

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-810]

Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On March 6, 2009, the Department of Commerce ("Department") published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar ("SSB") from India. This review covers sales of SSB from India with respect to one producer/exporter: Venus Wire Industries Pvt. Ltd. ("Venus") during the period February 1, 2007, through January 31, 2008.

We have noted the changes made since the preliminary results in the "Changes Since the Preliminary Results" section, below. The final results are listed below in the "Final Results of Review" section.

DATES: *Effective Date:* September 15, 2009.

FOR FURTHER INFORMATION CONTACT: Erika McDonald 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) 482-5761 and (202) 482-0182, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On March 6, 2009, the Department published *Stainless Steel Bar From India: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 9787 (March 6, 2009) ("Preliminary Results") in the **Federal Register**.

Following the *Preliminary Results*, the Department issued supplemental questionnaires to Venus in March and April 2009. The Department received Venus' responses in March, April and May 2009. On April 27, 2009, the Department published a notice extending the deadline for these final results to September 2, 2009. See *Stainless Steel Bar From India: Extension of Time Limit for the Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 19048 (April 27, 2009).

Department officials met with counsel to Petitioners¹ to discuss issues pertaining to Venus' relationship with AMS Specialty Steel ("AMS") on May 20, 2009. See Memorandum from Erika McDonald, "Ex-Parte Meeting with Counsel to Petitioners," dated May 20, 2009.

In the *Preliminary Results*, we preliminarily determined to treat Venus and its affiliate Sieves Manufacturing Pvt. Ltd. ("Sieves") as a single entity for this review.² We further announced our intention to seek additional information regarding the relationship of these companies and the types of merchandise sold by Sieves to use in the final results. On July 17, 2009, we issued our post-preliminary results calculation memorandum regarding Sieves based on the totality of information submitted by interested parties. See Memorandum to File, Acting Assistant Secretary for Import Administration, entitled "Post-Preliminary Results Calculation Memorandum for Venus Wire Industries Pvt. Ltd.," dated July 17, 2009, which is on file in the Central Records Unit ("CRU") in room 1117 of the main Department building. On July 23, 2009, the Department amended its post-preliminary results. See Memorandum to the File from Erika McDonald, "Correction to the Post-Preliminary Results Calculation Memorandum for Venus Wire Industries Pvt. Ltd." dated July 23, 2009, which is on file in the CRU.

We met with counsel to Petitioners regarding Venus' affiliation with Hindustan Stainless ("Hindustan") and Sieves on July 20, 2009. See Memorandum from Erika McDonald, "Ex-Parte Meeting with Counsel to Petitioners," dated July 20, 2009.

We invited interested parties to comment on the *Preliminary Results*. On July 31, 2009, Venus filed its case brief which contained business proprietary information under the one-day lag rule. On August 3, 2009, Venus filed attachments to its case brief that were omitted from its original case brief submitted on July 31, 2009. On August 5, 2009, the Department notified Venus that it was rejecting its case brief because the copy of the case brief filed on July 31, 2009, was not identical to the business proprietary copy filed on August 3, 2009, pursuant to 19 CFR 351.303(c)(2).

The Department permitted Venus to resubmit its case brief with bracketing

corrections to its July 31, 2009 submission, but excluding the attachments because the attachments were determined to contain new factual information. See Letter from Brandon Farlander to Venus, dated August 5, 2009, and Letter from Brandon Farlander to Venus, dated August 6, 2009. Venus resubmitted its case brief on August 6, 2009. On August 3, 2009, Petitioners filed a case brief. On August 11, 2009, Petitioners and Venus filed rebuttal briefs. We held a hearing on August 13, 2009.

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 this review 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 the order. See Memorandum from Team to Barbara E. Tillman, "Antidumping

¹ Carpenter Technology Corp.; Crucible Specialty Metals, a division of Crucible Materials Corp.; Electralloy Co., a G.O. Carlson, Inc. company; and Valbruna Slater Stainless.

² See *Preliminary Results*, 74 FR 9788.

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. See also *Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

Period of Review

The period of review ("POR") is February 1, 2007, through January 31, 2008.

Applicable Statute

Unless otherwise indicated, all statutory citations are to the Tariff Act of 1930, as amended ("the Act"). In addition, all references to the Department of Commerce's regulations are to 19 CFR Part 351.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the September 2, 2009, "Issues and Decision Memorandum for 2007–2008 Antidumping Duty Administrative 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 CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Affiliation

Precision Metals

Consistent with the *Preliminary Results*, we find that, based on Venus' representations that its corporate affiliation relationship with Precision Metals remained the same during the POR as during the 2005–2006 administrative review, Venus and Precision Metals should be treated as a single entity in the current proceeding. See Memorandum from Brandon Farlander to the File, "Relationship of Venus Wire Industries Pvt. Ltd. and Precision Metals," dated January 9, 2009, which is on file in the CRU.

Sieves

In the *Preliminary Results*, the Department preliminarily found that Venus and its affiliate Sieves met the criteria set forth under 19 CFR 351.401(f) and, therefore, preliminarily

determined that Venus and Sieves should be treated as a single entity in this review. See Memorandum from Scott Holland to Susan Kubbach, Office Director, "Whether to Treat Venus Wire Industries Pvt. Ltd. and Sieves Manufacturing Pvt. Ltd. as a Single Entity," dated March 2, 2009, which is on file in the CRU. We requested, and Sieves provided, additional information regarding the relationship of these companies and the types of merchandise sold by Sieves.

After considering all of the information submitted by interested parties in this proceeding, we continue to find that Venus and Sieves meet the criteria established under 19 CFR 351.401(f) and should be treated as a single entity in this review for the final results. A full discussion of this issue is presented in the Decision Memorandum at Comment 1.

AMS Specialty Steel

Venus reported that AMS was an unaffiliated U.S. customer and that Venus did not pay commissions to AMS, nor was AMS a sales agent for Venus during the POR. Petitioners claim that these statements by Venus are false and that Venus does have a relationship with AMS, including that of commissioned agent. In addition, Petitioners contend that Venus incorrectly reported sales to AMS, as the U.S. customer, when it should have reported the first U.S. sale to AMS' unaffiliated U.S. customer. Because of this error, according to Petitioners, Venus has reported wrong sales data to the Department for Venus' sales through AMS. See Petitioners' January 21, 2009, submission at 2–4.

In the *Preliminary Results*, the Department found that AMS was not Venus' agent. Petitioners submitted a letter on May 20, 2009, reiterating their arguments on the relationship between Venus and AMS. Because of the proprietary nature of the information submitted by Petitioners in their allegation, a full discussion of these issues is presented in the final results calculation memorandum. See Memorandum from the Team to the File "Final Results Calculation Memorandum for Venus Wire Industries Pvt. Ltd.," dated September 2, 2009 ("Venus Final Results Calculation Memorandum").

After considering all of the information submitted by interested parties in this proceeding, we continue to find that AMS was not Venus' agent during the POR. A full discussion of this issue is presented in the Decision Memorandum at Comment 2.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made adjustments to the *Preliminary Results* calculations for Venus and the post-preliminary results regarding Sieves. Brief descriptions of the company-specific changes are provided below.

A. Cost of Production

For the final results, we are relying on Venus' March 16, 2009, cost database and Sieves' July 8, 2009, cost database except for the following: (1) We adjusted Sieves' submitted interest expenses ratio to reflect market interest rates on its loans from affiliated parties; (2) we adjusted Sieves' cost database to reflect market prices for its purchases from an affiliate; in accordance with section 773(f)(2) of the Act; (3) as noted above, we are collapsing Venus and Sieves. Accordingly, we are treating them as one respondent and, therefore, we have weight-averaged the adjusted costs of Venus and Sieves for the final results. See Memorandum to Neal Harper, Director, Office of Accounting, "Cost of Production and Constructed Value Adjustments for the Final Results" dated September 2, 2009.

B. Billing Adjustments

On March 24, 2009, Venus requested it be allowed to revise its U.S. sales database to reflect billing adjustments due to an inadvertent accounting error. In that submission, Venus supplied documentation to support its claim. Petitioners submitted comments on Venus' request on April 3, 2009. The Department requested additional information from Venus regarding the billing adjustment on April 23, 2009. Venus submitted the requested information on May 8, 2009.

After reviewing the information submitted by Venus, we determine that Venus has sufficiently supported its claim. Therefore, consistent with *Timken*³ and the Department's past practice, we are making the changes to Venus' U.S. sales database to reflect the billing adjustments on the relevant sales for the final results. A full discussion of this issue is presented in the Decision Memorandum at Comment 5 and Venus

³ *Timken U.S. Corp. v. United States*, 434 F.3d 1345 (Federal Circuit 2006) ("Timken"). See also, *Notice of Final Results of Antidumping Duty Administrative Review, and Final Determination to Revoke the Order In Part: Individually Quick Frozen Red Raspberries from Chile*, 72 FR 6524 (February 12, 2007) and accompanying Issues and Decision Memorandum at Comment 15 (where the Department accepted a correction to a respondent's sales database seventy days before the final results affording petitioners sufficient time to comment).

Final Results Calculation Memorandum at 4.
Moreover, because the billing adjustments affect the gross unit prices for these sales, we are adjusting the reported credit expenses and indirect selling expenses for these sales for the final results. *See Venus Final Results Calculation Memorandum at 5.*

Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the cost of production ("COP"), we did not

disregard any below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales of that model were made in substantial quantities within an extended period of time in accordance with section 773(b)(2)(B) and (C) of the Act. Because we compared prices to the POR-average COP, we also determined that such sales were not made at prices which would permit recovery of all

costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. In such cases, for Venus, we disregarded these below-cost sales of a given product and used the remaining sales as the basis for determining normal value, in accordance with section 773(b)(1) of the Act.

Final Results of Review

As a final result of our review, we find that the following weighted-average percentage margins exist for the period February 1, 2007, through January 31, 2008:

Exporter/manufacturer	Weighted-average margin percentage
Venus Wire Industries Pvt. Ltd./Precision Metals/Sieves Manufacturing Pvt. Ltd	0.09 (<i>de minimis</i>).

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. For Venus, the Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of review.

Pursuant to 19 CFR 351.212(b)(1), for all sales made by respondents for which they have reported the importer of record and the entered value of the U.S. sales, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. We have used Venus' reported entered values for the final results.

To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates based on Venus' entered values. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent).

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 applies to entries of subject merchandise during the POR 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*.

Cash Deposit Requirements

The following antidumping duty deposits are effective for 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)(1) of the Act: (1) The cash deposit rates for the reviewed company will be the rate listed above (except no cash deposit will be required if a company's weighted-average margin is *de minimis*); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation or a previous review, the cash deposit rate will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, the previous review, or the original 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) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 12.45 percent, the "all others" rate established in the less than fair value investigation. *See Stainless Steel Bar from India; Final Determination of Sales at Less Than*

Fair Value, 59 FR 66915 (December 28, 1994). These cash deposit requirements 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 Administrative Protective Orders

This notice also serves as a 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 final results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 2, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I

List of Comments in the Decision Memorandum

Comment 1: Whether to Collapse Venus and Affiliated Producer Sieves

Comment 2: Whether Certain U.S. Sales by Venus are Constructed Export Price ("CEP") or Export Price ("EP") Sales and Whether A Principal-Agent Relationship Exists

Comment 3: Alleged Reporting Deficiencies for Venus and Sieves

3a: Bahubali's and Venus Metal's Involvement in the Production/Sale of Stainless Steel Bar

3b: Hindustan's Involvement in the Production/Sale of Stainless Steel Bar

3c: Hitech's Involvement in the Production/Sale of Stainless Steel Bar

3d: Affiliated Party Loans

3e: Affiliated Party Transactions

Comment 4: Whether Respondents Failed to Follow the Procedural Requirements of the Department's Regulations

Comment 5: Venus' Request to Revise Its U.S. Sales Database to Reflect a Billing Adjustment

Comment 6: Comparison of Certain Similar Merchandise Sold in the Home Market

Comment 7: Whether Certain Home Market Sales are Outside the Ordinary Course of Trade and Whether the Department Should Make a Level of Trade Adjustment

Comment 8: Offsetting Negative Margins

Comment 9: Whether to Rely on Double-Bracketed Information

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-331-802]

Certain Frozen Warmwater Shrimp from Ecuador: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On March 9, 2009, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from Ecuador. This review covers 81 producers/exporters of the subject merchandise to the United States. The period of review (POR) is February 1, 2007, through August 14, 2007.

Based on our analysis of the comments received, we have made

certain changes in the margin calculations for Promarisco, S.A. (Promarisco) and Sociedad Nacional de Galapagos, S.A. (Songa), producer/exporters selected for individual review. Therefore, the final results for Promarisco and Songa differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: September 15, 2009.

FOR FURTHER INFORMATION CONTACT:

David Goldberger or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-3773, respectively.

SUPPLEMENTARY INFORMATION:

Background

This review covers 81 producers/exporters. The respondents which the Department selected for individual review are Promarisco and Songa. The respondents which were not selected for individual review are listed in the "Final Results of Review" section of this notice.

On March 9, 2009, the Department published in the **Federal Register** the preliminary results of the 2007 administrative review of the antidumping duty order on shrimp from Ecuador. *See Certain Frozen Warmwater Shrimp from Ecuador: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 9983 (March 9, 2009) (*Preliminary Results*). We invited parties to comment on those *Preliminary Results*. In May 2009, we received case briefs from the domestic producers of frozen warmwater shrimp (*i.e.*, the Ad Hoc Shrimp Trade Action Committee, hereafter "Domestic Producers"), the respondents, Promarisco and Songa, and the domestic processors of frozen warmwater shrimp ("the Processors"), an interested party in this proceeding. Rebuttal briefs were received from the Domestic Producers, Promarisco, Songa, and the Processors. In June 2009, we extended the deadline for the final results, due no later than September 8, 2009. *See Certain Frozen Warmwater Shrimp from Ecuador: Notice of Extension of Time Limit for the Final Results of the Third Administrative Review*, 74 FR 28018 (June 12, 2009).

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,¹ deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not "prepared meals," that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: 1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain battered shrimp.

¹ "Tails" in this context means the tail fan, which includes the telson and the uropods.