

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-533-810]

Stainless Steel Bar from India: Final Results of Antidumping Duty New Shipper Review

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

EFFECTIVE DATE: December 21, 2007.

SUMMARY: The Department of Commerce ("Department") is conducting a new shipper review of the antidumping duty order on stainless steel bar from India manufactured and exported by Ambica Steels Limited ("Ambica"). The period of review is February 1, 2006, through July 31, 2006. In these final results, we have determined to apply adverse facts available.

EFFECTIVE DATE: December 21, 2007.

FOR FURTHER INFORMATION CONTACT: Devta Ohri or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-3853 and (202) 482-0182, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On July 23, 2007, the Department published in the *Federal Register* the preliminary results of the new shipper review of the antidumping duty order on stainless steel bar ("SSB") from India. See *Stainless Steel Bar from India: Preliminary Results of Antidumping Duty New Shipper Review*, 72 FR 40113 (July 23, 2007). Following the preliminary results, we conducted verification of Ambica's sales and costs in New Delhi, India, from September 24, 2007, through October 5, 2007. We invited interested parties to comment on the preliminary results, and the Department's verification findings. On November 26, 2007, we received a case brief from Ambica. On November 28, 2007, we received a rebuttal brief from Carpenter Technology Corporation, Valbruna Slater Stainless, Inc., Electralloy Corporation, a Division of G.O. Carlson, Inc. (collectively, "the Petitioners").

Period of Review

The period of review ("POR") is February 1, 2006, through July 31, 2006.

Scope of the Order

Imports covered by the order are shipments of SSB. SSB means articles of

stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-to-length flat-rolled products (*i.e.*, cut-to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes, and sections.

The SSB subject to these reviews is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

On May 23, 2005, the Department issued a final scope ruling that SSB manufactured in the United Arab Emirates out of stainless steel wire rod from India is not subject to the scope of this order. See Memorandum from Team to Barbara E. Tillman, "Antidumping Duty Orders on Stainless Steel Bar from India and Stainless Steel Wire Rod from India: Final Scope Ruling," dated May 23, 2005, which is on file in the CRU in room B-099 of the main Department building. See also *Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the December 14, 2007, "Issues and Decision Memorandum for the New Shipper Review of Stainless Steel Bar from India" ("Decision Memorandum"), which is hereby adopted by this notice. Attached to this

notice as an appendix is a list of the issues which parties have raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit, Room B-099 of the main Department building ("CRU"). In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at www.ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Verification

As provided in section 782(i)(3) of the Tariff Act of 1930 (the "Act"), as amended, we conducted verification of Ambica's sales and costs in New Delhi, India, from September 24, 2007, through October 5, 2007. See Memorandum from Brandon Farlander and Devta Ohri to the File: Verification of the Sales and Cost Response of Ambica Steels Limited in the Antidumping New Shipper Review of Stainless Steel Bar from India, dated November 16, 2007 ("Verification Report").

Bona Fide Analysis

Consistent with the Department's practice, we investigated whether the U.S. transaction reported by Ambica during the POR was a *bona fide* sale. Among the factors examined was the relationship between Ambica and its reported U.S. customer. See Memorandum from Devta Ohri, International Trade Compliance Analyst to the File entitled, "*Bona Fide* Nature of Ambica Steels Limited's Sales in the New Shipper Review for Stainless Steel Bar from India," dated July 17, 2007, on file in room B-099 of the main Department of Commerce building. We also examined the *bona fide* nature of Ambica's sale at verification. See Verification Report. Based on our investigation, we continue to find that Ambica's sale was made on a *bona fide* basis. See Decision Memorandum at Comment 1.

Application of Adverse Facts Available

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.

Section 782(d) of the Act provides that if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of the administrative review. Section 782(e) of the Act states that the Department shall not decline to consider information determined to be "deficient" under section 782(d) if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting from among the facts otherwise available. The Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) at 870 (SAA), reflects the Department's practice that it may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate to the best of its ability than if it had cooperated fully." It also instructs the Department to consider, in employing adverse inferences, "the extent to which a party may benefit from its own lack of cooperation." *Id.*

We determine that Ambica's home market sales database submitted on May 11, 2007, (entitled "ASLIHM02") cannot serve as the basis for calculating a margin for Ambica because we are unable to depend on the accuracy and reliability of the information in this database. In our questionnaire, we described the form and manner in which the respondent should report its sales data. Specifically, we stated:

For sales of merchandise that have been shipped to the customer and invoiced by

the time this response is prepared, each "record" in the computer data file *should correspond to an invoice line item (i.e., each unique product included on the invoice)*. For sales of merchandise that have not yet been shipped and invoiced (in whole or in part) to the customer, a "record" should correspond to the unshipped portion of the sale. See Questionnaire, dated September 26, 2006, at B-27, and C-57 (emphasis added). In addition, our questionnaire also instructed Ambica to

Report the unit price recorded on the invoice for sales shipped and invoiced in whole or in part. To report portions of sales not shipped, provide the agreed unit sale price for the quantity that will be shipped to complete the order. This value should be the gross price for a single unit of measure. Discounts and rebates should be reported separately in fields numbered 19.n and 20.n, respectively.

See Questionnaire, dated September 26, 2006, at B-40 to B-41, and C-70 to C-71 (emphasis added).

Despite these clear instructions in the Department's Questionnaire, we found at verification that Ambica did not report its home market ("HM") sales as instructed. Specifically, at verification, the Department discovered that for a certain number of HM invoices, Ambica incorrectly reported weighted-average gross unit prices by grade, regardless of the control numbers ("CONNUM") captured by that grade, instead of the actual gross unit prices listed on Ambica's invoices. See Verification Report at 21-23, and 25-26. Ambica officials stated that this error occurred because Ambica did not include size as part of the CONNUM when it first reported its HM sales database. See Verification Report at 21. Ambica made this error despite being instructed to consider all CONNUM characteristics, including size, in the Department's original questionnaire, dated September 26, 2006. Furthermore, Ambica failed to correct for this error when asked to do so in the Department's March 6, 2007, supplemental questionnaire. Ambica officials stated that they thought that they had corrected for this weighted-average price error in their May 11, 2007, supplemental questionnaire response. However, Ambica officials admitted, at verification, that Ambica, in fact, had failed to correct the weight-averaged gross unit prices for CONNUMs on certain invoices.

For the six-month POR, we examined all invoices issued in April, June, and July 2006. For these three months (which constitute half of the POR) Ambica's reporting error affected 8 percent, by weight, of Ambica's HM sales; and also 8 percent of the invoices. See Memorandum from Brandon

Farlander and Devta Ohri to the File: Analysis of Ambica's Weighted-Average Gross Unit Prices Discovered at Verification, dated December 14, 2007. In addition, for certain sales for which Ambica incorrectly reported weighted-average gross unit prices, Ambica erroneously combined the quantities for two distinct sales of the same CONNUM on the same invoice. This resulted in a discrepancy in the number of sales reported in Ambica's HM sales database.

Although we examined numerous invoices, we have insufficient information on the record to correct all the discrepancies related to the misreporting of gross unit prices. As previously noted, the Department examined three of the six months composing Ambica's home market sales database. The verification team did not examine the remaining three months of the POR, nor was it feasible to do so given the time constraints to complete verification. Lacking correct prices for the entire POR, we were not able to test whether Ambica's prices were below cost using the test described in section 773(b) of the Act. In addition, because Ambica incorrectly reported weighted-average gross unit prices for certain of its HM sales (instead of the actual gross unit price it charged the customer), the reported expenses which are based on gross unit prices, such as indirect selling expenses and imputed credit expenses, are also incorrect. Therefore, Ambica failed to provide information in the form and manner requested in the Department's original questionnaire. See section 776(a)(2)(B) of the Act.

In addition, Ambica significantly impeded the new shipper review by not providing accurate and necessary information contained in its books and records. See section 776(a)(2)(C) of the Act. The Department can decline to consider information Ambica submitted because, as demonstrated above, the requirements of sections 782(e)(2) and (3) of the Act are not met. Because of these deficiencies, the Department is forced to use facts otherwise available pursuant to section 776(a)(2) of the Act.

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting from among the facts otherwise available. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstance in Part: Prestressed Concrete Steel Wire Strand From*

Mexico, 68 FR 42378 (July 17, 2003), unchanged in the final determination (see *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Mexico*, 68 FR 68350 (December 8, 2003)).

Ambica had the documents necessary to report complete and correct information in the necessary and requested manner and format. Also, Ambica was given ample opportunities to correct its HM sales database but failed to do so. Therefore, we find that Ambica did not act to the best of its ability in reporting necessary and accurate information, and presenting its data in the requested manner that would enable us to calculate a margin. As a result, we find it appropriate to use an inference that is adverse to Ambica's interest in selecting from among the facts otherwise available. By doing so, we ensure that Ambica will not obtain a more favorable rate by failing to cooperate.

As total AFA, we have assigned to exports of subject merchandise produced and exported by Ambica the rate of 22.63 percent, which is the rate assigned to Ambica in the *Preliminary Results*. We find that this rate is sufficiently adverse to serve the purposes of facts available, explained above, and is appropriate considering that this AFA rate is the highest rate previously determined in this proceeding. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil*, 69 FR 76910 (December 23, 2004); see also *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Moldova*, 67 FR 55790, 55792 (August 30, 2002) and accompanying Issues and Decision Memorandum at Comment 2 ("we are making an adverse inference and assigning to MSW the weighted-average margin of 369.10 percent calculated for the Preliminary Determination based on MSW's submitted information. This rate is the higher of the petition margin recalculated for the *Notice of Initiation of Antidumping Duty Investigations: Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela*, 66 FR 50164, 50165 (October 2, 2001), or the highest margin calculated in this proceeding.").

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise 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 submitted. See *Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 5554 (February 4, 2000); *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).

In selecting the AFA rate for Ambica, we assigned the rate of 22.63 percent, which was based on information submitted by Ambica in its questionnaire responses and database submissions, and remains on the record of this new shipper review as a rate higher than the other available AFA rates. Because this rate is based on information that was provided to us by the respondent, it is not considered to be secondary information and, therefore, need not be corroborated. We conclude that Ambica's own data continues to be appropriate to effectuate the purpose of AFA.

Final Results of Review

We find that the following dumping margin exists for the period February 1, 2006, through July 31, 2006:

| Exporter/manufacture | Weighted-average margin percentage |
|--------------------------|------------------------------------|
| Ambica Steels Limited .. | 22.63 |

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. For subject merchandise produced and exported by Ambica, we will instruct CBP to liquidate entries at the rate indicated above. The Department will issue appropriate assessment instructions directly to CBP 15 days after publication of these final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the period

of review produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Rates

The following antidumping duty deposits will be required on all shipments of SSB from India entered, or withdrawn from warehouse, for consumption, effective on or after the publication date of these final results of administrative review, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise produced and exported by Ambica, the cash deposit rate will be the rate listed above (except no cash deposit will be required if a company's weighted-average margin is *de minimis*, i.e., less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 12.45 percent, the "all others" rate established in the LTFV investigation. See *Stainless Steel Bar from India; Final Determination of Sales at Less Than Fair Value*, 59 FR 66915 (December 28, 1994). These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Notification Regarding APOs

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

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 14, 2007.

Stephen J. Claeys,
Acting Assistant Secretary for Import Administration.

Appendix I

List of Comments in the Decision Memorandum

- Comment 1: Bona Fide Nature of Ambica’s Sale*
- Comment 2: Weighted-Average Gross Unit Prices and Removal of Size from the Department’s Control Number—Application of Total Adverse Facts Available*
- Comment 3: Adjustment to Ambica’s International Freight Expenses*
- Comment 4: Inclusion of Excise Taxes in Ambica’s Home Market Inland Insurance Expenses*
- Comment 5: Discrepancies (Rounding) Related to Ambica’s Gross Unit Prices Used to Calculate Ambica’s Per-Unit Adjustments*
- Comment 6: Multiple Payment Dates*

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture from the People’s Republic of China: Notice of Correction to the Second Amended Final Results of Antidumping Duty Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Gene Degnan, AD/CVD Operations,

Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0414.

SUPPLEMENTARY INFORMATION:

Correction

On November 7, 2007, the Department of Commerce (“Department”) published in the **Federal Register** the second amended final results of the first administrative review of the antidumping duty order on wooden bedroom furniture from the People’s Republic of China (“PRC”). See *Second Amended Final Results of Antidumping Duty Administrative Review: Wooden Bedroom Furniture From the People’s Republic of China*, 72 FR 62834 (November 7, 2007) (“*Second Amended Final Results*”). The period of review covered June 24, 2004, through December 31, 2005. The Department received no allegations of ministerial errors in the *Second Amended Final Results*. However, we have noted two inadvertent omissions from the list of entities receiving revised weighted-average margins at 72 FR 62836–37. First, Meikangchi Nantong Furniture Company Ltd. was inadvertently omitted from the list entirely. Second, parts of the name of the respondent King Kei Furniture Factory, King Kei Trading Co., Ltd. and Jiu Ching Trading Co., Ltd. were inadvertently omitted from the list. Accordingly, the Department is correcting these omissions in the list of entities receiving revised weighted-average margins by (1) adding Meikangchi Nantong Furniture Company Ltd., and (2) correcting the name of King Kei Furniture Factory, King Kei Trading Co., Ltd. and Jiu Ching Trading Co., Ltd.:

WOODEN BEDROOM FURNITURE FROM THE PRC

| Exporter | Weighted-Average Margin (Percent) |
|---|-----------------------------------|
| King Kei Furniture Factory, King Kei Trading Co., Ltd. and Jiu Ching Trading Co., Ltd. | 35.78 |
| Meikangchi Nantong Furniture Company Ltd. | 35.78 |

This correction is published in accordance with sections 751(h) and 777(i) of the Tariff Act of 1930, as amended.

Dated: December 12, 2007.

Stephen J. Claeys,
Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE45

Marine Mammals; File No. 10095

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the North Carolina Zoological Park, 4401 Zoo Parkway, Asheboro, NC 27205, has applied in due form for a permit to import two juvenile harbor seals (*Phoca vitulina*) for the purposes of public display.

DATES: Written or telefaxed comments must be received on or before January 22, 2008.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521; and Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is NMFS.Pr1Comments@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: File No. 10095.