

## Background

On December 10, 2001, the Department of Commerce (the Department) published in the **Federal Register** an antidumping duty order covering honey from the People's Republic of China (PRC). See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China*, 66 FR 63670 (December 10, 2001). On December 17, 2002, the Department published a *Notice of Opportunity to Request an Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 67 FR 77222 (December 17, 2002). On December 31, 2002, the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners) in this proceeding, requested, in accordance with section 351.213(b) of the Department's regulations, an administrative review of the antidumping duty order on honey from the PRC covering the period May 11, 2001, through November 30, 2002.<sup>1</sup>

The petitioners requested that the Department conduct an administrative review of entries of subject merchandise made by ten Chinese producers/exporters, which included Shanghai Eswell. The Department initiated the review for all companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 3009 (January 22, 2003). On April 22, 2003, petitioners submitted a withdrawal of request for review for Shanghai Eswell.

## Rescission of Review

The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the publication of the notice of initiation of the requested review, the Secretary will rescind the review. The petitioners withdrew their review request with respect to Shanghai Eswell within the 90-day deadline, in accordance with 19 CFR 351.213(d)(1). Since petitioners were the only party to request an administrative review of Shanghai Eswell, we are rescinding this review of the antidumping duty order on honey from the PRC covering the period February 10, 2001, through

November 30, 2002, with respect to Shanghai Eswell.

This notice is issued and published in accordance with sections 751 and 777(i) of the Act and 19 CFR 351.213(d)(4) of the Department's regulations.

Dated: April 30, 2003.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration, Group III.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-357-810]

### Notice of Preliminary Results and Preliminary Partial Recision of Antidumping Duty Administrative Review; Oil Country Tubular Goods, Other Than Drill Pipe, from Argentina

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

**ACTION:** Notice of Preliminary Results and Preliminary Partial Recision of Antidumping Duty Administrative Review.

**SUMMARY:** In response to a request from the petitioner, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on oil country tubular goods from Argentina. This review covers two manufacturers/exporters of the subject merchandise, Siderca S.A.I.C. (Siderca) and Acindar Industria Argentina de Aceros S.A. (Acindar). As a result of our review, we have preliminarily determined that Siderca had no shipments during the period of review (POR). Acindar failed to respond to our questionnaire. As a result, we are basing our preliminary results for Acindar on adverse facts available. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Bureau of Customs and Border Protection (BCBP) to assess antidumping duties on entries during the POR. The POR is August 1, 2002, through July 31, 2003.

We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue; and (2) a brief summary of the argument.

**EFFECTIVE DATE:** May 6, 2003.

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

Enforcement Group III Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482 2924 (Baker), (202) 482-0649 (James).

## SUPPLEMENTARY INFORMATION:

### Background

On August 11, 1995, the Department published the antidumping duty order on oil country tubular goods from Argentina. See *Antidumping Duty Order: Oil Country Tubular Goods from Argentina*, 60 FR 41055 (August 11, 1995). On August 30, 2002, United States Steel Corporation (petitioner) requested that the Department conduct an administrative review of sales of the subject merchandise made by Siderca and Acindar.

On September 20, 2002, the Department initiated the administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 60210 (September 25, 2002).

On September 25, 2002, the Department issued its antidumping duty questionnaire to Acindar and Siderca. In response to the Department's September 25, 2002, questionnaire, Siderca stated in a October 23, 2002, submission that it had no consumption entries of subject merchandise during the POR. Between February 20 and February 22, 2003, the Department verified Siderca's "no-shipment" claim. See the "Verification" section below.

The margin for Acindar indicated below under "Preliminary Results of Review" is based on adverse facts available, as discussed below.

### Verification

As provided in section 782(i) of the Tariff Act, we verified Siderca's claim of no shipments to the United States using standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public and proprietary versions of the verification report, dated March 4, 2003, which are on file in the Central Records Unit of the Department.

### Period of Review

The POR is August 1, 2001, through July 31, 2002.

### Scope of the Review

Oil country tubular goods (OCTG) are hollow steel products of circular cross-section, including oil well casing and tubing of iron (other than cast iron) or

<sup>1</sup> On January 27, 2003, in a memorandum to the file, we determined that the POR for entities with affirmative findings of critical circumstances to be February 10, 2001, through November 30, 2002. See Memorandum to the File from Angelica L. Mendoza through Donna L. Kinsella, dated January 27, 2003 for further details.

steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products).

This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium. Drill pipe was excluded from this order beginning August 11, 2001. *See Continuation of Countervailing and Antidumping Duty Orders on Oil Country Tubular Goods From Argentina, Italy, Japan, Korea and Mexico, and Partial Revocation of Those Orders From Argentina and Mexico With Respect to Drill Pipe*, 66 FR 38630 (July 25, 2001).

The OCTG subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers:

7304.29.10.10, 7304.29.10.20,  
7304.29.10.30, 7304.29.10.40,  
7304.29.10.50, 7304.29.10.60,  
7304.29.10.80, 7304.29.20.10,  
7304.29.20.20, 7304.29.20.30,  
7304.29.20.40, 7304.29.20.50,  
7304.29.20.60, 7304.29.20.80,  
7304.29.30.10, 7304.29.30.20,  
7304.29.30.30, 7304.29.30.40,  
7304.29.30.50, 7304.29.30.60,  
7304.29.30.80, 7304.29.40.10,  
7304.29.40.20, 7304.29.40.30,  
7304.29.40.40, 7304.29.40.50,  
7304.29.40.60, 7304.29.40.80,  
7304.29.50.15, 7304.29.50.30,  
7304.29.50.45, 7304.29.50.60,  
7304.29.50.75, 7304.29.60.15,  
7304.29.60.30, 7304.29.60.45,  
7304.29.60.60, 7304.29.60.75,  
7305.20.20.00, 7305.20.40.00,  
7305.20.60.00, 7305.20.80.00,  
7306.20.10.30, 7306.20.10.90,  
7306.20.20.00, 7306.20.30.00,  
7306.20.40.00, 7306.20.60.10,  
7306.20.60.50, 7306.20.80.10, and  
7306.20.80.50.

The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

#### Use of Facts Available

Section 776(a)(2) of the Tariff Act provides that "if an interested party or any other person (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 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 and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title."

On September 25, 2002 the Department issued its standard antidumping questionnaire to Acindar. Acindar made no written response to the questionnaire. Therefore, we determine that the use of facts available is warranted pursuant to section 776(a)(2)(A) and (C) of the Tariff Act because Acindar withheld information requested by the Department by not responding to the Department's questionnaire, thereby significantly impeding this proceeding. *See Memorandum from Fred Baker to the File dated April 1, 2003.* Thus, the curative provisions of section 782 of the Tariff Act are not applicable since Acindar did not provide any response.

Section 776(b) of the Tariff Act provides that, if the Department 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," the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994).* Furthermore, "an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference." *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997), (Final Rule).

The Department finds that in not responding to the September 25, 2002, questionnaire, Acindar failed to cooperate by not acting to the best of its ability to comply with requests for information. The Department requires that respondents provide answers to the questionnaire because the Department uses the information to determine accurate dumping margins for the company. Since the information is within the sole control of Acindar, when the company fails to provide such information we cannot otherwise obtain the information necessary to calculate a dumping margin. Further, at no time did Acindar indicate during the POR that it was having difficulty in complying with the Department's request for information. Consequently, Acindar should not be allowed to benefit by its non-cooperation. Therefore, pursuant to

section 776(b) of the Tariff Act, we may, in making our determination, use an adverse inference in selecting from the facts otherwise available. This adverse inference may include reliance on data derived from the petition, a previous determination in an investigation or review, or any other information placed on the record. For this review we have determined to assign 60.73 percent as the facts available rate to Acindar. This rate represents the highest rate for any respondent in any prior segment of this proceeding. *See Oil Country Tubular Goods: Final Results and Partial Recision of Antidumping Duty Administrative Review*, 67 FR 13262 (March 19, 2003).

Information from prior segments of the proceeding constitutes secondary information, and section 776(c) of the Tariff Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 at 870 (1994) and 19 CFR 351.308(d).*

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's

uncharacteristic business expense resulting in an unusually high margin)).

As discussed above, it is not necessary to question the reliability of a calculated margin from a prior segment of the proceeding. Further, there are no circumstances indicating that this margin is inappropriate as facts available. In fact, this margin is Acindar's own from the just-completed 2000–2001 administrative review of OCTG. See *Notice of Final Results and Recision in Part of Antidumping Duty Administrative Review; Oil Country Tubular Goods, Other Than Drill Pipe, From Argentina*, 67 FR 13262 (March 19, 2003) (*Final Results*). Therefore, we preliminarily find that the 60.73 percent rate has probative value for use as adverse facts available.

#### Preliminary Partial Recision

On October 23, 2002, Siderca informed the Department that it did not ship OCTG to the United States during the POR, and requested recision of its administrative review. Information on the record indicates that there were no entries of this merchandise from Siderca during the POR. See the Department's verification report dated March 4, 2003, and the *Final Results* and the accompanying Decision Memorandum at Comment 7. Accordingly, we are preliminarily rescinding the review with respect to Siderca.

#### Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 60.73 percent exists for Acindar for the period August 1, 2001, through July 31, 2002. Furthermore, we preliminarily determine to rescind this administrative review with respect to Siderca.

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal 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 argument 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. An interested party may request a hearing within 30 days of publication. See 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). The Department will issue the final results of this administrative review,

including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

#### Assessment Rates

Upon completion of this administrative review, the Department will determine, and the BCBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to the BCBP within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct the BCBP to apply the assessment rate against the entered customs values for the subject merchandise on each of the importer's entries during the review period.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise 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 rate for the reviewed company will be the rate established in the final results of this administrative review (except that no deposit will be required if the rate is zero or *de minimis*, i.e., less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that 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 review, any previous reviews, or the LTFV investigation, the cash deposit rate will be 1.36 percent, the "all others" rate established in the LTFV investigation. See *Antidumping Duty Order: Oil Country Tubular Goods from Argentina*, 60 FR 41055 (August 11, 1995).

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: April 30, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570–882]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China

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

**ACTION:** Notice of Preliminary Determination of Sales at Less Than Fair Value.

**SUMMARY:** We preliminarily determine that refined brown aluminum oxide from the People's Republic of China is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended. In addition, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to RBAO from the respondent in this investigation as well as all other producers/exporters.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of publication of this preliminary determination.

**EFFECTIVE DATE:** May 6, 2003.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger, Jim Mathews or Tinna E. Beldin, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4136, (202) 482–2778 or (202) 482–1655, respectively.

**SUPPLEMENTARY INFORMATION:**