged in First AR Mexican Copper Pipe Final Results; and Second AR Mexican Copper Pipe Preliminary Results at 13, unchanged in Second AR Mexican Copper Pipe Final Results.

[31] See 19 CFR 351.412(d).

[32] See First AR Mexican Copper Pipe Preliminary Results at 14-15, unchanged in First AR Mexican Copper Pipe Final Results.

determined that our quarterly cost methodology is not warranted. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

a. Golden Dragon

We relied on the weighted-average cost database submitted on September 23, 2014, in calculating COP for Golden Dragon. We made no changes to Golden Dragon's reported costs.

b. Nacobre

We relied on the COP data submitted by Nacobre in its September 9, 2014, cost database for the COP calculation, except in the following instances:

- we revised Nacobre's reported total cost of manufacturing to correct minor errors submitted at the start of the cost verification;

- we revised Nacobre's reported G&A expenses to: 1) include depreciation recorded in Nacobre's normal books and records; and 2) exclude the gain on the sale of assets related to the disposal of a plant; and

- we revised Nacobre's reported financial expenses to exclude the interest income earned from the settlement of an uncollected accounts receivable balance.

Details regarding the calculation of COP can be found in the Memorandum from Sheikh Hannan, Senior Accountant, to Neal Halper, Director, Office of Accounting, titled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results-Nacional de Cobre, S.A. de C.V.," dated concurrently with this memorandum.

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, discounts and rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) 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. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's home market sales of a given product are at prices less than the COP, we disregard none of the below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) the sales 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 weighted-average COPs for the POR, the sales 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.

We found that, for certain products, more than 20 percent of Golden Dragon's and Nacobre's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. *Calculation of Normal Value Based on Comparison Market Prices*

1. Golden Dragon

We calculated NV for Golden Dragon based on the reported packed, FOB plant/distribution warehouse or delivered prices, as appropriate, to home market customers. We made adjustments to the starting price, where appropriate, for early payment discounts, in accordance with 19 CFR 351.401(c). We also made deductions for inland freight, warehousing expenses, and inland insurance expenses pursuant to section 773(a)(6)(B)(ii) of the Act.

In addition, we made deductions pursuant to section 773(a)(6)(C) of the Act for home market credit expenses. We added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. When comparing U.S. sales with home market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.[33]

Finally, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

2. Nacobre

We calculated NV for Nacobre on the reported packed, delivered prices to home market customers. We made adjustments to the starting price, where appropriate, for billing adjustments, early payment discounts, commercial discounts, special discounts, and other adjustments, in accordance with 19 CFR 351.401(c). We also made deductions for inland freight from the plant to the warehouse, warehousing expenses, inland freight to the customer, and

[33] See 19 CFR 351.411(b).

inland insurance expenses pursuant to section 773(a)(6)(B)(ii) of the Act. During the POR, Nacobre stored the foreign like product in certain warehouses operated by an affiliated party named Logtec, S.A. de C.V. (Logtec). Because Nacobre was unable to substantiate the arm's-length nature of the associated expenses, we based these expenses on Logtec's costs by deducting its profit from them.[34]

In addition, we made deductions pursuant to section 773(a)(6)(C) of the Act for home market credit expenses. Based on our verification findings, we recalculated credit expenses for Nacobre's home market sales with unusually long credit periods to treat such sales as unpaid; accordingly, we used the date of the preliminary results as the payment date.[35]

We added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.[36]

Finally, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP. We reclassified certain distribution department expenses, reported as movement expenses, as indirect expenses because they are indirect in nature.[37]

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

[34] See Memorandum from Elizabeth Eastwood, Senior Analyst, to the File entitled, "Calculations Performed for Nacional de Cobre, S.A. de C.V. (Nacobre) for the Preliminary Results of the 2012-2013 Antidumping Duty Administrative Review of Seamless Refined Copper Pipe and Tube from Mexico" dated concurrently with this notice (Nacobre Calculation Memo) for further discussion.

[35] See Nacobre Calculation Memo for further discussion.

[36] See 19 CFR 351.411(b).

[37] See Nacobre Calculation Memo for further discussion.

Recommendation

We recommend applying the above methodology for these preliminary results.

✓ Agree | Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

2 December 2014
(Date)