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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-552-811]

Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam: Notice of Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) has determined that imports of circular welded carbon-quality steel pipe (circular welded pipe) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less-than-fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the “Continuation of Suspension of Liquidation” section of this notice.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD

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SUPPLEMENTARY INFORMATION

Background

On June 1, 2012, the Department published in the *Federal Register* its preliminary determination in the antidumping duty investigation of circular welded pipe from Vietnam.¹

On June 8, 2012, we placed on the record of this investigation a memorandum describing a revision to the methodology announced in our preliminary determination for calculating the rate assigned to cooperative respondents not selected for individual analysis.

As provided in section 782(i) of the Act, we conducted sales and factors of production (FOP) verifications of the questionnaire responses submitted by SeAH Steel VINA Corporation (SeAH VINA) and Haiphong Hongyuan Machinery Manufactory Co., Ltd. (Haiphong Hongyuan) as well as their respective U.S. affiliates. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the company.²

On June 29, 2012, SeAH VINA, pursuant to the Department's regulations at 19 CFR 351.310(c), requested a hearing. On July 2, 2012, Allied Tube and Conduit, and the JMC Steel Group (petitioners), also, requested a hearing pursuant to the Department's regulations at 19

¹ See Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 77 FR 32552 (June 1, 2012) (Preliminary Determination).

² See Memoranda to the File entitled "Verification of the Sales and Factors Response of Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd., in the Antidumping Investigation of Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam;" "Verification of the Sales Response of Midwest Air Technologies, Inc., in the Antidumping Investigation of Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam;" "Verification of the Sales and Factors Response of SeAH Steel VINA Corporation in the Antidumping Investigation of Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam;" "Verification of the Sales Response of State Pipe & Supply, Inc., in the Antidumping Investigation of Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam;" "Verification of the Sales Response of SeAH Steel America, Inc., in the Antidumping Investigation of Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam," all dated August 29, 2012.

CFR 351.310(c). On September 21, 2012, and September 24, 2012, SeAH VINA and petitioners, respectively, withdrew their requests for a hearing.

On July 11, 2012, petitioners and Haiphong Hongyuan submitted surrogate values with which to value factors in the final determination.

We received case briefs from petitioners, SeAH VINA, Haiphong Hongyuan, and Sun Steel Joint Stock Company (SUNSCO) on September 11, 2012. On September 17, 2012, petitioners, SeAH VINA, and Haiphong Hongyuan filed rebuttal briefs.

On September 21, 2012, the Department placed on the record of the investigation back-up documentation to support the surrogate value it used for brokerage and handling in the preliminary determination, and invited interested parties to submit comments on that documentation. We received comments from Haiphong Hongyuan and SeAH VINA on September 25, 2012, and rebuttal comments from petitioners on September 27, 2012.

Period of Investigation

The period of investigation (POI) is April 1, 2011, to September 30, 2011.

Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (O.D.) not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, American Society for Testing and Materials International (ASTM), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term “carbon quality” includes products in which: (a) iron predominates, by weight, over each of the other contained elements;

(b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium;
- (xiii) 0.15 percent of vanadium;
- (xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These

products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (API) API-5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished scaffolding;³ (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.*, outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)

1.315 inch O.D. and 0.047 inch wall thickness (gage 18)

1.315 inch O.D. and 0.055 inch wall thickness (gage 17)

³ Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a “kit.” A “kit” is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

1.315 inch O.D. and 0.065 inch wall thickness (gage 16)

1.315 inch O.D. and 0.072 inch wall thickness (gage 15)

1.315 inch O.D. and 0.083 inch wall thickness (gage 14)

1.315 inch O.D. and 0.095 inch wall thickness (gage 13)

1.660 inch O.D. and 0.047 inch wall thickness (gage 18)

1.660 inch O.D. and 0.055 inch wall thickness (gage 17)

1.660 inch O.D. and 0.065 inch wall thickness (gage 16)

1.660 inch O.D. and 0.072 inch wall thickness (gage 15)

1.660 inch O.D. and 0.083 inch wall thickness (gage 14)

1.660 inch O.D. and 0.095 inch wall thickness (gage 13)

1.660 inch O.D. and 0.109 inch wall thickness (gage 12)

1.900 inch O.D. and 0.047 inch wall thickness (gage 18)

1.900 inch O.D. and 0.055 inch wall thickness (gage 17)

1.900 inch O.D. and 0.065 inch wall thickness (gage 16)

1.900 inch O.D. and 0.072 inch wall thickness (gage 15)

1.900 inch O.D. and 0.095 inch wall thickness (gage 13)

1.900 inch O.D. and 0.109 inch wall thickness (gage 12)

2.375 inch O.D. and 0.047 inch wall thickness (gage 18)

2.375 inch O.D. and 0.055 inch wall thickness (gage 17)

2.375 inch O.D. and 0.065 inch wall thickness (gage 16)

2.375 inch O.D. and 0.072 inch wall thickness (gage 15)

2.375 inch O.D. and 0.095 inch wall thickness (gage 13)

2.375 inch O.D. and 0.109 inch wall thickness (gage 12)

2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. However, the product description, and not the HTSUS classification, is dispositive of whether the merchandise imported into the United States falls within the scope of the investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the Issues and Decision Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration (Issues and Decision Memorandum), which is dated concurrently with and hereby adopted by this notice. A list of the issues raised is

attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit (CRU), room 7046 of the Main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verifications, we have made certain changes to the margin calculations for SeAH VINA and Haiphong Hongyuan. For a discussion of these changes, see Memorandum to the File, through Robert James, Program Manager, from Fred Baker, International Trade Analysts, entitled "Analysis of Data Submitted by SeAH Steel VINA Corporation for the Final Determination of the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam" dated October 15, 2012; see also Memorandum to the File, through Robert James, Program Manager, from Fred Baker, International Trade Analysts, entitled "Analysis of Data Submitted by Haiphong Hongyuan Machinery Manufactory Co., Ltd., for the Final Determination of the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam" dated October 15, 2012.

Combination Rates

As stated in the preliminary determination, all separate rates the Department now assigns to exporters will be specific to those producers that supplied the exporter during the POI. See

Preliminary Determination, 77 FR at 32560. This practice applies both to mandatory respondents receiving an individually-calculated separate rate, as well as the pool of non-investigated firms receiving the average of rates applied in this investigation. This practice is referred to as the application of “combination rates,” because such rates apply to the specific combination of exporters and their supplying producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the POI.

Vietnam-Wide Rate

Because we begin with the presumption that all companies within an NME country are subject to governmental control, and because only the companies listed under the “Final Determination Dumping Margins” section, below, have overcome that presumption, we are assigning a single weighted-average dumping margin (*i.e.*, the Vietnam-wide rate) to all other exporters of the merchandise under consideration. These other companies did not demonstrate entitlement to a separate rate.⁴ The Vietnam-wide rate applies to all entries of the merchandise under consideration except for entries from the Separate Rate Companies.

In the preliminary determination, the Department determined that there were exporters/producers of the merchandise subject to this investigation during the POI from Vietnam that did not respond to the Department’s request for information.⁵ Further, we treated these Vietnamese exporters/producers as part of the Vietnam-wide entity because they did not

⁴ Those companies are Daiwa Lance International Co., Ltd., Hoa Sen Group, Vietnam Steel Pipe Co., Ltd. (a/k/a Vinapipe), Hyundai-Huy Hoang Pipe, Tianjin Lida Steel Pipe Group, Vietnam Germany Steel Pipe, and Vingal Industries Co., Ltd.

⁵ See Preliminary Determination, 77 FR at 32557.

qualify for a separate rate. Therefore, we find the use of facts available (FA) is necessary and appropriate to determine the Vietnam-wide rate pursuant to section 776(a)(2)(A) of the Act.⁶

In the preliminary determination, the Department also determined that, in selecting from the FA, an adverse inference is appropriate because the Vietnam-wide entity failed to co-operate by not acting to the best of its ability to comply with requests for information. As adverse facts available (AFA), we preliminary assigned to the Vietnam-wide entity a rate of 27.96 percent, the highest margin alleged in the petition, as corrected by the Department at our initiation of this investigation.⁷

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information.⁸ We find that, because the Vietnam-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate.

⁶ See id.

⁷ See id.

⁸ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, 65 FR 5510, 5518 (February 4, 2000). See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1, at 870 (1994)(SAA).

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) provide that the Department may rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse “so as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”⁹ It is also the Department’s practice to select a rate that ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”¹⁰

In the preliminary determination, the Department selected as AFA, a rate of 27.96 percent, the highest margin alleged in the petition, as corrected by the Department at our initiation of this investigation.¹¹ For the final determination, the Department continues to use the same methodology to determine the AFA rate used in the preliminary determination.¹²

⁹ See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan, 63 FR 8909, 8932 (February 23, 1998).

¹⁰ See SAA at 870.

¹¹ See Preliminary Determination, 77 FR at 32558.

¹² See id.

Final Determination Dumping Margins

We determine that the following dumping margins exist for the following entities for the POI:

Exporter	Producer	Weighted -Average Margin
SeAH Steel VINA Corporation	SeAH Steel VINA Corporation	3.96 percent
Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd.	Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd.	5.17 percent
Sun Steel Joint Stock Company	Sun Steel Joint Stock Company	4.57 percent
Huu Lien Asia Corporation	Huu Lien Asia Corporation	4.57 percent
Hoa Phat Steel Pipe Co.	Hoa Phat Steel Pipe Co.	4.57 percent
Vietnam-Wide Rate ¹³		27.96 percent

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of circular welded pipe from Vietnam which were entered, or withdrawn from warehouse, for consumption on or after June 1, 2012, the date of publication of the preliminary determination. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margins, as indicated below, as follows: (1) the rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this final determination; (2) for all Vietnamese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the

¹³ The Vietnam-wide entity includes: Daiwa Lance International Co., Ltd., Hoa Sen Group, Vietnam Steel Pipe Co., Ltd. (a/k/a Vinapipe), Hyundai-Huy Hoang Pipe, Tianjin Lida Steel Pipe Group, Vietnam Germany Steel Pipe, and Vingal Industries Co., Ltd.

Vietnam-wide rate; (3) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporter/producer combination that supplied that non-Vietnamese exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

Disclosure

We intend to disclose to parties in this proceeding the calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2)(B) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the 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 determination is issued and published pursuant to sections 735(d) and 777(i)(1) of
the Act.

Paul Piquado
Assistant Secretary
for Import Administration

October 15, 2012_
Date

Appendix I

General Issues

- Comment 1: Calculating Weighted-Average Margins and Cash Deposit Rates Using Only Positive Dumping Margins
- Comment 2: Financial Statements Used for Calculating Financial Ratios
- Comment 3: Use of Factors of Production Methodology
- Comment 4: Targeted Dumping
- Comment 5: Surrogate Value for Labor
- Comment 6: Surrogate Value for Brokerage and Handling
- Comment 7: Surrogate Value for Steel Straps
- Comment 8: Whether the Department Should Update Certain Surrogate Values
- Comment 9: Rate Applicable to the Separate-Rate Applicants Not Selected for Individual Analysis

Issues Regarding Haiphong Hongyuan

- Comment 10: The Department Should Make Adjustments to the Quantity of Certain U.S. Sales
- Comment 11: Inputs that Should Be Included in Packing, Rather than Cost of Manufacture
- Comment 12: The Department Should Use the Most Recently Submitted Factors of Production and U.S. Sales Databases
- Comment 13: Ministerial Error

Issues Regarding SeAH VINA

- Comment 14: Date of Sale for U.S. Sales through SSA
- Comment 15: Credit Period for “Back-to-Back” Sales
- Comment 16: Double Counting Countervailable Subsidies
- Comment 17: Ministerial Error

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