

- Comment 3. Use of the 2009–2010 Financial Statements of Rexello Castors Private Ltd. (Rexello).
- Comment 4. 2004–2005 Financial Statements of Rexello and 2006–2007 Financial Statements of Infiniti Modules Private Ltd. (Infinito Modules).
- Comment 5. Surrogate Value for Hot-Rolled Steel.
- Comment 6. Sample Sales.
- Comment 7. Whether to Deduct Warranty Expenses from U.S. Price.
- Comment 8. Whether to Revise the Calculation of Domestic Brokerage and Handling Expenses.
- Comment 9. Whether to Rescind the Review with Respect to Yangjiang Shunhe Industrial Co.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Certain Circular Welded Non-Alloy Steel Pipe From Mexico: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On December 15, 2010, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico. See *Certain Circular Welded Non-Alloy Steel Pipe From Mexico: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 78216 (December 15, 2010) (*Preliminary Results*). This administrative review covers mandatory respondents Mueller Comercial de Mexico, S. de R.L. de C.V., and Southland Pipe Nipples Company, Inc., (Mueller) and Ternium Mexico, S.A. de C.V. (Ternium). Tuberia Nacional, S.A. de C.V. (TUNA) was subject to a concurrent changed circumstances review of this order; in its changed circumstances review, the Department determined that Lamina y Placa Comercial, S.A. de C.V. (Lamina) is the successor-in-interest to TUNA. See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Circular Welded Non-Alloy Steel Pipe from Mexico*, 75 FR 82374 (December 30, 2010). Because the determination was made after the *Preliminary Results* and the parties refer to this entity as TUNA in their case and rebuttal briefs, we continue to refer to this entity as TUNA for these final

results so as to avoid confusion. The period of review (POR) is November 1, 2008, through October 31, 2009.

We determine that sales of subject merchandise have been made at less than normal value (NV). One of the companies, Ternium, refused to cooperate with the Department in this administrative review. We have calculated a dumping margin for Mueller. We determine that TUNA had no reviewable sales, shipments, or entries during the POR. The Department's review of import data supported TUNA's claim of no shipments during the POR (see "TUNA's No-Shipment Claim" section of this notice for further explanation).

As a result of our analysis of the comments received, these final results differ from the *Preliminary Results*. For our final results, we find that Ternium and Mueller made sales of subject merchandise at less than NV. We have listed the final dumping margin below in the section entitled "Final Results of Review."

DATES: *Effective Date:* June 21, 2011.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6312 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 15, 2010, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico for the period November 1, 2008, to October 31, 2009. See *Preliminary Results*.

As noted in the *Preliminary Results*, we conducted verification of the Mueller sales responses on October 25–29, 2010, and of the TUNA no-shipments claim on November 1–3, 2010. Because there was insufficient time to complete the verification memoranda for the *Preliminary Results*, these verification memoranda were released after the *Preliminary Results*. Mueller submitted new sales data (in response to the Department's request made at the end of verification) on December 1, 2010; we used these data in our post-preliminary margin calculation for Mueller and continue to use them for these final results.

On December 7, 2010, the Department issued second supplemental section D

questionnaires to Mueller, TUNA, and Ternium. On December 21, 2010, Ternium submitted its response to our second supplemental section D questionnaire (but we are not using a Ternium database for this final results calculation, nor did we use one for the post-preliminary margin calculation). On January 4, 2011, Mueller submitted its response to our second supplemental section D questionnaire (which contained its latest cost database). On January 4, 2011, TUNA submitted its response to our second supplemental section D questionnaire (but did not need to revise its database). Therefore, these final results are based on the same databases used for the post-preliminary calculation. (Note: Ternium is the successor-in-interest to HYLSA; it is referenced alternately by "Ternium," by "HYLSA," and by "Termex" in the body of the program. See *Final Results of Antidumping Duty Changed Circumstances Review: Certain Circular Welded Non-Alloy Steel Pipe and Tube from Mexico*, 74 FR 41681 (August 18, 2009)).

On February 10, 2011, the Department released a post-preliminary calculation. See Memorandum from Mark Flessner to the File entitled "Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Post-Preliminary Results Analysis Memorandum for Mueller Comercial, S. de R.L. de C.V.," dated February 10, 2011 (Post-Preliminary Results Analysis Memorandum). As part of that post-preliminary calculation, three memoranda from Heidi K. Schriefer to Neal M. Halper were placed on the record. These memoranda were entitled: (1) "Cost of Production and Constructed Value Calculation Adjustments for the Post-Preliminary Results—Mueller Comercial de Mexico, S. de R.L. de C.V.;" (2) "Cost of Production and Constructed Value Adjustments for the Post-Preliminary Results—Ternium Mexico, S.A. de C.V.;" and (3) "Cost of Production and Constructed Value Adjustments for the Post-Preliminary Results—Tuberia Nacional, S.A. de C.V.;" These memoranda were incorporated by reference into the Post-Preliminary Results Analysis Memorandum, providing all changes made to the programming.

In response to the Department's invitation to comment on the preliminary results of this review, parties filed multiple case and rebuttal briefs. Respondent Mueller filed its case brief on February 25, 2011 (Mueller case brief). Petitioner United States Steel Coporation (U.S. Steel) also filed its case brief regarding TUNA on February 25, 2011 (U.S. Steel's TUNA case brief). In

addition, petitioner U.S. Steel filed a separate case brief regarding Mueller on February 25, 2011 (U.S. Steel's Mueller case brief). Petitioners Allied Tube and Conduit and TMK-IPSCO (Allied/TMK) also filed their case brief on February 25, 2011 (Allied/TMK case brief). Respondent Mueller filed its rebuttal brief on March 9, 2011 (Mueller rebuttal brief). Respondent TUNA also filed its rebuttal brief on March 9, 2011 (TUNA rebuttal brief). Likewise, petitioner U.S. Steel filed its rebuttal brief on March 9, 2011 (U.S. Steel rebuttal brief). Finally, petitioners Allied/TMK filed their rebuttal brief on March 9, 2011 (Allied/TMK rebuttal brief).

In response to Mueller's case brief, the Department issued a letter to Mueller Comercial de Mexico, S. de R.L. de C.V. (Yohai Baisburd) entitled "Administrative Review of Certain Circular Welded Non-Alloy Steel Pipe from Mexico," dated May 12, 2011, in which the Department invited Mueller to propose programming language with regard to weight-averaging certain costs of TUNA and TERNIUM. On May 13, 2011, Mueller submitted its proposed programming language.

Scope of the Order

The products covered by this order are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A-53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this order, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind

used for oil or gas pipelines is also not included in this order.

The merchandise covered by the order and subject to this review are currently classified in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by interested parties in this administrative review are addressed in the Issues and Decision Memorandum (Decision Memorandum) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated June 13, 2011, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. 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 Central Records Unit in room 7046 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly via the Internet at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Use of Total Adverse Facts Available

The Department found in the *Preliminary Results* that Ternium failed to cooperate to the best of its ability by withholding information requested by the Department's questionnaire, and thereby impeded the Department's proceeding. See *Preliminary Results*. Therefore, in accordance with section 776(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.308(c), the Department preliminarily selected 48.33 percent as the adverse facts available (AFA) dumping margin. The Department received no comments regarding its preliminary application of the AFA dumping margin to Ternium. For these final results, the Department has not altered its analysis or decision to apply the AFA dumping margin to Ternium. See accompanying Decision

Memorandum for the issues raised by the parties and addressed by the Department.

Changes Since the Preliminary Results

First, consistent with our decision in the post-preliminary calculation (but different from our position in the *Preliminary Results*), we have applied AFA to Ternium's cost information in calculating Mueller's margin for the final results. We apply AFA because of Ternium's failure to cooperate by not acting to the best of its ability to comply with the Department's request for information, in that Ternium repeatedly refused to provide product-specific costs.

Second, as a reasonable alternative in the absence of manufacturer-specific information, we have revised the final calculations to weight-average the control-number-specific costs of Mueller's suppliers based on Mueller's reported resold and processed quantities so as to better reflect Mueller's purchases from its suppliers.

Third, because we do not find that the record evidence supports any contention that the intangible assets were impaired prior to the POR or that expenses would be double-counted and the costs would be distorted, we have included the amount related to other intangible assets in the reported costs for the final results. However, we continue to exclude the impairment loss related to goodwill, consistent with the *Preliminary Results*.

Fourth, because (a) The total G&A expenses from the reported calculation worksheets can be reconciled to the total reported in the 2009 financial statements by adding back other income, and (b) the reported G&A expenses already include the payments made to its parent company for corporate expenses, we have adjusted the reported G&A expense ratio calculation for the final results to exclude the other income amount so as to avoid double-counting.¹

Finally, because the constructed export price (CEP) level of trade (LOT) involves a much more advanced stage of distribution than the NV LOT, it is not possible to make a CEP offset to NV.

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we base NV on sales made in the comparison market at the same LOT as the export transaction. The NV LOT is based on the starting price of

¹ For these final results, we have relied on Mueller's revised G&A expense ratio based on its 2009 audited financial statements, as reported in its supplemental response submitted subsequent to the *Preliminary Results*; see Mueller's January 4, 2011, section D submission at exhibit 11.

sales in the home market or, when NV is based on CV, on the LOT of the sales from which SG&A expenses and profit are derived. With respect to CEP transactions in the U.S. market, the CEP LOT is defined as the level of the constructed sale from the exporter to the importer. See 19 CFR 351.412(c)(1)(ii).

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. See 19 CFR 351.412(c)(2). If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 17406, 17410 (April 6, 2005), results unchanged in *Notice of Final Results of Antidumping Duty Administrative Review: Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil*, 70 FR 58683 (October 7, 2005); see also *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002), and accompanying Issues and Decisions Memorandum at Comment 8. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d)(3) of the Act. See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314–15 (Fed. Cir. 2001). We expect that if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. See *Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review*, 65 FR 30068 (May 10, 2000), and accompanying Issues and Decisions Memorandum at Comment 6.

Mueller reported it sold circular welded non-alloy steel pipe and tube to end-users and distributors in the home market and to end-users in the United

States. For the home market, Mueller identified two channels of distribution: Direct shipments (channel 1) and warehouse shipments (channel 2). See Mueller's section A response at 14–15 and Exhibit A–5. For the U.S. market, Mueller identified two channels of distribution: Direct sales (channel 1) and indirect sales (channel 2). *Id.* Mueller stated that “a level-of-trade adjustment cannot be established” and requested a CEP offset. See Mueller's section B response at 28.

We obtained information from Mueller regarding the marketing stages involved in making its reported home market and U.S. sales. See Mueller's July 16, 2010, supplemental questionnaire response at 13–19. We reviewed Mueller's claims concerning the intensity to which all selling functions were performed for each home market channel of distribution and customer category. Based on our analysis of all of Mueller's home market selling functions, we conclude that there is a single level of trade in the home market. In the U.S. market, Mueller did not report multiple levels of trade for EP sales. See Mueller's July 16, 2010 supplemental questionnaire response at 13–19. Based on our review of the record, we determine that all EP sales were made at the same LOT.

We compared Mueller's EP level of trade to the single NV level of trade found in the home market. While we find differences in the levels of intensity performed for some of these functions between the home market NV level of trade and the EP level of trade, such differences are minor and do not establish distinct levels of trade between the home market and the U.S. market. Based on our analysis of all of Mueller's home market and EP selling functions, we find these sales were made at the same level of trade.

For CEP sales, Mueller claims that the number and intensity of selling functions performed by Mueller in making its sales to Streamline are lower than the number and intensity of selling functions Mueller performed for its EP sales, and further claims that CEP sales are at a less advanced stage than home market sales. See Mueller's July 16, 2010, supplemental questionnaire response at 13–19.

We compared the NV LOT (based on the selling activities associated with the transactions between Mueller and its customers in the home market) to the CEP LOT (which is based on the selling activities associated with the transaction between Mueller and its affiliated importer, Streamline). Mueller's reported data would indicate that the selling functions performed for home

market customers are either performed at a higher degree of intensity or are greater in number than the selling functions performed for Streamline. See Mueller's July 16, 2010 supplemental questionnaire response at Exhibit SA–10. For example, in comparing Mueller's selling activities, we find many of the reported selling functions performed in the home market are not performed with respect to CEP sales in the U.S. market. For those selling activities performed for both home market sales and CEP sales, Mueller reported it performed each activity at either the same or at a higher level of intensity in one or both of the home market channels of distribution. *Id.* However, we find that the CEP LOT is more advanced than the NV LOT. At verification, Mueller's personnel indicated that Mueller's CEP sales are at a more advanced marketing stage than are its home market sales. See Mueller Verification Report at page 7. Many of the principal functions in both markets are carried out by employees in the Mexico office. While U.S. employees of Streamline do perform important selling functions, such as contacting customers and negotiating prices, the preponderance of overall selling functions are, in fact, performed by the Mueller employees in Mexico City. The record indicates these employees devote a disproportionate amount of their efforts on CEP sales, despite the fact that both the Mexican home market and EP market are larger than Mueller's CEP market. From our analysis of Mueller's overall selling functions, it is evident that the intensity of activity for the principal functions is greater for CEP sales than other sales. *Id.*; see also Exhibit A–1. Accordingly, we preliminarily determine that the CEP LOT (that is, sales from Mueller to its U.S. affiliate) involves a much more advanced stage of distribution than the NV LOT. See Analysis Memorandum at pages 3–6.

Because we found the home market and U.S. CEP sales were made at different LOTs, we examined whether a LOT adjustment or a CEP offset may be appropriate in this review. As we found only one LOT in the home market, it was not possible to make a LOT adjustment to home market sales prices, because such an adjustment is dependent on our ability to identify a pattern of consistent price differences between the home market sales on which NV is based and home market sales at the CEP LOT. See 19 CFR 351.412(d)(1)(ii). Furthermore, because the CEP LOT involves a much more advanced stage of distribution than the NV LOT, it is not possible to make a

CEP offset to NV in accordance with section 773(a)(7)(B) of the Act.

On account of these changes, the final dumping margin for Mueller has changed. For a more detailed description of these changes, see the Memorandum from Mark Flessner to the File entitled "Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Post-Preliminary Results Analysis Memorandum for Mueller Comercial, S. de R.L. de C.V.," dated June 13, 2011 (Final Results Analysis Memorandum), which is on file in the Department's Central Records Unit, Room 7046 of the main Commerce building; see also the accompanying Decision Memorandum.

Final Results of Review

We determine the following percentage margin exists for the period November 1, 2008 to October 31, 2009:

| Manufacturer/exporter | Weighted-average margin (percentage) |
|---|--------------------------------------|
| Ternium (formerly known as Hylsa) | 48.33 |
| Mueller | 19.81 |

Assessment

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, pursuant to section 751(a)(1) of the Act and 19 CFR 351.212(b). We will issue appraisal instructions directly to CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. Pursuant to 19 CFR 356.8(a), the Department intends to issue assessment instructions to CBP 41 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, consistent with section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate listed above; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (LTFV) investigation, 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 prior review, or the original 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 32.62 percent, the all-others rate established in the LTFV investigation. See *Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Mexico*, 57 FR 42953 (September 17, 1992). These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice also 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 Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition 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 or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: June 13, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix—List of Issues in Decision Memorandum

Comment 1: Total AFA for TUNA Because It "should have known" Its Products Were Exported to the United States.

Comment 2: Treatment of "Negative Dumping Margins." (Zeroing)

Comment 3: Partial AFA for Mueller Because of Failure to Report Manufacturer for Sales.

Comment 4: Application of Adverse Inferences to TERNIUM's Reported Information.

Comment 5: Application of Adverse Inferences to TUNA's Reported

Information.

Comment 6: Use of Production Quantities for Calculating Mueller's CONNUM-Specific Costs.

Comment 7: Inclusion of Impairment Losses in General and Administrative Expenses.

Comment 8: Other Minor Revisions to the G&A Expense Ratio.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of the Antidumping Duty Administrative Review

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

SUMMARY: On December 14, 2010, the Department of Commerce (the "Department") published the preliminary results of the administrative review of the antidumping duty order on circular welded non-alloy steel pipe ("CWP") from the Republic of Korea ("Korea"), covering the period November 1, 2008, through October 31, 2009. This review covers six producers/exporters of the subject merchandise to the United States: SeAH Steel Corporation ("SeAH"); Husteel Co., Ltd. ("Husteel"); Nexteel Co. Ltd. ("Nexteel"); Hyundai HYSCO; Kumkang Industrial Co., Ltd.; and A-JU Besteel Co., Ltd. SeAH, Husteel, and Nexteel were the three mandatory respondents. We gave the interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have made changes to the margin calculations. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

DATES: *Effective Date:* June 21, 2011.

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Matthew Jordan, 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) 482-1779 or (202) 482-1540, respectively.

SUPPLEMENTARY INFORMATION:

Background

Following publication of *Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Preliminary Results of the Antidumping Duty Administrative*