

Dated: May 6, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-846)

Brake Rotors From the People's Republic of China: Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") is currently conducting a changed circumstances administrative review of the antidumping duty order on brake rotors from the People's Republic of China ("PRC"). We have preliminarily determined that Shanxi Fengkun Foundry Ltd., Co. ("Fengkun Foundry") is not the successor-in-interest to Shanxi Fengkun Metallurgical Ltd., Co. ("Fengkun Metallurgical") for purposes of determining antidumping liability.

Interested parties are invited to comment on these preliminary results. In accordance with 19 CFR 351.216(e), the Department will issue the final results of this antidumping duty changed circumstances review not later than July 11, 2005 (i.e., 270 days after the date on which this review was initiated).

EFFECTIVE DATE: May 13, 2005.

FOR FURTHER INFORMATION CONTACT: Steve Winkates or Brian Smith, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1904 or (202) 482-1766, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 19, 2004, the Department initiated a changed circumstances review of Fengkun Foundry's claim that it is the successor-of-interest to Fengkun Metallurgical. See *Brake Rotors from the People's Republic of China: Notice of Initiation of Changed Circumstances Review*, 69 FR 61468 (October 19, 2004) ("Initiation Notice"). Since the publication of the Initiation

Notice, the following events have occurred.

On November 3, 2004, the petitioner submitted comments on Fengkun Foundry's response to the Department's separate rates questionnaire. On December 22, 2004, the petitioner submitted a request that the Department verify Fengkun Foundry in the context of the changed circumstances review.¹

On January 6, 2005, the Department issued a Supplemental Questionnaire to Fengkun Foundry. On January 31, 2005, Fengkun Foundry submitted its response to the Department's Supplemental Questionnaire. On February 15, 2005, the petitioner submitted comments on Fengkun Foundry's response to the Department's Supplemental Questionnaire. On March 16, 2005, the Department issued Fengkun Foundry a second Supplemental Questionnaire. On March 30, 2005, Fengkun Foundry submitted its response to the Department's second Supplemental Questionnaire.

Scope of the Order

The products covered by the order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans, recreational vehicles under "one ton and a half," and light trucks designated as "one ton and a half."

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those rotors which have undergone some drilling and on which the surface is not entirely smooth. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles and do not contain in the casting a logo of an original equipment manufacturer ("OEM") which produces vehicles sold in the United States (e.g., General Motors, Ford, Chrysler, Honda, Toyota, and Volvo). Brake rotors covered in this review are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron which contain a steel plate but otherwise meet the above

criteria. Excluded from the scope of the review are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are classifiable under subheading 8708.39.5010 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Preliminary Results

In its January 31, 2005, supplemental questionnaire response, Fengkun Metallurgical provided documentation to support further its claim that effective November 28, 2003, it received approval from the Shanxi Industrial and Commercial Administration Bureau ("SICAB") to change its name to "Shanxi Fengkun Foundry Ltd., Co." The company stated that the idea to change the name came as a result of decisions made by Fengkun Metallurgical's original owners to reflect a change in the company's emphasis from metallurgical operations to foundry operations. Specifically, this documentation consisted of: (1) board meeting minutes detailing the company's reasoning for the name change; (2) the application to SICAB requesting approval for the name change; (3) a notice from SICAB granting Fengkun Metallurgical's proposed name change to Fengkun Foundry; and (4) Fengkun Foundry's business license issued by SICAB (see Exhibits 1 and 2 of the supplemental questionnaire response). Both the notice from SICAB granting the name change and Fengkun Foundry's business license indicate that Fengkun Metallurgical no longer exists as a legal entity in the PRC.

In its responses to the Department's supplemental questionnaires, Fengkun Metallurgical also provided information in support of its statements that all personnel, operations, and facilities remain essentially unchanged as a result of changing the name of the company to Fengkun Foundry.

In contrast, the petitioner contended in its February 15, 2005, submission that Fengkun Foundry has not sufficiently demonstrated that it is the successor-in-interest of Fengkun Metallurgical because Fengkun Metallurgical, unlike Fengkun Foundry,

¹ The petitioner also requested that the Department verify the company in the context of the Seventh Administrative/Eleventh New Shipper Review, of which Fengkun Foundry's predecessor, Fengkun Metallurgical, is a respondent.

is both an exporter and producer of the subject merchandise.

In making such a successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992). While no single factor or combination of these factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944 (February 14, 1994); *Canadian Brass, and Fresh and Chilled Atlantic Salmon from Norway: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 63 FR 50880 (September 23, 1998). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping treatment as its predecessor.

We preliminarily determine that Fengkun Foundry is not the successor-in-interest to Fengkun Metallurgical for the reasons mentioned below.

Data placed on the record of this review indicates that Fengkun Foundry has the same management, production facilities, and supplier relationships as Fengkun Metallurgical. Fengkun Foundry's managers are the same individuals, the company occupies the same facilities, and its vendor listing is unchanged. However, Fengkun Foundry does not have the same customer base as Fengkun Metallurgical as a result of neither having made any sales since its name change nor obtaining the ability to export its product under its new name.

Specifically, Fengkun Metallurgical has indicated that it has made no domestic or export sales since changing its name to Fengkun Foundry (see page one of the March 30, 2005, second supplemental questionnaire response). Although Fengkun Metallurgical also stated that it exported one shipment of subject merchandise to the U.S. market since its name change became effective on November 28, 2003, the date of that sales invoice preceded the effective date

of its name change, and Fengkun Metallurgical's name was on the invoice (see Exhibit 1 of the March 30, 2005, second supplemental questionnaire response).

In addition, Fengkun Foundry has also stated that it does not have a Certificate of Approval for Enterprises with Foreign Trade Rights (see page 3 of the January 31, 2005, supplemental questionnaire response). Thus, according to PRC law, Fengkun Foundry cannot export to the United States. Therefore, whereas Fengkun Metallurgical was both an exporter and producer of the subject merchandise, evidence on the record demonstrates that Fengkun Foundry is only a producer of the subject merchandise. Given that only an exporter may receive a separate rate, we consider this kind of fundamental change to be dispositive in this case.

As discussed above, we determine that the resulting operation of Fengkun Foundry is not materially the same as that of Fengkun Metallurgical in accordance with the Department's practice (see also *Certain Stainless Steel Pipe from the Republic of Korea: Preliminary Results of Antidumping Duty Changed Circumstances Review*, 63 FR 6153, 6154 (February 6, 1998)). Furthermore, as Fengkun Foundry has not sufficiently demonstrated that it is the successor-of-interest of Fengkun Metallurgical, we have not applied the Department's separate rates criteria for purposes of determining whether Fengkun Foundry is eligible for a separate rate in this review.

Therefore, for the reasons stated above, we preliminarily determine that Fengkun Foundry should not receive the same antidumping duty treatment with respect to brake rotors as the former entity Fengkun Metallurgical because Fengkun Foundry, unlike Fengkun Metallurgical, has not demonstrated that it has the right to export the subject merchandise. Nevertheless, should Fengkun Foundry obtain a valid Certificate of Approval for Enterprises with Foreign Trade Rights ("Certificate of Approval") and otherwise demonstrate that it is both an exporter and producer of the subject merchandise, we may revisit the issue and review the totality of information to determine if Fengkun Foundry should receive the same antidumping duty treatment with respect to brake rotors as the former Fengkun Metallurgical.² The deadline for Fengkun Foundry to submit

² Should Fengkun Foundry submit a Certificate of Approval, it must submit an explanation as to the license's effective date and that date's link to the effective date of the name change.

a Certificate of Approval is May 27, 2005. If Fengkun Foundry submits this document by this deadline, interested parties may comment on the submission by June 3, 2005, and rebuttal comments may be submitted by June 8, 2005. No new information will be accepted in either comments or rebuttal comments.

If these preliminary results are adopted in our final results of this changed circumstances review, we will instruct the U.S. Customs and Border Protection ("CBP") to suspend liquidation of shipments of subject merchandise made by Fengkun Foundry at the PRC-wide rate (*i.e.*, 43.32 percent). In addition, because Fengkun Metallurgical has placed information on this record which indicates that it no longer exists as a legal entity in the PRC, we will also instruct CBP to suspend liquidation of shipments of subject merchandise made by Fengkun Metallurgical at the PRC-wide rate. The shipments of subject merchandise to be suspended are those which are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this changed circumstances review.

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing, if requested, will be held no later than 30 days after the date of publication of this notice, or the first workday thereafter.

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. 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 case briefs and rebuttal briefs. Case briefs from interested parties may be submitted not later than June 3, 2005. Rebuttal briefs, limited to the issues raised in the case briefs, may be filed not later than June 10, 2005. 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. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing.

The Department will publish the final results of this changed circumstances review, including the results of its

analysis of issues raised in any written comments, not later than July 11, 2005 (i.e., 270 days after the date on which this review was initiated).

We are issuing and publishing this determination and notice in accordance with sections 751(b)(1) and 777(I)(1) of the Act and 19 CFR 351.216.

Dated: May 6, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-485-806]

Certain Hot-Rolled Carbon Steel Flat Products from Romania: Initiation and Preliminary Results of Changed-Circumstances Review

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

SUMMARY: In response to a letter from S.C. Ispat Sidex S.A. notifying the Department of Commerce (the Department) that its corporate name has changed to Mittal Steel Galati S.A., the Department is initiating a changed-circumstances review of the antidumping duty order on certain hot-rolled carbon steel flat products from Romania (see *Notice of Amended Final Antidumping Duty Determination and Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from Romania*, 66 FR 59566 (November 29, 2001) (*Amended Determination and Order*)). We have preliminarily concluded that Mittal Steel Galati S.A. is the successor-in-interest to S.C. Ispat Sidex S.A. (Sidex) and, as a result, should be accorded the same treatment previously accorded to Sidex in regards to the antidumping duty order on certain hot-rolled carbon steel flat products from Romania. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 13, 2005.

FOR FURTHER INFORMATION CONTACT: Dunyako Ahmadu at (202) 482-0198 or Dave Dirstine at (202) 482-4033, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On November 29, 2001, the Department published in the **Federal Register** an antidumping duty order on certain hot-rolled carbon steel flat products from Romania. See *Amended Determination and Order*. Since publication, there have been two review periods of this order. Sidex was a participant in both reviews. In a letter dated March 24, 2005, Sidex advised the Department that on February 7, 2005, it changed its corporate name to Mittal Steel Galati, S.A. (Mittal Steel), and that Mittal Steel is the successor-in-interest to Sidex. As such, Sidex requested that the Department initiate a changed-circumstances review to confirm that Mittal Steel is the successor-in-interest to Sidex for purposes of determining antidumping-duty liabilities. Sidex also requested that the Department conduct a changed-circumstances review on an expedited basis, pursuant to 19 CFR 351.221(c)(3)(ii). We did not receive any other comments.

Scope of the Order

For purposes of the order, the products covered include hot-rolled carbon steel flat products. For a complete description of the scope of the order, see *Certain Hot-Rolled Carbon Steel Flat Products from Romania: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 70644 (December 7, 2004).

Initiation of Changed-Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216, the Department will conduct a changed-circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. The information submitted by Mittal Steel claiming that it is the successor-in-interest to Sidex demonstrates changed circumstances sufficient to warrant a review. See 19 CFR 351.216(d).

In accordance with the above-referenced regulation, the Department is initiating a changed-circumstances review to determine whether Mittal Steel is the successor-in-interest to Sidex. In determining whether one company is the successor to another for purposes of applying the antidumping duty law, the Department examines a number of factors including, but not limited to, changes in management, production facilities, supplier relationships, and customer base. See

Industrial Phosphoric Acid From Israel: Final Results of Antidumping Duty Changed Circumstances Review, 59 FR 6944 (February 14, 1994). While no single or even several of these factors will necessarily provide a dispositive indication of succession, generally the Department will consider one company to be a successor to another company if its resulting operation is similar to that of its predecessor. See *Brass Sheet and Strip from Canada; Notice of Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992), and the attached Decision Memorandum at Comment 1.¹ Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash-deposit rate of its predecessor.

On March 24, 2005, Mittal Steel submitted information demonstrating that it is the successor to Sidex. With respect to the name change itself, Mittal Steel provided the minutes to its January 10, 2005, "Extraordinary General Meeting of Shareholders" at which the name change was approved. In addition, Mittal Steel provided a copy of the new company registration certificate issued by the Ministry of Justice Trade Register Office of the Galati Tribunal on February 7, 2005, the decision of Galati Tribunal to allow the name change (notarized by a delegated, tribunal judge), and the certificate issued by the National Office of the Trade Registry, Romanian Ministry of Justice, which established that Sidex would adopt the Mittal Steel name and logo. See *Request for Initiation of Changed-Circumstances Review*, dated March 24, 2005, at Exhibit 1.

According to information provided in Mittal Steel's March 24, 2005, request for a changed-circumstances review, we observed that Mittal Steel's management, production facilities, suppliers, and customer base were consistent with the management, production facilities, suppliers, and customer base of Sidex.

With respect to management prior to and following the name change, the record includes a "Good Standing Certificate" issued by the Trade Registry Office of the Galati Tribunal for Mittal Steel. This document lists the members

¹ "{G}enerally, in the case of an asset acquisition, the Department will consider the acquiring company to be a successor to the company covered by the antidumping duty order, and thus subject to its duty deposit rate, if the resulting operation is essentially similar to that existing before the acquisition."