

In addition to the ministerial errors reported by petitioners and respondent, the Department separately identified and corrected another ministerial error. With respect to revised home market imputed credit expense calculations for sales with missing payment dates, we inadvertently defined the billing adjustment variable ("BILADJH") after the programming code specifying the revised credit calculations, thereby omitting this adjustment from the credit expense calculation. See the analysis memorandum.

Suspension of liquidation will be revised in accordance with section 733(d) of the Act.

The following weighted-average dumping margins apply:

Manufacturer/exporter	Margin (percent)
Usinor Group .....	5.17
All Others .....	5.17

The all others rate has been amended, and applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the U.S. Customs Service ("Customs") to suspend liquidation of all imports of certain cold-rolled carbon steel flat products from France entered, or withdrawn from warehouse, for consumption on or after the date of publication of this amended preliminary determination in the **Federal Register**. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

This determination is issued and published pursuant to section 733(f) and 777(i)(1) of the Tariff Act.

Dated: May 21, 2002

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*  
[FR Doc. 02-13390 Filed 5-28-02; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-877]

#### Notice of Initiation of Antidumping Duty Investigation: Lawn and Garden Steel Fence Posts From the People's Republic of China

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

**ACTION:** Initiation of an antidumping duty investigation.

**EFFECTIVE DATE:** May 29, 2002.

#### FOR FURTHER INFORMATION CONTACT:

David Salkeld at (202) 482-1168; AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### Initiation of Investigation

##### *The Applicable Statute and Regulations*

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, ("the Act"), by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are references to the provisions codified at 19 CFR Part 351 (2001).

##### *The Petition*

On May 1, 2002, the Department received a petition filed in proper form by Steel City Corporation ("the petitioner"). On May 9, 2002, we sent the petitioner a letter with questions regarding the petition. The Department received information supplementing the petition on May 14, 2002 and May 21, 2002.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of lawn and garden steel fence posts ("steel fence posts") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party, as defined in section 771(9)(C) of the Act and has

demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department to initiate. (See the *Determination of Industry Support for the Petition* section below.)

##### *Scope of Investigation*

The scope of the investigation includes all lawn and garden steel fence posts, in whatever form, shape, or size, that are produced in the PRC. The fence posts included within the scope of this investigation weigh up to 1 pound per foot and are made of steel and/or any other metal. Imports of these products are classified under the following categories: fence posts, studded with corrugations, knobs, studs, notches or similar protrusions with or without anchor posts. These posts are normally "U" shaped or "hat" shaped or any other similar shape excluding round or square tubing or pipes.

These posts are normally made in two different classes, light and heavy duty. Light duty lawn and garden posts are normally made of 14 gauge steel (0.068 inches–0.082 inches thick), 1.75 inches wide, in 3, 4, 5, or 6 foot lengths. These posts normally weigh approximately 0.45 pounds per foot and are packaged in mini-bundles of 10 posts and master bundles of 400 posts. Heavy duty lawn and garden fence posts are normally made of 13 gauge steel (0.082 inches–0.095 inches thick), 3 inches wide, in 5, 6, 7, and 8 foot lengths. Heavy duty posts normally weigh approximately 0.90 pounds per foot and are packaged in mini-bundles of 5 and master bundles of 200. Both light duty and heavy duty posts are included within the scope of the investigation.

Imports of these products are classified under the following Harmonized Tariff Schedules of the United States (HTSUS) subheading: 7326.90.85.35. Fence posts classified under subheading 7308.90 are also included within the scope of the investigation if the fence posts are made of steel and/or metal.

Specifically excluded from the scope are "tee" posts, farm posts, and sign posts, provided that the posts weigh over 1 pound per foot.<sup>1</sup> Although the HTSUS subheadings are provided for convenience and U.S. Customs Service ("Customs") purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner

<sup>1</sup> Tee posts are made by rolling red hot steel into a "T" shape. These posts do not have tabs or holes to help secure fencing to them and have primarily farm and industrial uses.

to ensure that the scope in the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

#### *Determination of Industry Support for the Petition*

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, when determining the degree of industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.<sup>2</sup>

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation,"

i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. Moreover, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation.

The petition covers lawn and garden steel fence posts as defined in the *Scope of Investigation* section, above, a single class or kind of merchandise. The Department has no basis on the record to find the petitioner's definition of the domestic like product to be inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition. However, the Department will take into account any comments submitted by parties in connection with this issue during the course of the proceeding, and revisit the issue, if appropriate. In order to estimate production for the domestic industry as defined for purposes of this case, the Department has relied on the petition. The petition contained the most recent production and shipment data (by volume) of petitioner available, covering the period February 1, 2001 to January 31, 2002, which is petitioner's fiscal year. See *Initiation Checklist*.

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

We examined the accuracy of information contained in the petition, in accordance with section 732(c)(1) of the Act, by gathering information through Department research. For example, we procured a list of potential domestic producers of steel fence posts from the International Trade Commission and contacted those companies to check petitioner's claim that it was the sole producer of subject merchandise in the United States. We found no information that called into question the accuracy of information contained in the petition.

Information contained in the petition and its supplements demonstrate that the domestic producers or workers who support the petition account for over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the

requirements of section 732(c)(4)(A)(i) are met. See *Initiation Checklist* at Attachment I. Furthermore, because the Department received no domestic opposition to the petition, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. See *Initiation Checklist*. Thus, the requirement of section 732(c)(4)(A)(ii) is met.

Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

#### *Period of Investigation*

The anticipated period of investigation is October 1, 2001, through March 31, 2002.

#### *Export Price and Normal Value*

The following are descriptions of the allegations of sales at less than fair value upon which the Department has based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to home market and U.S. price are detailed in the *Initiation Checklist*.

The Department has analyzed the information in the petition and considers the country-wide import statistics for the anticipated POI and pricing information used to calculate the estimated margin to be sufficient for purposes of initiation. Based on the information submitted in the petition, adjusted where appropriate, we are initiating this investigation, as discussed below and in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we will re-examine the information and may revise the margin calculation, if appropriate.

#### **Export Price**

The petitioner based export prices on actual prices of the product offered by a U.S. importer and/or distributor. The petition demonstrates that these prices are on a packed and delivered basis. Petitioner calculated a net price by deducting from the price movement expenses and a U.S. distributor markup. Movement expenses include costs for duties and fees, unloading and handling fees, foreign brokerage and handling, foreign inland freight, repacking costs, U.S. inland freight and ocean freight. To derive the movement expenses, petitioner used the lowest of numerous

<sup>2</sup> See *Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

price quotes from several freight companies for the costs to deliver a 40-foot container of fence posts from Youngstown, Ohio to China on March 20, 2002. See *Initiation Checklist*.

#### Normal Value

The petitioner asserted that the PRC is a nonmarket economy country ("NME") within the meaning of section 771(18) of the Act. In previous investigations, the Department has determined that the PRC is an NME. See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 22183 (May 31, 2001); *Steel Wire Rope from the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 66 FR 12759 (February 28, 2001). In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value of the product appropriately is based on the producer's factors of production valued in a surrogate market economy country in accordance with section 773(c) of the Act.

In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters. See, e.g., *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

For the normal value calculation, the petitioner based the factors of production, as defined by section 773(c)(3) of the Act, on the quantities of inputs it used to produce steel fence posts during calendar year ("CY") 2001. The petitioner used the actual usage rates of a U.S. production facility in accordance with 19 CFR 351.202(b)(7)(B) because information on actual usage rates of representative Chinese steel fence posts producers is not reasonably available to the petitioner. The petitioner used its own data because it claimed it is the only steel fence posts manufacturer in the United States.

The petitioner asserted that India is the most appropriate surrogate country for the PRC, claiming that India is: (1) A market economy; (2) a significant producer of comparable merchandise; and (3) at a level of economic

development comparable to the PRC in terms of per capita gross national product. Based on the information provided by the petitioner, we believe that the petitioner's use of India as a surrogate country is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Act, the petitioner valued factors of production, where possible, on reasonably available, public surrogate country data. Specifically, the factor cost for steel was based on the public version of an Indian price quote from a market research report attached to the September 28, 2001, *Petition for the Imposition of Antidumping Duties: Certain Cold-Rolled Carbon Steel Flat Products from India*. See the *Initiation Checklist*.

Unit energy costs were obtained for India from public data from the *Energy Information Administration, National Energy Information Center, Electricity Prices for Industry, 1994–1999* for electricity and natural gas as this was the best reasonably available public data the petitioner could find. The cost of paint was based on petitioner's own costs because the petitioner was unable to find publically available Indian data for this factor of production. Labor was valued using the regression-based wage rate for China provided by the Department, in accordance with 19 CFR 351.408(c)(3).

The factory overhead rate, selling, general & administrative expenses ("SG&A") rate, and profit rate, were based on the average respective rates derived from a sample of 1,914 public limited companies in India that were reported in the June 2001 *Reserve Bank of India Bulletin*. The petitioner included packing costs based on its own costs in its normal value calculation as best information available.

Based on the information provided by the petitioner, we believe that the petitioner's factors of production methodology represents information reasonably available to the petitioner and is appropriate for purposes of initiating this investigation.

The estimated dumping margins, based on a comparison between export price and normal value, range from 51 to 89 percent. See *Initiation Checklist*.

#### Fair Value Comparisons

The Department has examined the adequacy and accuracy of the information the petitioner used in its calculations of export prices and normal value and has found that it represents information reasonably available to the petitioner supporting the allegation of dumping. Based on the data provided by the petitioner, there is reason to believe

that imports of lawn and garden steel fence posts from the PRC are being, or are likely to be, sold at less than fair value.

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value. The petitioner contends that the industry's injured condition is evident in the decline of U.S. producers' output, sales, capacity, profits, productivity, and capacity utilization, as well as negative effects on cash flow, inventories, employment, wages, and growth. We have examined the accuracy and adequacy of the evidence provided in the petition and have determined that the allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, and lost sales, and pricing information, and that the petition contains information reasonably available to the petitioner (see *Initiation Checklist* at Attachment II).

#### Initiation of Antidumping Investigation

Based upon our examination of the petition on lawn and garden steel fence posts from the PRC and the petitioner's responses to our supplemental questionnaire clarifying the petition, we have found that the petition meets the requirements of section 732 of the Act. See *Initiation Checklist*. Therefore, we are initiating an antidumping duty investigation to determine whether imports of lawn and garden steel fence posts from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is postponed, we will make our preliminary determination no later than 140 days after the date of this initiation. See "Case Calendar" section of the *Initiation Checklist*.

#### Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of the PRC. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as appropriate.

#### International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

*Preliminary Determination by the ITC*

The ITC will determine, no later than June 17, 2002, whether there is a reasonable indication that imports of steel fence posts from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: May 21, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-13392 Filed 5-28-02; 8:45 am]

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**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-557-809]

**Stainless Steel Butt-Weld Pipe Fittings From Malaysia: Rescission of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of Rescission of the antidumping duty administrative review for the period December 27, 2000 through January 31, 2002.

**SUMMARY:** On March 27, 2002, in response to a request made by Schulz (Mfg.) Sdn. Bhd. ("Schulz"), a producer and exporter of the subject merchandise in Malaysia, the Department of Commerce ("Department") published a notice of initiation of an antidumping duty administrative review on stainless steel butt-weld pipe fittings ("SSBWPF") from Malaysia, for the period December 27, 2000 through January 31, 2002. Because Schulz has withdrawn its request for review, and there were no other requests for review for this time period, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(1).

**EFFECTIVE DATE:** May 29, 2002.

**FOR FURTHER INFORMATION CONTACT:** Laurel LaCivita or Robert A. Bolling, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230; telephone: 202-482-4243 and 202-482-3434, respectively.

**SUPPLEMENTARY INFORMATION:**

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

**Background**

On February 28, 2002, Schulz, a producer and exporter of the subject merchandise in Malaysia, requested the Department to conduct an administrative review of its sales for the period December 27, 2000 through January 31, 2002. Schultz was the only interested party to request a review for this time period. On March 27, 2002, the Department published a notice of initiation of the antidumping administrative review on SSBWPF from Malaysia, in accordance with 19 CFR 351.221(c)(1)(i). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 67 FR 14696 (March 27, 2002). On April 8, 2002, Schulz withdrew its request for review.

**Rescission of Review**

Pursuant to the Department's regulations, the Department will rescind an administrative review "if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review." *See* 19 CFR 351.213(d)(1). Schultz, the only interested party to request an administrative review for this time period, requested a withdrawal of this review within the 90-day time limit; accordingly, we are rescinding the administrative review for the period December 27, 2000 through January 31, 2002, and will issue appropriate assessment instructions to the U.S. Customs Service.

This notice serves as a 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(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation. This determination is issued in accordance with 19 CFR 351.213(d)(4) and section 777(i)(1) of the Act.

Dated: May 21, 2002

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-13388 Filed 5-28-02; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-533-808]

**Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of final results of antidumping duty administrative review of stainless steel wire rod from India.

**SUMMARY:** On January 8, 2002, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on stainless steel wire rod from India. *See Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 865 (January 8, 2002). This review covers the Viraj Group Ltd., ("Viraj Group"), a manufacturer and exporter of subject merchandise to the United States. The period of review is December 1, 1999 through November 30, 2000.

Based on our analysis of the comments received, we have not changed our results from the preliminary results of review. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled "Final Results of the Review."

**EFFECTIVE DATE:** June 28, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Catherine Bertrand, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3207.

**SUPPLEMENTARY INFORMATION:****The Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2001).