

deepwater project; (3) rated for a specified minimum yield strength of not less than 60,000 psi; and (4) not identified or certified through the use of a monogram, stencil, or otherwise marked with an API specification (e.g., "API 5L").

With regard to the excluded products listed above, the Department will not instruct U.S. Customs and Border Protection to require end-use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being utilized in a covered application. If such information is provided, the Department will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in a covered application as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A-335 specification is being used in an A-106 application, it will require end-use certifications for imports of that specification. Normally, the Department will require only the importer of record to certify to the end-use of the imported merchandise. If it later proves necessary for adequate implementation, the Department may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

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

#### Rescission of Fourth Administrative Review

On May 6, 2005, the Department published in the **Federal Register** its intent to rescind the administrative review. See *Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe: Notice to Intent to Rescind Administrative Review*, 70 FR 23988 (May 6, 2005). In that notice we stated that, based on our shipment data query and examination of entry documents, (see Memorandum dated February 24, 2005, entitled "Request for U.S. Entry Documents—Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico, Customs Case Number A-201-827" and Memorandum dated April 14, 2005, entitled "Memorandum to File: Customs Data Entry Results") we should treat TAMSA as a non-shipper and, in accordance with section 351.213(d)(3) of

the Department's regulations, rescind this review. We invited interested parties to comment on our intent to rescind the administrative review. No comments were submitted.

Consequently, the Department continues to treat TAMSA as a non-shipper for the purpose of this review. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations, and consistent with our practice, we are rescinding this review because TAMSA was the only company for which a review was requested and we have determined that TAMSA did not have entries of subject merchandise manufactured, produced or exported by TAMSA during the POR. See, e.g., *Polychloroprene Rubber from Japan: Notice of Rescission of Antidumping Duty Administrative Review*, 66 FR 45005 (August 27, 2001).

We are issuing this notice in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended, and section 351.213(d) of the Department's regulations.

Dated: September 6, 2005.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. E5-4975 Filed 9-12-05; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-837]

#### Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Preliminary Results of Changed Circumstances Review

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

**SUMMARY:** On May 10, 2005, the Department of Commerce (the Department) self-initiated a changed circumstances review to consider information contained in a recent Federal court decision, *Goss International Corp. v. Tokyo Kikai Seisakusho, Ltd.*, 321 F.Supp.2d 1039 (N.D. Iowa 2004) (*Goss Int'l*). As detailed in our "Notice of Initiation of the Changed Circumstances Review," evidence was presented in that court proceeding demonstrating that Tokyo Kikai Seisakusho, Ltd. (TKS) intentionally provided false information regarding its sale to the Dallas Morning News (DMN), the subject of the Department's 1997-1998 administrative review. After consideration of

comments and information provided for this review, we preliminarily determine that it is appropriate to take the following course of action in order to protect the integrity of the Department's proceedings: (1) Revise TKS' margin for the 1997-1998 review to apply a rate of 59.67 percent based on adverse facts available; (2) rescind the revocation of the antidumping duty order for TKS because TKS no longer qualifies for revocation based on three consecutive administrative reviews resulting in zero dumping margins; and (3) reconsider the revocation of the order under the sunset review provision of the statute (section 751(c) of the Tariff Act of 1930, as amended (the Act)). If these preliminary results are confirmed in the final results, the Department will revise TKS' margin for the 1997-1998 review, rescind the revocation of the antidumping duty order for TKS, and initiate a new sunset review to reconsider the revocation of this order. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** September 13, 2005.

**FOR FURTHER INFORMATION CONTACT:** David Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4136 and (202) 482-4929, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 4, 1996, the Department published in the **Federal Register** an amended final determination and antidumping duty order on large newspaper printing presses and components thereof, whether assembled or unassembled, from Japan (LNPPs) (61 FR 46621) (*Amended Final and Order*). One of the producers/exporters covered by the order was TKS. Its rate from the less-than-fair-value investigation was 56.28 percent. The Department conducted administrative reviews of TKS for the following periods: September 1, 1997-August 31, 1998, September 1, 1998-August 31, 1999, and September 1, 1999-August 31, 2000. The administrative review for the 2000-2001 review period was rescinded. A zero margin was found for TKS in the 1997-1998, 1998-1999, and 1999-2000 review periods. On January 16, 2002, the antidumping duty order was revoked with respect to TKS (see *Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Final Results of Antidumping*

*Duty Administrative Review and Revocation in Part*, 67 FR 2190) based on the three consecutive reviews resulting in zero dumping margins (see 19 CFR 351.222(b)). On February 25, 2002, the Department revoked the antidumping duty order under a five-year sunset review pursuant to section 751(c)(3)(A) of the Act because the only domestic interested party in the sunset review, Goss International Corporation (Goss), withdrew its participation and thus its interest in the review. See *Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan (A-588-837) and Germany (A-428-821): Notice of Final Results of Five-Year Sunset Reviews and Revocation of Antidumping Duty Orders*, 67 FR 8522 (February 25, 2002).

On May 5, 2005, the Department self-initiated a changed circumstances review to consider information contained in a recent Federal court decision, *Goss Int'l*. See *Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan: Initiation of Changed Circumstances Review*, 70 FR 24524 (May 10, 2005). In that court proceeding, evidence was presented demonstrating that TKS provided false information regarding its sale to the DMN, the sale that was the subject of the Department's 1997-1998 administrative review. The Department placed the *Goss Int'l* decision and documents from the *Goss Int'l* record on the public record of this changed circumstances review in separate memoranda.

On June 9, 2005, Goss, TKS, and Mitsubishi Heavy Industries, Ltd. (MHI) provided comments in response to the Department's request for comments in the notice of initiation of this changed circumstances review. Goss' comments included documents from the *Goss Int'l* record and from the Department's administrative reviews of the antidumping duty order. On June 20, 2005, Goss and TKS provided comments in response to the parties' respective June 9, 2005, comments.

On July 19, 2005, TKS requested that the Department seek further information about Goss' claim that it is currently a domestic manufacturer of LNPPs. Goss responded to TKS' letter in an August 11, 2005, submission.

#### Scope of the Changed Circumstances Review

The products covered by this changed circumstances review are large newspaper printing presses, including press systems, press additions and press components, whether assembled or

unassembled, whether complete or incomplete, that are capable of printing or otherwise manipulating a roll of paper more than two pages across. A page is defined as a newspaper broadsheet page in which the lines of type are printed perpendicular to the running of the direction of the paper or a newspaper tabloid page with lines of type parallel to the running of the direction of the paper.

In addition to press systems, the scope of the review includes the five press system components. They are: (1) a printing unit, which is any component that prints in monochrome, spot color and/or process (full) color; (2) a reel tension paster (RTP), which is any component that feeds a roll of paper more than two newspaper broadsheet pages in width into a subject printing unit; (3) a folder, which is a module or combination of modules capable of cutting, folding, and/or delivering the paper from a roll or rolls of newspaper broadsheet paper more than two pages in width into a newspaper format; (4) conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheet pages across through the production process and which provides structural support and access; and (5) a computerized control system, which is any computer equipment and/or software designed specifically to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

A press addition is comprised of a union of one or more of the press components defined above and the equipment necessary to integrate such components into an existing press system.

Because of their size, large newspaper printing press systems, press additions, and press components are typically shipped either partially assembled or unassembled, complete or incomplete, and are assembled and/or completed prior to and/or during the installation process in the United States. Any of the five components, or collection of components, the use of which is to fulfill a contract for large newspaper printing press systems, press additions, or press components, regardless of degree of assembly and/or degree of combination with non-subject elements before or after importation, is included in the scope of this review. Also included in the scope are elements of a LNPP system, addition or component, which taken altogether, constitute at least 50 percent of the cost of manufacture of any of the five major

LNPP components of which they are a part.

For purposes of the review, the following definitions apply irrespective of any different definition that may be found in customs rulings, U.S. Customs law or the *Harmonized Tariff Schedule of the United States* (HTSUS): (1) the term "unassembled" means fully or partially unassembled or disassembled; and (2) the term "incomplete" means lacking one or more elements with which the LNPP is intended to be equipped in order to fulfill a contract for a LNPP system, addition or component.

This scope does not cover spare or replacement parts. Spare or replacement parts imported pursuant to a LNPP contract, which are not integral to the original start-up and operation of the LNPP, and are separately identified and valued in a LNPP contract, whether or not shipped in combination with covered merchandise, are excluded from the scope of this review. Used presses are also not subject to this scope. Used presses are those that have been previously sold in an arm's-length transaction to a purchaser that used them to produce newspapers in the ordinary course of business.

Also excluded from the scope, in accordance with the Department's determination in a previous changed circumstances review of the antidumping duty order which resulted in the partial revocation of the order with respect to certain merchandise, are elements and components of LNPP systems, and additions thereto, which feature a 22-inch cut-off, 50-inch web width and a rated speed no greater than 75,000 copies per hour. See *Large Newspaper Printing Presses Components Thereof, Whether Assembled or Unassembled, from Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review and Intent to Revoke Antidumping Duty Order, In Part*, 64 FR 72315 (December 27, 1999). In addition to the specifications set out in this paragraph, all of which must be met in order for the product to be excluded from the scope of the review, the product must also meet all of the specifications detailed in the five numbered sections following this paragraph. If one or more of these criteria is not fulfilled, the product is not excluded from the scope of the review.

1. *Printing Unit*: A printing unit which is a color keyless blanket-to-blanket tower unit with a fixed gain infeed and fixed gain outfeed, with a rated speed no greater than 75,000 copies per hour, which includes the following features:

Each tower consisting of four levels, one or more of which must be populated.

Plate cylinders which contain slot lock-ups and blanket cylinders which contain reel rod lock-ups both of which are of solid carbon steel with nickel plating and with bearers at both ends which are configured in-line with bearers of other cylinders.

Keyless inking system which consists of a passive feed ink delivery system, an eight roller ink train, and a non-anilox and non-porous metering roller.

The dampener system which consists of a two nozzle per page spraybar and two roller dampener with one chrome drum and one form roller.

The equipment contained in the color keyless ink delivery system is designed to achieve a constant, uniform feed of ink film across the cylinder without ink keys. This system requires use of keyless ink which accepts greater water content.

2. *Folder*: A module which is a double 3:2 rotary folder with 160 pages collect capability and double (over and under) delivery, with a cut-off length of 22 inches. The upper section consists of three-high double formers (total of 6) with six sets of nipping rollers.

3. *RTP*: A component which is of the two-arm design with core drives and core brakes, designed for 50 inch diameter rolls; and arranged in the press line in the back-to-back configuration (left and right hand load pairs).

4. *Conveyance and Access Apparatus*: Conveyance and access apparatus capable of manipulating a roll of paper more than two newspaper broadsheets across through the production process, and a drive system which is of conventional shafted design.

5. *Computerized Control System*: A computerized control system, which is any computer equipment and/or software designed specifically to control, monitor, adjust, and coordinate the functions and operations of large newspaper printing presses or press components.

Further, this review covers all current and future printing technologies capable of printing newspapers, including, but not limited to, lithographic (offset or direct), flexographic, and letterpress systems. The products covered by this review are imported into the United States under subheadings 8443.11.10, 8443.11.50, 8443.30.00, 8443.59.50, 8443.60.00, and 8443.90.50 of the HTSUS. Large newspaper printing presses may also enter under HTSUS subheadings 8443.21.00 and 8443.40.00. Large newspaper printing press computerized control systems may enter under HTSUS subheadings 8471.49.10,

8471.49.21, 8471.49.26, 8471.50.40, 8471.50.80, and 8537.10.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the review is dispositive.

#### Use of Facts Otherwise Available

As noted above in the "Background" section, the Department has examined documents from *Goss Int'l* and from the 1997–1998 administrative review, all of which have been placed on the record of this review, and has determined that TKS provided false information in the context of the 1997–1998 administrative review.

Information on the record of this changed circumstances review clearly demonstrates that TKS granted DMN a \$1 million rebate and credits for spare parts tied to the sale reviewed, yet it did not disclose this information in its questionnaire responses submitted in the 1997–1998 administrative review. TKS was specifically asked in the questionnaire issued in the 1997–1998 administrative review whether it had granted any discounts or rebates in connection with the subject sale. TKS unequivocally stated that "TKS did not provide any discounts to the contract price," and "TKS did not provide any rebates to the contract price." See pages 16 and 17, respectively, of the March 29, 1999, Section C response (included on the record of this review as an attachment to the Memorandum to the File dated August 23, 2005, which also includes the certifications from the responsible TKS official and TKS' counsel that the information in the response was accurate and complete). The changed circumstances review record shows that TKS did in fact grant rebates and credits for additional supplies but intentionally failed to disclose them. Specifically, TKS' undisclosed rebate to the DMN is documented in fax correspondence between TKS and its U.S. affiliate included as Exhibits 23 and 26 in Volume III of Goss' June 9, 2005, submission; DMN's invoice to TKS for the \$1 million, included as Exhibit 27 in Volume III of Goss' June 9, 2005, submission; and TKS' application for a telegraphic transfer of funds, included as Attachment 30 of the Department's May 5, 2005, Memorandum to the File (*May Memo*) (also in Exhibit 28 of Volume III of Goss' June 9, 2005, submission). This payment is also discussed in two memoranda and a deposition by the DMN's production manager (Exhibit 31 in Volume III of Goss' June 9, 2005, submission, and Attachments 34 and 41, respectively, of the *May Memo*), and in a deposition by

a former TKS official now at the DMN (Attachment 40 of the *May Memo*). In the same *May Memo* depositions, the DMN officials also attest to a total of \$1.2 million of credits granted to the DMN in consideration of the LNPP sale to the DMN. See, also, Goss' discussion of the payment and credits at Volume I, page 5, and Volume II, pages 5–6 of its June 9, 2005, submission, as well as *Goss Int'l* at pages 8–9.

Because TKS did not provide accurate and complete information in its questionnaire responses, we preliminarily determine that the application of facts available is appropriate, pursuant to section 776(a)(2) of the Act. Section 776(a)(2) of the Act provides that "if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title."

Once we determine that the use of facts available is warranted, section 776(b) of the Act permits the Department to determine whether the application of an adverse inference is also warranted. In making this additional determination, the Department may find that "[a respondent] has failed to cooperate by not acting to the best of its ability to comply with a request for information." See section 776(b) of the Act.

As discussed above, a comparison of the *Goss Int'l* documents and the record from the 1997–1998 review indicates that TKS failed to disclose its rebate and credit arrangements associated with its sale to the DMN, TKS' sole sale in the 1997–1998 review, and falsely reported to the Department that no such rebate or credits existed. The Department is reexamining TKS' margin in the 1997–1998 review in the context of this changed circumstances review pursuant to its inherent authority to protect the integrity of its proceedings. As a general matter, an agency may act to protect the integrity of its proceedings. See *Elkem Metals Co. v. United States*, 193 F. Supp. 2d 1314 (CIT 2002) (*Elkem Metals*); *Alberta Gas Chemicals, Ltd. v. Celanese Corp.*, 650 F.2d 9, 12–13 (2d Cir. 1981); *Touche Ross & Co. v. SEC*, 609 F.2d 570, 582 (D.C. Cir. 1979). In

*Elkem Metals*, the Court of International Trade (CIT) affirmed the International Trade Commission's (ITC's) reopening of an affirmative injury determination on ferrosilicon from various countries because of fraudulent activity, even though the ITC did not have explicit statutory authority to do so. In the reopened investigation, the ITC reversed its final affirmative determination of injury after foreign producers petitioned to reopen the investigation; the foreign producers had based their petition on a "recently disclosed price-fixing conspiracy among some domestic manufacturers, and its consequent distortion of the price data presented to the ITC during its original material injury investigations." See *Elkem Metals*, 193 F. Supp.2d at 1317. This instant proceeding is similar to *Elkem Metals* because a Federal court has determined that TKS concealed rebates and other relevant information affecting the sales price information reported to the Department in the context of the antidumping duty review, and because, upon the Department's own examination of the documents, as discussed above, the Department determines that TKS failed to disclose requested information and provided false statements to the Department about the DMN sale. There was only one sale examined in the 1997–1998 review; therefore, false and incomplete information about the DMN sale discredits the findings of the entire review.

Because TKS provided false and incomplete information in the context of its only sale in the 1997–1998 administrative review, we find that, in accordance with sections 776(a)(2)(A) and (C) of the Act, the use of total facts available is appropriate. See, e.g., *Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review and Final Rescission of Review*, in Part, 69 FR 7193 (February 13, 2004) and accompanying Issues and Decision Memorandum at Comment 2 (*Freshwater Crawfish Tail Meat Decision Memo*) (aff'd *Shanghai Taoen Int'l Trading Co. v. United States*, No. 04–00125, Slip. Op. 05–22 (CIT Feb. 17, 2005)); *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794 (August 30, 2002); *Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Administrative Review*, 62 FR 32757,

32761, at Comment 8 (June 17, 1997) (*Porcelain-on-Steel Cooking Ware*).

Moreover, TKS' failure to provide accurate and complete information about the DMN sale, along with its false statement in its questionnaire response concerning rebates and other concessions to price, demonstrate that TKS did not respond truthfully and completely to the Department's requests for information. Accordingly, TKS did not act to the best of its ability as required by section 776(b) of the Act. Consequently, we have made an adverse inference in determining a dumping margin for TKS. See *Porcelain-on-Steel Cooking Ware*, 62 FR at 32761; *Freshwater Crawfish Tail Meat Decision Memo* at Comment 2.

Section 776(b) of the Act authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination from the less-than-fair-value (LTFV) investigation, a previous administrative review, or any other information placed on the record. As AFA, we have preliminarily assigned to TKS the rate of 59.67 percent, which is the rate calculated for MHI in the LTFV investigation, as amended and recalculated pursuant to a remand redetermination (see *Notice of Court Decision: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan*, 65 FR 31879 (May 19, 2000) (Redetermination on Remand aff'd *Mitsubishi Heavy Indus., Ltd. v. United States*, 275 F.3d 1056 (Fed. Cir. 2001))),<sup>1</sup> The rate of 59.67 percent is the highest rate calculated for any respondent in the LTFV investigation or the three subsequent administrative reviews. The Department's purpose when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). We find the application of a rate of 59.67 percent to TKS to be sufficiently adverse in this case.

Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise

<sup>1</sup> For a discussion of the AFA rate selection, see Memorandum to the File entitled "AFA Rate Selection," dated September 6, 2005 (*AFA Rate Memo*).

available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted "corroborate" to mean that we will, to the extent practicable, examine the reliability and relevance of the information used. See, e.g., *Notice of Preliminary Results of Antidumping Duty Administrative Review: Foundry Coke from the People's Republic of China*, 68 FR 57869, 57874 (October 7, 2003) (unchanged in *Final Results of Antidumping Duty Administrative Review: Foundry Coke from the People's Republic of China*, 69 FR 4108 (January 28, 2004)), citing *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), and *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 66 FR 42628, 42628–29 (August 14, 2001).

Unlike other types of information, such as input costs or selling expenses, there are no independent sources from which the Department can derive calculated dumping margins; the only source for margins is administrative determinations. In an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period because it was calculated in accordance with the statute.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be relevant, the Department will attempt to find a more appropriate basis for facts available. See, e.g., *Final Results of Antidumping Duty Administrative Review: Fresh Cut Flowers from Mexico*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

We preliminarily determine that the calculated margin selected as AFA has probative value because it is based on

verified data from a respondent in the LTFV investigation. Although this margin is the highest in the range of calculated margins, there is no basis to conclude that it is aberrational or inappropriate as applied to TKS. Accordingly, we preliminarily determine that this rate is an appropriate rate to be applied in this review to exports of the subject merchandise produced by TKS during the 1997–1998 administrative review period as facts otherwise available.

#### **Preliminary Results of Changed Circumstances Review**

Because of the information developed in this changed circumstances review, the Department preliminarily finds that the final results of TKS' 1997–1998 review should be revised from zero to an AFA rate of 59.67 percent.

Pursuant to 19 CFR 351.222, the antidumping order was revoked with respect to TKS prior to the conclusion of the sunset review. This revocation was based in part on TKS receiving zero margins for the 1997–1998, 1998–1999, and 1999–2000 administrative review periods. However, this changed circumstances review preliminarily finds that the 1997–1998 review was flawed, based on TKS' withholding of information as described above, and consequently, an AFA rate should be assigned to TKS for the 1997–1998 review period. Thus, TKS did not have a zero margin in three consecutive administrative reviews. As a result of that preliminary finding, TKS no longer qualifies for revocation. Because of the information developed in this changed circumstances review, the Department preliminarily determines that the revocation of the order with respect to TKS should be rescinded.

Pursuant to section 751(c)(3)(A) of the Act, the Department sunset the order in 2002 because no domestic producer stated an interest in continuing the order. At that time, Goss had ceased production in the United States and was unable to participate as a domestic producer. However, Goss has provided information in this changed circumstances review that its cessation of production at that time was, in large measure, due to TKS' improper actions. Goss contends that "but for" TKS' actions it would have been able to continue production at the time of the sunset review and thus participate in the sunset review which, in turn, may have rendered different results.

We preliminarily find that the changed circumstances review record supports the fact that TKS' actions negatively impacted Goss' position as a domestic producer. Goss' economic

consultant prepared a study identifying up to tens of millions of dollars that Goss may have lost directly or indirectly due to TKS' unfair trade activity. See Volume V, pages 36–43 and Attachments 13 through 20 of Goss' June 9, 2005, submission (resubmitted on June 29, 2005). Consequently, Goss likely suffered lost sales and profit as a result of TKS' improper actions, which, in turn, affected Goss' ability to continue production at the time of the sunset review.

Although we are unable to measure the precise quantitative effect of TKS' unfair trade practices on Goss' operations, the record supports the conclusion that they negatively impacted Goss' position as a domestic producer. While the Department cannot determine with certitude what would have happened, but for TKS' actions, the evidence of TKS' unfair trade practices on the record of this review warrants adverse assumptions. Given TKS' actions in this proceeding, as revealed by the *Goss Int'l* case and the information developed in this review, it is reasonable to make the adverse assumption with respect to TKS that, but for TKS' actions, Goss would have been able to continue production at the time of the sunset review and thus to participate in the sunset review.

Therefore, based on the evidence on the record in this changed circumstances review and the reasonable adverse assumptions that we have determined are appropriate, we also preliminarily determine that, if we continue to find in our final results that an AFA rate should be applied to TKS for the 1997–1998 administrative review and that TKS should not have been revoked from the order, a new sunset review should be initiated following completion of this changed circumstances review. If, in the context of a sunset review, the Department finds a likelihood of continuation or recurrence of dumping, the Department will present this determination to the ITC. See *Asahi Chemical Industry Co., Ltd., Plaintiff v. United States*, 727 F. Supp. 625 (CIT 1989).

#### **Public Comment**

Interested parties are invited to comment on these preliminary results, including comments on how a new sunset review should be conducted, if one were to be initiated upon the completion of this changed circumstances review. Case briefs may be submitted by interested parties not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in the case briefs, may be filed not later than

five days after the deadline for submission of case briefs. Any interested party may request a hearing within 30 days of publication of this notice. If requested, a hearing will be held no later than five days after the deadline for the submission of rebuttal briefs, or the first workday thereafter. Persons interested in attending the hearing should contact the Department for the date and time of the hearing.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the respective case briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted in accordance with a schedule to be determined. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will publish the final results of this changed circumstances review, which will include the results of its analysis of issues raised in any case or rebuttal briefs.

This notice of preliminary results of changed circumstances review is in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.216(d).

Dated: September 6, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-5000 Filed 9-12-05; 8:45 am]

BILLING CODE 3510-DS-P

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration (A-533-810)**

#### **Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India**

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

**SUMMARY:** On March 7, 2005, the Department of Commerce published the