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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-810]

Stainless Steel Bar From India: Initiation of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is initiating a changed circumstances review of the antidumping duty order on stainless steel bar (SSB) from India to determine whether to reinstate the order with respect to Viraj Profiles Ltd. (Viraj) and Venus Wire Industries Pvt. Ltd. and its affiliates Hindustan Inox, Precision Metals and Sieves Manufacturers (India) Pvt. Ltd. (collectively, Venus).

DATES: Effective (*INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.*)

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0410.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, the Department published the antidumping duty (AD) order on SSB from India.¹ On September 14, 2004, the Department conditionally revoked the *Order* with respect to merchandise produced and exported by Viraj Alloys, Ltd., Viraj forgings, Ltd., and

¹ See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India, and Japan*, 60 FR 9661 (February 21, 1995) (*Order*).

Viraj Impoexpo, Ltd. (collectively, Viraj, and now known as Viraj Profiles Limited²), based on a finding of three years of no dumping.³ On September 13, 2011, the Department conditionally revoked the *Order* with respect to merchandise produced and exported by Venus, based on a finding of three years of no dumping.⁴

On September 29, 2016, the petitioners⁵ alleged that, since their conditional revocation from the *Order*, there is evidence that Viraj and Venus have both resumed sales to the United States at prices below normal value (NV). The petitioners note that Viraj and Venus agreed in writing to reinstatement into the AD order if either company were found to have resumed dumping, and alleges that, because Viraj and Venus violated this agreement, the Department should initiate a changed circumstances review (CCR) to determine whether to reinstate Viraj and Venus into the *Order*.⁶

In November 2016, Viraj and Venus objected to the petitioners' request for a CCR.⁷ On November 28, 2016, the petitioners submitted a rebuttal to Venus' objection to the request for a

² In July 2006, Viraj Forgings Ltd. merged with Viraj Alloys Ltd.; in April 2007, Viraj Alloys and Viraj Impoexpo Ltd. merged into Viraj Profiles Ltd. See Letter from the petitioners, "Stainless Steel Bar From India – Petitioners' Request for Changed Circumstances Reviews," dated September 29, 2016 (CCR Request) at Exhibit GEN-1.

³ See *Stainless Steel Bar From India; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 69 FR 55409 (September 14, 2004) (Viraj Revocation). The regulatory provision governing partial revocation at the time of Viraj's (and Venus's) revocation was 19 CFR 353.25 (1997). The relevant language remained substantively unchanged when 19 CFR 353.25 was superseded by 19 CFR 351.222 in 1997. See *Antidumping Duties; Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments*, 61 FR 7308 (February 27, 1996) (1996 Notice of Proposed Rulemaking); see also *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27325-26, 27399-402 (May 19, 1997) (Preamble). The portion of 19 CFR 351.222 related to partial revocations of orders as to specific companies has been revoked for all reviews initiated on or after June 20, 2012. See *Modification to Regulation Concerning the Revocation of Antidumping and Countervailing Duty Orders: Final Rule*, 77 FR 29875 (May 21, 2012) (Revocation Final Rule).

⁴ See *Stainless Steel Bar from India: Final Results of the Antidumping Duty Administrative Review, and Revocation of the Order, in Part*, 76 FR 56401 (September 13, 2011) (Venus Revocation).

⁵ Carpenter Technology Corporation, Crucible Industries LLC, Electralloy, a Division of G.O. Carlson, Inc., North American Stainless, Outokumpu Stainless Bar, LLC, Universal Stainless & Alloy Products, Inc., and Valbruna Slater Stainless, Inc. (collectively, the petitioners)

⁶ See CCR Request.

⁷ See Letter from Viraj, "Stainless Steel Bar from India," dated November 14, 2016 (Viraj Rebuttal) and Letter from Venus, "Stainless Steel Bars ("SSB") from India – Response to Request for Changed Circumstances Review," dated November 4, 2016 (Venus Rebuttal).

CCR.⁸ Also in November 2016, the Department extended the time period for determining whether to initiate the CCR by 45 days to December 28, 2016.⁹

In accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b), and as discussed in further detail below, the Department finds the information submitted by the petitioners sufficient to warrant initiation of a CCR of the AD order on SSB from India with respect to Viraj and Venus. The period of review (POR) is July 1, 2015, through June 30, 2016.

In this CCR, we intend to determine whether Viraj or Venus sold SSB from India at less than NV subsequent to their revocations from the *Order*. If we make an affirmative preliminary finding, we will direct U.S. Customs and Border Protection to suspend liquidation of all entries of SSB manufactured in India and exported by the company(ies) for which we made an affirmative finding.

⁸ See Letter from the petitioners, “Stainless Bar from India – Petitioners’ Comments Concerning Venus’ Rebuttal Comments to Petitioners’ Changed Circumstances Review Request,” dated November 29, 2016.

⁹ See Memorandum, “Extension of Deadline to Initiate Changed Circumstances Review,” dated November 10, 2016.

Scope of the Order

The merchandise subject to the order is stainless steel bar. Stainless steel bar 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. Stainless steel bar includes cold-finished stainless steel bars 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.

Imports of these products are currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Allegation of Resumed Dumping

The allegation of resumed dumping upon which the Department has based its decision to initiate a CCR is detailed below. The sources of data for the adjustments that the petitioners calculated relating to NV and U.S. price are discussed in greater detail in the Changed Circumstances Review Initiation Checklist dated concurrently with this notice.

1. Constructed Export Price

The petitioners based U.S. price upon offers for sale from the respondents' U.S. affiliates to unaffiliated customers in the United States, which they obtained from a proprietary source.¹⁰ The offers for sale identify prices and terms of sale for a number of SSB models sold by the respondents' U.S. affiliates.¹¹ The petitioners made adjustments for movement expenses consistent with the terms of sale, for the U.S. affiliates' profit and selling expenses, and for imputed credit expenses.¹² We recalculated the imputed expenses to be consistent with Policy Bulletin 98.1.¹³

2. Normal Value

The petitioners based NV on home market prices obtained from a proprietary source.¹⁴ The petitioners made an adjustment for imputed credit expenses.¹⁵

3. Cost of Production

The petitioners based COP on the costs of an integrated U.S. producer of the subject merchandise , as the best information reasonably available, and made adjustments for known

¹⁰ See CCR Request at 11-12 and Exhibits AD-IN-2.B.1 and AD-IN-2.B.2.

¹¹ *Id.*

¹² *Id.* at 11-12 and Exhibits AD-IN-2.A.1 and AD-IN-2.A.2.

¹³ See Changed Circumstances Review Initiation Checklist at "Constructed Export Price" section.

¹⁴ *Id.* at 15 and Exhibits AD-IN-3.A.1 and AD-IN-3.A.2.

¹⁵ *Id.*

differences in cost between the domestic industry and the respondents.¹⁶ Based on a comparison of home market sales and the COP, the petitioners assert that there is reason to believe or suspect that certain home market sales made by Viraj and Venus were priced below COP.¹⁷

Accordingly, the petitioners consider those home market sales to be outside the ordinary course of trade, and relied on the remaining home market sales above COP to establish normal value.¹⁸

2. Alleged Margins of Dumping

The petitioners allege that there is evidence that Viraj and Venus have both resumed dumping SSB in the United States that is sufficient to warrant initiation of a CCR to determine whether the respondents should be reinstated into the AD order. The petitioners' estimated dumping margins, as revised to recalculate imputed credit expenses for U.S. sales, range from 9.27 to 45.98 percent for Viraj and from 26.59 to 43.55 percent for Venus.¹⁹

Comments by Interested Parties

As noted above, in November 2016, Viraj and Venus submitted comments on the petitioners' request that the Department initiate a CCR.²⁰ These comments are detailed in the Changed Circumstances Review Initiation Checklist.

Initiation of Changed Circumstances Review

Pursuant to section 751(b) of the Act, the Department will conduct a CCR upon receipt of a request "from an interested party for review of an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order." After examining the petitioners' allegation and supporting documentation, we find that the petitioners have provided

¹⁶ *Id.* at 15-17 and Exhibits AD-IN-4.F.1 and AD-IN-4.F.2.

¹⁷ *Id.* at 17 and Exhibits AD-IN-5.A.1 and AD-IN-5.A.2.

¹⁸ *Id.* at 17 and Exhibits AD-IN-6.A and AD-IN-6.B.

¹⁹ See Changed Circumstances Review Initiation Checklist at "Estimated Margins" section.

²⁰ See Viraj Rebuttal and Venus Rebuttal.

evidence of changed circumstances sufficient to initiate a review to determine whether Viraj or Venus have resumed dumping and should be reinstated in the *Order*.²¹

The Department's authority to reinstate a revoked company into an AD order by means of a CCR derives from sections 751(b) and (d) of the Act.²² The Department's authority to revoke an order is expressed in section 751(d) of the Act. The statute, however, provides no detailed description of the criteria, procedures, or conditions relating to the Department's exercise of this authority. Accordingly, the Department issued regulations that set forth in detail how the Department will exercise the authority granted to it under the statute. At the time of the respondents' revocations from the *Order*, a Department regulation authorized the partial and conditional revocation of orders as to companies that were determined not to have made sales at less than NV for the equivalent of three consecutive years and that certified to the immediate reinstatement into an order if they resumed dumping.²³ Although the regulatory provision for partial and conditional revocation of companies from orders has since been revoked, we have clarified that all conditionally revoked companies remain subject to their certified agreements to be reinstated into the order from which they were revoked if the Department finds that the company has resumed dumping.²⁴ For these reasons, conducting a CCR pursuant to section 751(b) of the Act to determine whether to reinstate Viraj or Venus into the *Order* is consistent

²¹ See Changed Circumstances Review Initiation Checklist.

²² See *Sahaviriya Steel Indus. Pub. Co., Ltd. v. United States*, 649 F.3d 1371, 1378 (Fed. Cir. 2011) (*Sahaviriya*) (“{T}his court holds, applying Chevron deference, that Commerce reasonably interpreted its revocation authority under {section 751(d) of the Act} to permit conditional revocation . . .”); *id.* at 1378-80 (finding that Commerce properly conducted a changed circumstances review for purposes of reconsidering revocation).

²³ See 19 CFR 353.25 (1997). As noted above, the relevant language regarding reinstatement remained substantively unchanged when 19 CFR 353.25 was superseded by 19 CFR 351.222 (1997), and the portion of 19 CFR 351.222 related to partial revocations of orders as to specific companies has been revoked for all reviews initiated on or after June 20, 2012. See *1996 Notice of Proposed Rulemaking; Preamble; Revocation Final Rule*.

²⁴ See *Revocation Final Rule*, 77 FR at 29882.

with the statute and with the certification that the respondents signed as a precondition to their conditional revocation.²⁵

Period of Changed Circumstances Review

The Department intends to request data from Viraj and Venus for the July 1, 2015, through June 30, 2016, period to determine whether it should reinstate the *Order* with respect to these companies because they resumed dumping.

Public Comment

The Department intends to publish in the *Federal Register* a notice of preliminary results of CCR in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the Department's preliminary factual and legal conclusions. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results. Unless otherwise extended, the Department intends to issue its final results of review in accordance with the time limits set forth in 19 CFR 351.216(e).

²⁵ See, e.g., *Sahaviriya*, 649 F.3d at 1380; *Initiation of Antidumping Duty Changed Circumstances Review: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 73 FR 18766, 18769 (April 7, 2008); see also *Viraj Revocation*, 69 FR at 55411 (“Viraj provided each of the certifications required under 19 CFR 351.222(e) ... {including} an agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV.”); see also *Venus Revocation*, 76 at 56402-3 (“the company has agreed to immediate reinstatement of the order if we find that it has resumed making sales at less than fair value”). See also Changed Circumstances Review Initiation Checklist at Exhibit 6 for copies of the respondents’ agreements.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b) of the Department's regulations.

Dated: December 12, 2016

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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