

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-583-008]

**Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Preliminary Results of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of preliminary results of antidumping duty administrative review.

**SUMMARY:** On July 1, 2003, the Department of Commerce (the Department) published in the **Federal Register** (68 FR 39055) a notice announcing the initiation of the administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Taiwan. The period of review (POR) is May 1, 2002 to April 30, 2003.

We preliminarily determine that sales of circular welded carbon steel pipes and tubes from Taiwan have been made at prices below the normal value (NV) by the respondent, Yieh Hsing Enterprise Co, Ltd. (Yieh Hsing). If these preliminary results are adopted in the final results of this administrative review, we will instruct Customs and Border Protection (CBP) to assess antidumping duties based on all appropriate entries. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issues, (2) a brief summary of the argument, and (3) a table of authorities.

**DATES:** *Effective Date:* June 8, 2004.

**FOR FURTHER INFORMATION CONTACT:** Angela Strom or Robert James, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482-2704 or (202) 482-0649.

**SUPPLEMENTARY INFORMATION:****Background**

On May 1, 2003, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on circular welded carbon steel pipes and tubes from Taiwan. See *Antidumping or Countervailing Duty Order, Finding or Suspended Investigation, Opportunity*

*to Request Administrative Review*, 68 FR at 23281. On July 1, 2003, in response to a request from petitioners, Allied Tube and Conduit Corporation, IPSCO Tubulars Inc. and Wheatland Tube Company, the Department published in the **Federal Register** our notice of initiation of this administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR at 39055. Petitioners requested the Department to conduct an administrative review of entries of subject merchandise made by Yieh Hsing. The period of review covers May 1, 2002 to April 30, 2003.

On August 7, 2003, the Department issued its antidumping duty questionnaire to Yieh Hsing. Yieh Hsing submitted its response to section A of the questionnaire on September 11, 2003, its response to sections B and C on September 25, 2003, and its response to section D on October 2, 2003. On October 17, 2003, the Department issued a supplemental questionnaire for section A, to which Yieh Hsing responded on November 12, 2003. On November 17, 2003, the Department issued a supplemental questionnaire for section D of the questionnaire; Yieh Hsing submitted its response on December 8, 2003. On December 3, 2003, the Department issued a supplemental questionnaire for sections B and C of the questionnaire; Yieh Hsing filed its response on January 5, 2004. On January 16, 2004, the Department issued another supplemental questionnaire, to which Yieh Hsing responded on February 17, 2004. We verified Yieh Hsing's submitted data as discussed below in the "Verification" section of this notice.

Because it was not practicable to complete this review within the normal time frame, on December 16, 2003 the Department extended the time limit for the preliminary results of the administrative review to May 30, 2004. See *Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Notice of Extension of Time Limits*, 68 FR at 69987 (December 16, 2003). Due to the unexpected emergency closure of the main Commerce building on Tuesday, June 1, 2004, the Department has tolled the deadline for these preliminary results by one day to June 2, 2004.

**Period of Review**

The period of review (POR) is from May 1, 2002 to April 30, 2003.

**Scope of the Review**

Imports covered by this review are shipments of certain circular welded carbon steel pipes and tubes. The

Department defines such merchandise as welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch and 0.375 inch or more but not over 4 1/2 inches in outside diameter. These products are commonly referred to in the industry as "standard pipe" and are produced to various American Society for Testing Materials specifications, most notably A-53, A-120 and A-135. Standard pipe is currently classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.5025, 7306.30.5032, 7306.30.5040, and 7306.30.5055. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

**Verification**

As provided in section 782(i) of the Tariff Act, we verified the cost and sales information provided by Yieh Hsing using standard verification procedures, including on-site inspection of production and warehousing facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public and proprietary versions of the verification reports, which are on file in the Central Records Unit of the Department. See "Verification of Yieh Hsing Sales and Cost Responses" dated May 11, 2004.

**Affiliation**

In *Hot-Rolled Steel from Taiwan*, the Department found that China Steel and Yieh Loong were affiliated with Yieh Hsing and Yieh Phui (See *Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products from Taiwan* 66 FR 49618 (September 28, 2001) and accompanying Issues and Decision Memorandum at Comments 1 and 2), and petitioners indicate that many of the determinative facts of that case continue into the present review. Petitioners also noted that the Court of International Trade upheld this decision on January 26, 2004 in *China Steel Corporation and Yieh Loong v. United States (China Steel)*, Slip Op. 04-6). Petitioners contend that this decision compels a finding that China Steel and Yieh Loong are affiliated with Yieh Hsing.

Petitioners asked the Department to acquire information regarding ownership, common board members and any sales transactions between Yieh Hsing, China Steel and Yieh Loong. Yieh Hsing responded to these requests in their November 12, 2003, December 8, 2003 and February 17, 2004

Supplemental Questionnaire Responses. In the investigation of *Hot Rolled Steel from Taiwan*, the Department determined that Yieh Hsing was affiliated with Yieh Loong and China Steel since Yieh Loong and Yieh Hsing shared a common chairman and maintained minority cross ownership between one another (see Memorandum to the File "Certain Hot-Rolled Carbon Steel Flat Products from Taiwan-CSC, Yieh Loong and affiliated resellers" (April 19, 2001)).

From the information on the record provided at verification and in Yieh Hsing's questionnaire responses in the current review, we found that the previous common chairman had stepped down from both Yieh Hsing and Yieh Loong prior to this period of review and that Yieh Loong maintained only an insignificant percentage of ownership of Yieh Hsing. Because the determinative facts in *Hot Rolled Steel from Taiwan* involving Yieh Hsing and Yieh Loong do not exist in the current review, we find no basis for affiliation between Yieh Hsing and Yieh Loong and Yieh Hsing and China Steel. Accordingly, we need not address collapsing or the issues associated with collapsing.

#### Normal Value Comparisons

To determine whether sales of circular welded carbon steel pipes and tubes from Taiwan to the United States were made at less than normal value (NV), we compared the export price (EP) to the NV, as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Tariff Act, we compared the EPs of individual U.S. transactions to monthly weighted-average NVs of the foreign like product where there were sales at prices above the cost of production (COP), as discussed in the "Cost of Production" section below.

#### Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by the respondent, covered by the descriptions in the "Scope of the Review" section of this notice, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of circular welded carbon steel pipes and tubes from Taiwan.

We have relied on the following five criteria to match U.S. sales of subject merchandise to home market sales of the foreign like product: pipe specification (SPECH/U), pipe diameter (DIAMH/U), wall thickness (WALLH/U), whether black or galvanized

(COATH/U) and whether plain-end or threaded and coupled (ENDH/U). Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the five characteristics reported by Yieh Hsing.

#### Export Price

Section 772(a) of the Tariff Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." We calculated the price of U.S. sales based on EP for the subject merchandise sold to unaffiliated purchasers in the United States prior to importation. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight, foreign warehousing, foreign brokerage and handling, international freight, cargo loading and marine insurance.

#### Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the home market at the same level of trade (LOT) as the EP. For EP, the LOT is the level of the starting sale price, which is usually from the exporter to the importer. When NV is based on CV, we derive the level of trade from the sales upon which selling, general and administrative (SG&A) expenses and profit are based. To determine whether NV sales are at a different level of trade than EP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the home market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Tariff Act. In identifying LOTs for U.S. EP sales, we considered the selling functions reflected in the starting price after any adjustments under section 772(c) of the Tariff Act.

In implementing these principles in this administrative review, we obtained information from Yieh Hsing about the

marketing stages involved in its reported U.S. and home market sales, including a description of the selling activities performed by Yieh Hsing and the level to which each selling activity was performed for each channel of distribution. In the home market, Yieh Hsing sold to distributors and end-users while in the U.S. market, Yieh Hsing sold to trading companies. Yieh Hsing did not claim a level of trade adjustment and noted the overall sales process was similar for all sales to both markets. We did not find a significant variation in selling functions provided to home market and U.S. customers; thus, we have determined there is only one level of trade for Yieh Hsing's sales to all markets.

#### Normal Value

##### A. Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Tariff Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined the home market was viable. See Yieh Hsing's November 12, 2003 response at Attachment 5.

##### B. Affiliated Party Transactions and Arm's-Length Test

Yieh Hsing reported that it made a small portion of sales in the home market to affiliated parties. Sales to affiliated customers in the home market not made at arm's-length prices are excluded from our analysis because we consider them to be outside the ordinary course of trade. See 19 CFR 351.102(b). Prior to performing the arm's-length test, we aggregated the applicable customer codes reported for individual affiliates in order to treat them as single entities. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002) (*Modification to Affiliated Party Sales*). To test whether the sales to affiliates were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all direct selling

expenses, discounts and rebates, movement charges, and packing. Where prices to the affiliated party were, on average, within a range of 98 to 102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. See *Modification to Affiliated Party Sales* at 69187–88. In accordance with the Department's practice, we only included in our margin analysis those sales to affiliated parties that were made at arm's length.

### C. Cost of Production Analysis

Because we disregarded sales of certain products made at prices below the cost of production (COP) in the previous review of circular welded carbon steel pipes and tubes from Taiwan (see *Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of Antidumping Duty Administrative Review*, 65 FR 60613 (October 12, 2000)), we have reasonable grounds to believe or suspect that Yieh Hsing made sales of the foreign like product at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Tariff Act. Therefore, pursuant to section 773(b)(1) of the Tariff Act, we initiated a COP investigation of sales by Yieh Hsing.

In accordance with section 773(b)(3) of the Tariff Act, we calculated the weighted-average COP for each model based on the sum of Yieh Hsing's material and fabrication costs for the foreign like product, plus amounts for selling expenses, general and administrative (GNA) expenses, interest expenses and packing costs. With one exception, the Department relied on the COP data reported by Yieh Hsing. We revised the overall GNA expense total to recalculate the GNA ratio used for COP purposes by deducting a revised figure for commercial paper handling charge and adding certain unreported depreciation expenses (see the Department's Preliminary Analysis Memorandum dated June 2, 2004).

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Tariff Act whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-

cost sales of that model because we determined that the below-cost sales were not made within an extended period of time in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than COP, we disregarded the below-cost sales because: (1) They were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Tariff Act, and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act.

To determine whether Yieh Hsing made sales at prices below COP, we compared the product-specific COP figures to home market prices net of discounts and rebates and any applicable movement charges of the foreign like product as required under section 773(b) of the Tariff Act.

Our cost test for Yieh Hsing revealed that for home market sales of certain models, less than 20 percent of the sales volume (by weight) of those models were at prices below the COP. We therefore retained all such sale observations in our analysis and used them in the calculation of NV. Our cost test also indicated that for certain models, 20 percent or more of the home market sales volume (by weight) were sold at prices below COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Tariff Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales in the calculation of NV (see Preliminary Analysis Memo).

### D. Constructed Value

In accordance with section 773(e) of the Tariff Act, we calculated CV based on the sum of Yieh Hsing's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of Production Analysis" section of this notice. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and those indirect selling expenses

adjusted based on findings at verification.

### E. Price-to-Price Comparisons

We calculated NV based on prices to unaffiliated customers or prices to affiliated customers we determined to be at arm's length for home market sale observations that passed the cost test. We adjusted gross unit price for rebates and made deductions, where appropriate, for foreign inland freight and packing, pursuant to section 773(a)(6)(B) of the Tariff Act. We made adjustments for differences in circumstances of sale which included home market and U.S. imputed credit expenses, bank charges, and other direct selling expenses incurred on U.S. sales in accordance with section 773(a)(6)(C)(iii) of the Tariff Act. The Department relied on the sales database figures reported by Yieh Hsing, except as noted below:

- Based on the findings at verification, we adjusted certain rebate amounts for sales to a specific customer in a defined time period and recalculated imputed credit expenses for all home market sales (see Preliminary Analysis Memorandum).
- Based on findings at verification, we adjusted NV to account for certain unreported direct selling expenses associated with U.S. sales (see Application of Adverse Facts Available Section and Preliminary Analysis Memorandum).
- We added two missing observations to the U.S. sales database that Yieh Hsing stated had been inadvertently omitted in the most recently submitted U.S. sales database.

### Application of Adverse Facts Available

Section 776(a)(2) of the Tariff Act provides: If an interested party (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 the manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

Moreover, section 776(b) of the Tariff Act provides that: If the administering authority 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 from the

administering authority, the administering authority, in reaching the applicable determination under this title, may use an inference that is adverse to the interests of the party in selecting from among the facts otherwise available.

At verification of Yieh Hsing's sales and cost responses, the Department found certain expenses identified in Yieh Hsing's "commission expense" accounting ledger, with references to various U.S. commercial invoice numbers for particular U.S. customers. Yieh Hsing had not identified these sales-specific expenses in its questionnaire responses, and the full nature and extent of these selling expenses is unclear due to Yieh Hsing's failure to report them to the Department.

Pursuant to section 776(a)(2)(B) of the Tariff Act, we have determined that Yieh Hsing's failure to report certain direct selling expenses relating to sales of subject merchandise to the United States warrants the use of facts otherwise available. Because the Department finds that Yieh Hsing failed to cooperate by not acting to the best of its ability in complying with the Department's requests for reporting of all expenses associated with sales of subject merchandise to the United States, the Department is using an inference that is adverse to Yieh Hsing (see Preliminary Analysis Memo for explanation of the facts available selected).

#### Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Tariff Act.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period May 1, 2002 through April 30, 2003, to be as follows:

Manufacturer/exporter	Margin (percent)
Yieh Hsing Enterprise Co. Ltd ..	1.61

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business

day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs or written comments no later than 30 days after the date of publication of these preliminary results of review. Briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit arguments in these proceedings are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting case briefs, rebuttal briefs, and written comments would provide the Department with an additional copy of the public version of any such argument on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such case briefs, rebuttal briefs, and written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to CBP upon completion of the review. For the preliminary results, we calculated an importer-specific assessment rates based upon importer information provided by Yieh Hsing in its January 6, 2004 response and its most recent U.S. sales database. Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of circular welded carbon steel pipes and tubes from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rates for the company reviewed will be the rate established in the final results of review;

(2) For any previously reviewed or investigated company 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 or previous review, 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 review conducted by the

Department, the cash deposit rate will be the "all others" rate of 9.70 percent from the investigation; see *Certain Welded Carbon Steel Pipes and Tubes from Taiwan: Final Determination of Sales at Less Than Fair Value* 49 FR 9931-01 (March 16, 1984).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: June 2, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-844]

#### Steel Concrete Reinforcing Bar From The Republic of Korea: Notice of Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review

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

**ACTION:** Notice of preliminary results and preliminary rescission, in part, of antidumping duty administrative review.

**DATES:** *Effective Date:* June 8, 2004.

**SUMMARY:** In response to a request from the petitioner,<sup>1</sup> the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on steel concrete reinforcing bar ("rebar") from the Republic of Korea ("Korea"). The period of review ("POR") is September 1, 2002, through August 31, 2003. This review covers six manufacturers/exporters of subject merchandise.

As a result of our review, we preliminarily determine that four

<sup>1</sup> The petitioner in this proceeding is the Rebar Trade Action Coalition and its individual members: Gerdau AmeriSteel, CMC Steel Group, Nucor Corporation, and TAMCO.