[FR Doc. 99–25617 Filed 9–30–99; 8:45 am]
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DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–004]

Final Results of Full Sunset Review: Carbon Steel Wire Rod From Argentina

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

ACTION: Notice of Final Results of Full Sunset Review: Carbon Steel Wire Rod from Argentina.

SUMMARY: On May 28, 1999, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset review of the suspended countervailing duty investigation on carbon steel wire rod from Argentina (64 FR 28978) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We received comments from both domestic and respondent interested parties. As a result of this review, the Department finds that termination of this suspended investigation would be likely to lead to continuation or recurrence of a countervailable subsidy at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 1, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) *(''Sunset Regulations'')* and in 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) *(''Sunset Policy Bulletin'').*

Scope

The merchandise subject to this suspended countervailing duty investigation is carbon steel wire rod, both high carbon and low carbon, manufactured in Argentina and exported, directly or indirectly from Argentina to the United States. The term ''carbon steel wire rod'' covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inches nor over 0.74 inches in diameter, not tempered, not treated, and not partly manufactured, and valued at over 4 cents per pound. As of the publication of the last administrative review,[1] the merchandise subject to this order was classifiable under item numbers 7213.20.00, 7213.31.30, 7213.39.00, 7213.41.30, 7213.49.00, and 7213.50.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description remains dispositive.

Background

On May 28, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Carbon Steel Wire Rod from Argentina* (64 FR 28978) *(''Preliminary Results'').* In our preliminary results, we found that termination of the suspended investigation would be likely to lead to continuation or recurrence of a countervailable subsidy. Further, we found that the net countervailable subsidy likely to prevail if the suspended investigation were terminated is 5.36 percent ad valorem, the subsidy rate determined in the suspended investigation. Additionally, we found that each of the three programs (the reembolso, pre-export financing, and post-export financing) fall within the definition of an export subsidy under Article 3.1(a) of the 1994 WTO Agreement on Subsidies and Countervailing Measures (''Subsidies Agreement'').

On July 12, 1999, within the deadline specified in 19 CFR 351.309(c)(1)(i), we received comments on behalf of Co-Steel (formerly Raritan River Steel), GS Industries, and North Star Steel Company (collectively, the ''domestic interested parties''), the domestic participants in this review, and on behalf of Acindar Industria Argentina de Aceros S.A. (''Acindar''), the respondent in this review. On July 15, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from the domestic interested parties. We have addressed the comments received below.

Comments

Comment 1: In its July 12, 1999, case brief, Acindar states that it disagrees with the Department's *Preliminary Results* in this sunset proceeding. Acindar states that, in the Department's *Preliminary Results,* we noted that Communique A–1807 ''totally suspended'' pre-export (as well post-export) financing as of March 8, 1991. Acindar argues that a suspension of this duration can hardly be considered temporary and that the Department should conclude that the subsidy attributable to pre- and post-export financing is zero and, consequently, reduce its final net countervailable subsidy rate to zero.

In their July 12, 1999, case brief, the domestic interested parties state that they agree with the Department's *Preliminary Results* in this proceeding. With respect to Acindar's assertion, the domestic interested parties argue that Acindar and the Government of Argentina have presented no evidence that pre- and post-export financing subsidy programs have been terminated. According to the domestic interested parties, because the programs are in place, their temporary suspension strongly suggests that subsidies would recur if the suspended investigation were terminated.

Department Position: The Department agrees with the domestic interested parties. Acindar and the Government of Argentina have presented no evidence to indicate that pre- and post-export financing programs have been eliminated. The Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, vol. I (''SAA''), at 888, states that temporary suspension or partial termination of a subsidy program will be probative of continuation or recurrence of countervailable subsidies. We acknowledge that, as a result of the suspension agreement, as amended, the pre-export and post-export financing programs have been suspended for producers of subject merchandise since 1982 and 1986, respectively. However, the Department notes that the suspension of a program is not the same as the termination of a program. Programs which have been suspended, and not officially terminated through legislative action, are more likely to be

[1] *See Carbon Steel Wire Rod from Argentina; Final Results of Countervailing Duty Administrative Review,* 56 FR 40309 (August 14, 1991).

reinstated. Communique A–1807 was a decree suspending pre- and post-export financing, not terminating these programs. Therefore, absent evidence from Acindar and/or the Government of Argentina that pre- and post-export financing programs have been terminated by legislative action, the Department finds that there is a likelihood of continuation or recurrence of countervailable subsidy if the suspended investigation were terminated.

Comment 2: Acindar quotes the Department's *Preliminary Results,* stating ''the rebate system was changed to cover only the reimbursements of indirect local taxes and does not cover import duties, except reimbursement of duties paid on imported products which are re-exported. Additionally, the Department found that the rates of reimbursement were reduced by 33 percent for all products * * *'' According to Acindar, this statement indicates that whatever net countervailable subsidy formerly existed by reason of the reembolso no longer can exist. To reflect this fact, Acindar requests that the Department readjust its final net countervailable subsidy.

The domestic interested parties argue that Acindar and the Government of Argentina have presented no evidence that the reembolso program has been terminated. They further argue that the Department found, in an administrative review of oil country tubular goods, that the legal structure of the reembolso program had been altered. However, they claim the Government of Argentina has not terminated the program. Domestic interested parties also contend that, according to the SAA at 888, even partial termination of a subsidy program is probative of a recurrence of countervailable subsidies. According to the domestic interested parties, because the reembolso program continues to exist, the Department should find that there is a likelihood of continuation or recurrence of a countervailable subsidy.

Department Position: The Department agrees with the domestic interested parties. Acindar and the Government of Argentina have presented no evidence to indicate that the reembolso program has been terminated. In fact, the reembolso program continues to exist, but, as noted in the final results of the 1991 administrative review of the countervailing duty order on oil country tubular goods from Argentina, has been modified to cover only reimbursements of indirect local taxes, and no longer covers import duties, except reimbursement of duties paid on imported products which are re-exported.[2] This modification of the reembolso program is in no way tantamount to a termination and does not preclude additional modifications to the program. Because Acindar and/or the Government of Argentina have submitted no evidence that this program has been terminated and that its reinstatement is not likely, the Department finds that there is a likelihood of continuation or recurrence of countervailable subsidy if the suspended investigation were terminated.

Comment 3: Acindar argues that the Department's distinction between countervailing duty orders and suspension agreements, with respect to *Ceramica,*[3] is weak. Acindar argues that the only incentive to enter into a suspension agreement is the threat of countervailing duties. Since the threat of such duties absent an injury determination disappeared when Argentina achieved ''country under the agreement'' status, the suspension agreement should likewise lapse.

The domestic interested parties argue that *Ceramica* did not address the issue of suspension agreements or their administrability by the Department. According to the domestic interested parties, *Ceramica* addressed only the Department's authority to assess countervailing duties on imports that did not receive an injury test. The Department is not assessing countervailing duties, but rather administering a negotiated agreement between the governments of Argentina and the United States. Therefore, according to the domestic interested parties, the findings in *Ceramica* are irrelevant to this sunset review.

Department Position: The Department agrees with the domestic interested parties. As discussed in the Department's *Preliminary Results, Ceramica* addresses the Department's authority to assess countervailing duties on imports where the Commission made no injury determination with respect to those imports. Accordingly, the findings in *Ceramica* do not inform this sunset analysis. The Department is not assessing countervailing duties with respect to subject merchandise. In fact, the Department terminated the suspension of liquidation as a result of the conclusion of this agreement.

[2] *See Oil Country Tubular Goods from Argentina; Final Results of Countervailing Duty Administrative Review,* 62 FR 55589 (October 27, 1997) (affirming the preliminary determination).

[3] *See Ceramica Regiomontana* v. *United States,* 64 F.3d 1579 (Fed. Cir. 1995) (''*Ceramica*'').

Final Results of Review

As a result of this review, the Department finds that termination of the suspended countervailing duty investigation would be likely to lead to continuation or recurrence of a countervailable subsidy for the reasons set forth in the preliminary results of our review. Furthermore, for the reasons set forth in our preliminary results of review and, as discussed above, we find that the net countervailing duty rate of 5.36 percent *ad valorem* is the rate likely to prevail if the suspended investigation were terminated. Finally, we continue to find that the reembolso, pre-export financing, and post-export financing programs, because receipt of benefits is contingent upon export, fall within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement.

This notice serves as the only 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 of the Department's regulations. Timely notification of return/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 five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 27, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–831]

Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Certain Cold Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil

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

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos or Dana Mermelstein, Office of CVD/AD Enforcement VII, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street