

**ADDRESSES:** The Workgroup meeting will be held at the Hotel Deca, 4507 Brooklyn Avenue, Seattle WA 98105, in the College Room; telephone: 1-800-899-0251

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Seger, Staff Officer; telephone: 503-820-2280.

**SUPPLEMENTARY INFORMATION:** The purpose of the Workgroup meeting is to review the draft regulations that would implement Amendment 20 (Trawl Rationalization) to the groundfish fishery management plan, if it is approved.

Although non-emergency issues not contained in the meeting agenda may come before the Workgroup for discussion, those issues may not be the subject of formal Workgroup action during this meeting. Workgroup action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(a) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Workgroup intent to take final action to address the emergency.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503-820-2280 at least 5 days prior to the meeting date.

Dated: June 9, 2010.

**Tracey L. Thompson,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2010-14154 Filed 6-11-10; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XW92**

#### Endangered Species; File Nos. 14508 and 14655

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Issuance of permits.

**SUMMARY:** Notice is hereby given that Inwater Research Group, Inc. [Permit

no. 14508, Principal Investigator, Michael Bresette] Jensen Beach, FL and Jane Provancha [Permit No. 14655], Cape Canaveral, FL have been issued permits to take take green (*Chelonia mydas*), loggerhead (*Caretta caretta*), hawksbill (*Eretmochelys imbricata*), and Kemp's ridley (*Lepidochelys kempii*) sea turtles for purposes of scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713-2289; fax (301) 713-0376; and Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727) 824-5312; fax (727) 824-5309.

**FOR FURTHER INFORMATION CONTACT:** Kate Swails or Amy Hapeman, (301) 713-2289.

**SUPPLEMENTARY INFORMATION:** On July 31, 2009 and September 29, 2009, notice was published in the **Federal Register** (74 FR 38169 and 74 FR 49851) that requests for scientific research permits had been submitted by the above-named applicants. The requested permits have been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

*File No. 14508:* The purpose of the research is to continue to collect long-term data on species comparison, size frequencies, disease rates, seasonal abundance, genetic origin and feeding ecology of sea turtles using Lake Worth Lagoon in Palm Beach County, Florida. Up to 50 green, 5 loggerhead, 2 hawksbill, and 1 Kemp's ridley sea turtles may be captured annually. Turtles may be flipper and passive integrated transponder tagged, blood and tissue sampled, measured, photographed, and weighed. A subset of green sea turtles may be lavaged. The permit is issued for five years.

*File No. 14655:* The Permit Holder will continue to monitor the abundance and distribution of sea turtles in the waters of Mosquito Lagoon in Volusia and Brevard Counties, Florida. Up to 40 green, 40 loggerhead, and 1 Kemp's ridley sea turtles may be captured, flipper and PIT tagged, blood sampled and/or tissue biopsied, lavaged, and released annually. Up to 12 green and 10 loggerhead turtles may be tracked

using a sonic transmitter. The permit is issued for five years.

Issuance of these permits, as required by the ESA, was based on a finding that such permits (1) were applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 8, 2010.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2010-14247 Filed 6-11-10; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-502]

#### Certain Welded Carbon Steel Standard Pipes and Tubes from India: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on welded carbon steel standard pipes and tubes from India. This review covers nine exporters/producers. The period of review (POR) is May 1, 2008, through April 30, 2009.

We have preliminarily found that sales of the subject merchandise have been made at prices below normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results. We will issue the final results not later than 120 days after the date of publication of this notice.

**DATES:** *Effective Date:* June 14, 2010.

**FOR FURTHER INFORMATION CONTACT:** Michael A. Romani or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-0198 or (202) 482-1690, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On May 12, 1986, the Department of Commerce (the Department) published in the **Federal Register** the antidumping duty order on certain welded carbon steel standard pipes and tubes (pipes and tubes) from India. *See Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India*, 51 FR 17384 (May 12, 1986). On May 1, 2009, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 74 FR 20278 (May 1, 2009). On June 24, 2009, in response to a request from the Wheatland Tube Company (the petitioner) and in accordance with 19 CFR 351.213(g) and 19 CFR 351.221(b)(1), we published a notice of initiation of an administrative review with respect to 10 companies.<sup>1</sup> *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 30052 (June 24, 2009). We are conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

We received a letter from the petitioner withdrawing its request for review of the order with respect to Jindal Industries Ltd. (Jindal). Because we received no other requests for review of Jindal, pursuant to 19 CFR 351.213(d)(1), we rescinded the review in part with respect to pipes and tubes from India produced and/or exported by Jindal. *See Certain Welded Carbon Steel Standard Pipes and Tubes From India: Rescission of Antidumping Duty Administrative Review in Part*, 74 FR 55817 (October 29, 2009).

Since initiation of the review, we extended the due date for completion of these preliminary results from January 31, 2010, to May 3, 2010. *See Extension of Time Limit for Certain Welded Carbon Steel Standard Pipes and Tubes from India: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 68586 (December 28, 2009).

As explained in the February 12, 2010, memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll Import

Administration deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. Thus, the deadline in this segment of the proceeding was extended by seven days. This revised deadline for the preliminary results of this administrative review was May 10, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

On May 4, 2010, in accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the notice of preliminary results by an additional 28 days from the revised due date of May 10, 2010, to June 7, 2010. *See Certain Welded Carbon Steel Standard Pipes and Tubes from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 23672 (May 4, 2010).

## Scope of the Order

The products covered by the order include certain welded carbon steel standard pipes and tubes with an outside diameter of 0.375 inch or more but not over 16 inches. These products are commonly referred to in the industry as standard pipes and tubes produced to various American Society for Testing Materials (ASTM) specifications, most notably A-53, A-120, or A-135.

The antidumping duty order on certain welded carbon steel standard pipes and tubes from India, published on May 12, 1986, included standard scope language which used the import classification system as defined by *Tariff Schedules of the United States, Annotated* (TSUSA). The United States developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). *See, e.g., Certain Welded Carbon Steel Standard Pipes and Tubes from India: Preliminary Results of Antidumping Duty Administrative Reviews*, 56 FR 26650, 26651 (June 10, 1991). As a result of this transition, the scope language we used in the 1991 **Federal Register** notice is slightly different from the scope language of the original final determination and antidumping duty order.

Until January 1, 1989, such merchandise was classifiable under item numbers 610.3231, 610.3234, 610.3241,

610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 of the TSUSA. This merchandise is currently classifiable under HTS item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090. As with the TSUSA numbers, the HTS numbers are provided for convenience and customs purposes. The written product description remains dispositive.

## Selection of Respondents

Due to the large number of firms for which a review was requested and the resulting administrative burden to examine each company for which a request was made, the Department exercised its authority to limit the number of respondents selected for individual examination. Where it is not practicable to individually examine all known exporters/producers of subject merchandise because of the large number of such companies, section 777A(c)(2) of the Act permits the Department to limit its examination to either a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection or exporters and producers accounting for the largest volume of subject merchandise from the exporting country that can be examined reasonably. Accordingly, on July 28, 2009, after considering our resources, we determined that it was not practicable to examine all ten exporters/producers of subject merchandise for which a review was requested. See Memorandum entitled "Antidumping Duty Order on Certain Welded Carbon Steel Standard Pipes and Tubes from India Respondent Selection" dated July 28, 2009. As a result, we selected the two largest producers/exporters of pipes and tubes from India during the POR (*i.e.*, Lloyds Metals & Engineers Ltd. (LMEL) and Jindal) for individual examination in this segment of the proceeding.

As explained above, after our selection of Jindal for individual examination, we rescinded the review in part with respect to Jindal because the sole request for such a review was withdrawn.

## No-Knowledge/No-Shipments Respondents

Subsequent to the initiation of the review, Makalu Trading Pvt. Ltd. (Makalu), Uttam Galva Steels Ltd. (Uttam), and Ushdev International Ltd. (Ushdev) stated that, although individually acting as resellers of subject pipe and tube, each had only one (and the same) supplier which had

<sup>1</sup> We initiated the review on the following companies: Lloyds Metals and Engineers Limited, Lloyds Steel Industries Limited, Jindal Industries Ltd., Maharashtra Seamless Limited, Jindal Pipes Limited, Makalu Trading Pvt. Ltd., Ratnamani Metals Tubes Ltd., Universal Tube and Plastic Ind., Ushdev International Ltd., and Uttam Galva Steels Ltd.

knowledge that all sales by these resellers of subject merchandise were destined for the United States. See letter from LMEL containing responses from Makalu, Ushdev, and Uttam dated March 25, 2010. In fact, according to the March 25 submission, the producer had knowledge because it had concluded the sale with the U.S. customer on its own.

In accordance with our practice, the supplier is the proper party to review because the supplier's sale to the unaffiliated trading companies is the point in the sales chain at which 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 in the United States, or to an unaffiliated purchaser for exportation to the United States." See section 772(a) of the Act and *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review*, 56 FR 31692, 31747 (July 11, 1991), at Section 18, Comment 30. Because the producers knew that the merchandise they sold was destined for the United States, we find that Makalu, Utam, and Ushdev did not have shipments of their own subject to this review.

On July 16, 2009, the Department received a letter from Universal Tube and Plastic Ind. (UTP) indicating that it made no shipments from India to the United States and that it was not an Indian producer of subject merchandise. We have not received any comments on UTP's submission. We confirmed UTP's claim of no shipments by issuing a no-shipments inquiry to CBP and by reviewing electronic CBP data. See Letter to Wheatland Tube Company soliciting comments on CBP data, dated June 29, 2009, in which we enclosed CBP entry data for the companies subject to this review (CBP entry data).

In its January 14, 2010, submission at 2, Lloyds Steel Industries Ltd. (LSIL) (responding concurrently with LMEL) stated that it never produced pipe for the open market. We confirmed LSIL's claim of no shipments by issuing a no-shipments inquiry to CBP and by reviewing electronic CBP data. See CBP entry data.

With regard to the absence of shipments by UTP and LSIL, our practice following implementation of the 1997 regulations concerning no-shipment respondents was to rescind the administrative review if the respondent certifies that it had no shipments and we have confirmed through our examination of CBP data

that there were no shipments of subject merchandise during the POR. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27393 (May 19, 1997) (implementing the 1997 regulations), and *Oil Country Tubular Goods from Japan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review*, 70 FR 53161, 53162 (September 7, 2005), unchanged in *Oil Country Tubular Goods from Japan: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 95 (January 3, 2006). As a result, in such circumstances, we would normally instruct CBP to liquidate any entries from the no-shipment company at the deposit rate in effect on the date of entry.

In our May 6, 2003, automatic-assessment clarification, we explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties*).

Because "as entered" liquidation instructions under our earlier practice concerning no-shipment respondents do not alleviate the concerns which the May 2003 clarification was intended to address, we find it appropriate in this case to instruct CBP to liquidate any entries during the POR of merchandise produced by UTP or LSIL and exported by other parties at the all-others rate should we continue to find at the time of our final results that UTP and LSIL had no shipments of subject merchandise from India. See *Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26933 (May 13, 2010). See also *Certain Frozen Warmwater Shrimp from India: Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 77610, 77612 (December 19, 2008). In addition, the Department finds that it is more consistent with the May 2003 clarification not to rescind the review in part in these circumstances but, rather, to complete the review with respect to Makalu, Utam, Ushdev, UTP, and LSIL and issue instructions to CBP to liquidate entries at the rate applicable to the producer or the all-others rate, as appropriate. See the "Assessment Rates" section of this notice below.

## Duty Absorption

On July 22, 2009, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR by the companies under review. Section 751(a)(4) of the Act and 19 CFR 351.213(j) provide for the Department to determine, if requested, during an administrative review initiated between the first and second or third and fourth anniversary of the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter if the subject merchandise is sold in the United States through an affiliated importer.

We find that the petitioner's request is misplaced. The Court of Appeals for the Federal Circuit found that the Department lacks authority to conduct two- and four-year duty-absorption inquiries for reviews of transitional orders (orders in effect before January 1, 1995). See *FAG Italia S.p.A. v. United States*, 291 F.3d 806, 819 (Fed. Cir. 2002). Because the order for this case went into effect in 1986, we have not conducted a duty-absorption inquiry in this segment of the proceeding.

## Decisions Regarding Affiliation and Collapsing

LMEL produced subject merchandise in its pipe and tube manufacturing facility at Murbad during the POR until November 1, 2008. As of November 1, 2008, the manufacturing facility was "de-merged" and the ownership was transferred to a new company, Lloyds Line Pipe Ltd. (LLPL). As a result, as of November 1, 2008, LMEL no longer produced subject merchandise but sold subject merchandise produced by LLPL under the LMEL brand name.

We have determined that LMEL and LLPL are affiliated under sections 771(33)(E) and (F) of the Act and 19 CFR 351.102(b)(3). We have determined that three family members are affiliated and are jointly in a position to control LMEL and LLPL. Because the respondent has claimed business-proprietary treatment of the information we have examined see Memorandum entitled "Certain Welded Carbon Steel Standard Pipes and Tubes From India Affiliation and Whether to Collapse Two Separate Entities" dated June 7, 2010 (Affiliation Memo). As a result of our analysis and pursuant to section 771(33)(F) of the Act and 19 CFR 351.102(b)(3), we find that LMEL, LLPL and LSIL are affiliated. For a detailed discussion of our treatment of these companies with respect to affiliation and collapsing see Affiliation Memo.

Additionally, we have determined that LMEL and LLPL should be collapsed and treated as a single entity for antidumping-duty purposes but that LSIL should not be collapsed with LMEL/LLPL. LLPL produced the subject merchandise which LMEL sold after November 1, 2008. Based on these facts as well as the ownership and joint-management control of LMEL and LLPL, we find there is a significant potential for manipulation of price and production of the subject merchandise between these two companies. In such circumstance, we find it appropriate to treat these companies as a single entity. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil*, 69 FR 76910 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 5.

With respect to LSIL, a production company affiliated with LMEL/LLPL, pursuant to 19 CFR 351.401(f)(1) we find that substantial retooling of LSIL's facilities would be necessary for it to restructure its manufacturing priorities in order to produce any diameter of foreign like product or subject merchandise in quantities of any significance. Currently, LSIL only has the ability to manufacture a very limited range of diameters of merchandise under consideration and only with tooling that is not dedicated to the purpose. LMEL did not produce any merchandise under consideration in the limited range that LSIL could produce. When LSIL needed foreign like product for internal consumption during the POR it purchased it from LMEL/LLPL. LSIL is not involved in the sale of subject merchandise on the open market. For these reasons, we preliminarily determine to treat LMEL/LLPL and LSIL as separate entities, in accordance with 19 CFR 351.401(f)(1). For a detailed discussion of our treatment of these companies with respect to affiliation and collapsing, see Affiliation Memo.

Because we have not collapsed LMEL/LLPL and LSIL into a single entity for these preliminary results, we have continued to value the hot-rolled coil that LMEL/LLPL purchases from LSIL as a factor of its production subject to the major-input rule under section 773(f)(3) of the Act. See Memorandum entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results Lloyds Metals and Engineers Limited and Lloyds Line Pipe Limited" (June 7, 2010) (Cost Calculation Memo).

### Verification

As provided in section 782(i) of the Act, we have verified sales information and certain cost information directly related to selling, general, and administrative expenses (SG&A) and constructed-value (CV) profit provided by LMEL using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. Our verification results are outlined in the public version of the Memorandum to the File entitled "Verification of the Sales Response of Lloyds Metals and Engineers Limited in the May 1, 2008, through April 30, 2009, Administrative Review of Certain Welded Carbon Steel Standard Pipes and Tubes from India" (June 7, 2010) (Verification Report), which is on file in the Central Records Unit, room 1117 of the main Commerce building.

### Date of Sale

The Department's regulations at 19 CFR 351.401(i) state that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

With respect to LMEL's sales to the United States, Indian law requires that all merchandise be accompanied by an invoice when it leaves the factory. A commercial invoice follows the factory invoice at a later date. We have preliminarily determined that the material terms of sale are set on the date

of shipment from the factory because shipment occurs at the same time as or before the invoice date (factory invoice or commercial invoice, as applicable). See Memorandum to the File "Certain Welded Carbon Steel Standard Pipes and Tubes From India: Lloyds Metals & Engineers Limited Analysis Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order (5/1/08 - 4/30/09)" (June 7, 2010) (Analysis Memo).

### Fair-Value Comparisons

To determine whether sales of the subject merchandise sold by LMEL and exported to the United States were made at less than normal value, we compared export price to the normal value, as described in the "Export Price" and "Normal Value" sections of this notice.

### Export Price

We based the United States price on export price, as defined in section 772(a) of the Act, because the merchandise was sold directly by the respondent to unaffiliated U.S. purchasers prior to importation or sold to unaffiliated purchasers in India for exportation to the United States and constructed export price was not otherwise indicated by the facts of record.

We calculated export price based on packed, forwarding agent's certificate of receipt, Cost and Freight, or Cost, Insurance, and Freight prices to the first unaffiliated customer in the United States or an unaffiliated Indian trading company. We made deductions, where applicable, for brokerage and handling expenses, freight expenses, and other direct selling expenses in accordance with section 772(c)(2) of the Act.

LMEL used the U.S. prime lending rate in its calculation of imputed credit expense. We replaced the U.S. prime lending rate with the short-term interest rate calculated in accordance with our practice. See *Policy Bulletin 98.2 Imputed Credit Expenses and Interest Rates* dated February 23, 1998, available at <http://ia.ita.doc.gov>. We calculated a simple average of the quarterly statistic (where all sample statistics were for five days) of "All C&I Loans 31 365 days" from the Federal Reserve Statistical Release E2 Survey of Business Lending. We recalculated imputed credit expense for LMEL's direct sales to the United States for the appropriate period from factory-invoice date (date of sale) to payment date with an interest rate that is in accordance with our practice. Additionally, we disregarded LMEL's reported imputed-credit expense for sales through trading companies

because there is no definable period for which LMEL extended credit to its customer, the Indian trading company. See Analysis Memo.

With respect to one sale to an Indian trading company, in its May 14, 2010, U.S. sales database, LMEL reported information regarding this sale based on a post-delivery (to the final U.S. customer) renegotiation of price due to a warranty claim. In the original questionnaire we instructed LMEL to report price adjustments and warranty expenses separately from prices reflected in the agreement of sale. In other cases where LMEL granted credits to its customers based on warranty redemptions, it reported its price information in accordance with the Department's instructions. For the sale in question, we have replaced the information LMEL reported in its U.S. sales database with information in the Verification Report that identifies the correct contract date, date of sale, and gross price in the local currency. Additionally, we have adjusted the total warranty-expense calculation to reflect the credit that LMEL granted on the sale in question. This affects the warranty-expense allocation for all sales. See Analysis Memo.

### Normal Value

After testing comparison-market viability, we calculated normal value as stated in the "Constructed Value" section of this notice.

#### 1. Comparison-Market Viability

Section 773(a)(1) of the Act directs that normal value be based on the price at which the foreign like product is sold in the comparison market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the export price. Section 773(a)(1)(C) of the Act contemplates that quantities (or values) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

In order to determine whether there was a sufficient volume of sales in the home market or third country to serve as a viable basis for calculating normal value, we compared the respondent's volume of home-market and third-country sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with sections 773(a)(1)(B) and (C) of the Act. LMEL's aggregate volume of sales of foreign like product in its home market was not greater than five percent of its

sales of subject merchandise to the United States. Therefore, this market is not viable as a comparison market. LMEL's sales of foreign like product to one third-country market were greater than five percent of its sales of subject merchandise to the United States. Therefore, this market is viable as a comparison market.

Upon analysis of LMEL's viable third-country market, we determined that all sales to this market were of non-prime merchandise and as such are not contemporaneous sales of comparable merchandise to LMEL's sales of subject merchandise in the United States that consisted of all prime merchandise. See *Notice of Final Results of the Eleventh Antidumping Duty Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 13. Pursuant to sections 773(a)(4) and (e) of the Act and 19 CFR 351.405(a), we may determine normal value by constructing a value based on the cost of manufacture (COM), SG&A, and profit where there are no contemporaneous sales of comparable merchandise in the comparison market. See Memorandum entitled "Certain Welded Carbon Steel Standard Pipes and Tubes From India Normal Value" dated April 19, 2010.

#### 2. Cost-Averaging Methodology

The Department's normal practice is to calculate an annual weighted-average cost for the POR. See, e.g., *Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (December 13, 2000), and accompanying Issues and Decision Memorandum at Comment 18, and *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 71 FR 3822 (January 24, 2006), and accompanying Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted-average cost for the entire period). We recognize that possible distortions may result if we use our normal annual-average cost method during a period of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence using two primary factors: (1) the change in the COM recognized by the respondent during the POR must be deemed significant; (2) the record evidence must indicate that sales during the shorter averaging periods

could be reasonably linked with the cost of production (COP) or CV during the same shorter averaging periods. See, e.g., *Stainless Steel Sheet and Strip in Coils From Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (SSSS from Mexico), and accompanying Issues and Decision Memorandum at Comment 6 and *Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008), and accompanying Issues and Decision Memorandum at Comment 4 (SSPC from Belgium).

We requested that LMEL provide pertinent information for Grade A control numbers with the five highest volumes sold in the United States over the twelve months of the POR. LMEL provided this information in its April 29, 2010, response.

#### 3. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low- quarter COM) for determining that the changes in COM are significant enough to warrant a departure from our standard annual-cost approach. See *SSPC from Belgium* at Comment 4. In the instant case, record evidence shows that LMEL experienced significant changes (*i.e.*, changes that exceeded 25 percent) between the high and low quarterly COM during the POR for two product grades that use the same input grade of hot-rolled coil, *i.e.*, Grade A hot-rolled coil. LMEL sold three product grades of subject merchandise to the United States. This change in COM for Grade A hot-rolled coil is attributable primarily to the price volatility for this single type of hot-rolled coil used in the manufacture of two product grades. Hot-rolled coil is the only major input consumed in the production of certain welded carbon steel standard pipes and tubes. See Cost Calculation Memo. We found that prices for hot-rolled coil changed significantly throughout the POR and, as a result, directly affected the cost of the material inputs consumed by LMEL. See Cost Calculation Memo. Specifically, the record data show that the percentage difference between the high and the low quarterly COM clearly exceeded the 25-percent threshold for all five of the Grade A control numbers with the highest volume sold in the United States during the POR. See Cost Calculation Memo.

#### 4. Linkage between Cost and Sales Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR. The Department's definition of "linkage" does not require direct traceability between specific sales and their specific production costs but, rather, relies on whether there are elements that would indicate a reasonable correlation between the underlying costs and the final sales prices levied by the company. See *SSPC from Belgium* at Comment 4. These correlative elements may be measured and defined in a number of ways depending on the associated industry and the overall production and sales processes. To determine whether a reasonable correlation existed between the sales prices and their underlying costs during the POR, we compared weighted-average quarterly prices to the corresponding quarterly COM for the five Grade A control numbers with the highest volume of sales to the United States. After reviewing this information and determining that there is a trend of sales and costs for the vast majority of the quarters, we preliminarily determine that there is linkage between LMEL's changing costs and sales prices during the POR. See Cost Calculation Memo. See, e.g., *SSSS from Mexico* at Comment 6 and *SSPC from Belgium* at Comment 4.

Because we have found significant cost changes in COM as well as reasonable linkage between costs and sales prices, we have preliminarily determined that a quarterly costing approach leads to more appropriate comparisons in our antidumping duty calculation for LMEL concerning two of its three product grades.

#### 5. Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A, profit, and U.S. packing costs. We relied on the respondent's submitted materials and fabrication costs, general and administrative (G&A) expenses, and U.S. packing costs. We made the following adjustments to the reported CV information:

a. We recalculated LMEL's claimed adjustment factor for hot-rolled coil, which accounts for yield loss, scrap offsets, and the conversion of actual to theoretical quantities, to use a denominator that is on the same basis as

the per-unit coil cost to which the rate is applied.

b. We revised the byproduct offset claimed for metal scrap sold to affiliated parties to reflect an arm's-length value in accordance with the transactions-disregarded rule in section 773(f)(2) of the Act.

c. We revised the reported G&A expense rate to reflect the rate obtained at the sales verification. See Verification Report. Additionally, we adjusted the total G&A expenses to include the cost-of-sales items identified as G&A expenses and to exclude foreign-exchange losses and home-market selling expenses. We also adjusted the denominator of the rate to exclude G&A and packing expenses and to include scrap offsets.

d. We revised the financial-expense rate to reflect the rate obtained at the sales verification. Additionally, we adjusted the net financial expenses to include foreign-exchange gains and losses. We also adjusted the denominator of the calculation to exclude G&A and packing expenses and to include scrap offsets.

e. We find that the information necessary to calculate an accurate and otherwise reliable margin is not available on the record with respect to products sold but not produced during the POR. For the preliminary results, pursuant to section 776(a)(1) of the Act, we have used the cost for the most similar product as facts available.

We calculated selling expenses and profit in accordance with section 773(e)(2)(B)(i) of the Act, as detailed in the Cost Calculation Memo. Because we determined for purposes of these preliminary results that LMEL does not have a viable home market, we could not determine selling expenses and profit concerning home-market sales under section 773(e)(2)(A) of the Act. Although LMEL has a viable third-country market, we do not have such information for sales to that market because we are not investigating whether LMEL made sales at below-cost prices in that market. Therefore, we relied on section 773(e)(2)(B) of the Act to determine these selling expenses and profit. Specifically, we used the selling-expense and profit rates derived from LMEL's home-market sales of line pipe, merchandise that is within the same general category of products as the subject merchandise. See Cost Calculation Memo. The statute does not establish a hierarchy for selecting among the alternative methodologies provided in section 773(e)(2)(B) of the Act for determining selling expenses and profit. See Statement of Administrative Action Accompanying

the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1, at 840 (1994). Alternative (i) of section 773(e)(2)(B) of the Act specifies that selling expenses and profit may be calculated based on "actual amounts incurred by the specific exporter or producer \* \* \* on merchandise in the same general category" as the subject merchandise. Therefore, we calculated LMEL's selling expenses and profit based on alternative (i) of section 773(e)(2)(B) of the Act, which is to use the respondent's expenses on sales of merchandise in the same general category, i.e., LMEL's home-market sales of line pipe.

#### Currency Conversion

Pursuant to 19 CFR 351.415, we converted amounts expressed in foreign currencies into U.S. dollar amounts based on the exchange rates in effect on the dates of the relevant U.S. sales, as certified by the Federal Reserve Bank.

#### Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margins on certain welded carbon steel standard pipes and tubes from India exist for the period May 1, 2008, through April 30, 2009:

Manufacturer/Exporter	Margin (percent)
Lloyds Metals & Engineers Limited (LMEL)/ Lloyds Line Pipe Ltd. (LLPL) .....	10.29
Lloyds Steel Industries Limited (LSIL) .....	*
Jindal Pipes Limited ....	10.29
Maharashtra Seamless Limited .....	10.29
Makalu Trading Pvt. Ltd. ....	**
Ratnamani Metals Tubes Ltd. ....	10.29
Universal Tube and Plastic Ind. ....	*
Ushdev International Ltd. ....	**
Uttam Galva Steels Ltd	**

\* No shipments or sales subject to this review. The firm has no individual rate from any segment of this proceeding.

\*\* No shipments or sales subject to this review. This company reported that its supplier had knowledge that its merchandise was destined for the United States.

#### Disclosure and Public Comment

We will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. See 19 CFR

351.310. If a hearing is requested, the Department will notify interested parties of the hearing schedule.

Interested parties are invited to comment on the preliminary results of this review. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than five days after the time limit for filing the case brief. See 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**. See section 751(a)(3)(A) of the Act.

#### Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.

For these preliminary results, we divided the total dumping margins (calculated as the difference between normal value and export price) for LMEL/LLPL's importers or customers by the total number of metric tons LMEL/LLPL sold to the importer or customer. We will direct CBP to assess the resulting per-metric-ton dollar amount against each metric ton of merchandise in each importer's/customer's entries during the review period. Additionally, because we have collapsed LMEL and LLPL, we will instruct CBP to liquidate entries of LLPL-produced merchandise at the LMEL/LLPL rate.

The Department clarified its automatic-assessment regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by LMEL for which LMEL did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries of merchandise produced by LMEL at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Assessment of Antidumping Duties*.

Consistent with *Assessment of Antidumping Duties*, for companies which claimed they had no shipments of subject merchandise to the United States, *i.e.*, LSIL and UTP, if there are any entries of subject merchandise

produced by these entities into the United States, we will instruct CBP to liquidate the unreviewed entries of merchandise at the all-others rate.

With respect to entries by companies that were not selected for individual examination, *i.e.*, Jindal Pipes Limited, Maharashtra Seamless Limited and Ratnamani Metals Tubes Ltd., we will instruct CBP to liquidate entries of merchandise produced and/or exported by these firms at the rate established for LMEL/LLPL.

For companies which reported that their supplier (LMEL) had knowledge that its merchandise was destined for the United States, *i.e.*, Makalu, Uttam, and Ushdev, and otherwise had no shipments or sales of their own, we will instruct CBP to liquidate these entries at the rate applicable to LMEL/LLPL.

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

#### Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of certain welded carbon steel standard pipes and tubes from India entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash-deposit rate for companies under review will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies 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, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash-deposit rate will be the all-others rate for this proceeding, 7.08 percent. See *Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India*, 51 FR 17384 (May 12, 1986). These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-14278 Filed 6-11-10; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

[Docket No.: PTO-P-2010-0030]

#### Request for Comments on Proposed Changes to Restriction Practice in Patent Applications

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Request for comments.

**SUMMARY:** In situations in which two or more independent and distinct inventions are claimed in a single patent application, the United States Patent and Trademark Office (Office) is authorized by the patent laws and implementing regulations to require the applicant to restrict the application to one invention. The practice for requiring an applicant to restrict an application to one invention in such situations is known as restriction practice. The Office is considering changes to restriction practice to improve the quality and consistency of restriction requirements made by Office personnel.

*Comment Deadline Date:* Written comments must be received on or before August 13, 2010. No public hearing will be held.

**ADDRESSES:** Written comments should be sent by electronic mail message over the Internet addressed to [Restriction\\_Comments@uspto.gov](mailto:Restriction_Comments@uspto.gov). Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Linda S. Therkorn. Although comments may be submitted by mail, the Office prefers to receive comments via the Internet.

The written comments will be available for public inspection at the