

precursors as posing a high risk to the object and purpose of the Convention.

The CWC restricts the production of "Schedule 1" chemicals for protective purposes to two facilities per State Party. The CWC Article-by-Article Analysis submitted to the Senate in Treaty Doc. 103-21 defined the term "protective purposes" to mean "used for determining the adequacy of defense equipment and measures." Consistent with this definition, U.S. implementation, as authorized via Presidential Decision Directive (PDD) 70, December 17, 1999, assigned the responsibility to operate these two facilities to the Department of Defense (DOD), thereby precluding commercial production of "Schedule 1" chemicals for protective purposes in the United States. This action did not establish any limitations on "Schedule 1" chemical activities that are not prohibited by the CWC. However, the Department of Defense maintains strict controls on "Schedule 1" chemicals produced at its facilities in order to ensure the accountability and proper use of such chemicals, consistent with the object and purpose of the Convention.

The provisions of the CWC that affect commercial activities involving "Schedule 1" chemicals are implemented in the CWC (see 15 CFR 712) and in the Export Administration Regulations (EAR) (see 15 CFR 742.18 and 15 CFR 745), both of which are administered by the Bureau of Industry and Security (BIS). Pursuant to CWC requirements, the CWC restrict commercial production of "Schedule 1" chemicals to research, medical, or pharmaceutical purposes. The CWC also contain other requirements and prohibitions that apply to "Schedule 1" chemicals and/or "Schedule 1" facilities. Specifically, the CWC:

- (1) Prohibit the import of "Schedule 1" chemicals from States not Party to the Convention (15 CFR 712.2(b));
- (2) Require annual declarations by certain facilities engaged in the production of "Schedule 1" chemicals in excess of 100 grams aggregate per calendar year (i.e., declared "Schedule 1" facilities) for purposes not prohibited by the Convention (15 CFR 712.5(a)(1) and (a)(2));
- (3) Require government approval of "declared Schedule 1" facilities (15 CFR 712.5(f));
- (4) Provide that "declared Schedule 1" facilities are subject to initial and routine inspection by the Organization for the Prohibition of Chemical Weapons (15 CFR 712.5(e) and 716.1(b)(1));
- (5) Require 200 days advance notification of establishment of new

"Schedule 1" production facilities producing greater than 100 grams aggregate of "Schedule 1" chemicals per calendar year (15 CFR 712.4);

(6) Require advance notification and annual reporting of all imports and exports of "Schedule 1" chemicals to, or from, other States Parties to the Convention (15 CFR 712.6, 742.18(a)(1) and 745.1); and

(7) Prohibit the export of "Schedule 1" chemicals to States not Party to the Convention (15 CFR 742.18(a)(1) and (b)(1)(ii)).

#### Request for Comments

In order to assist in determining whether the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are significantly harmed by the limitations of the Convention on access to, and production of, "Schedule 1" chemicals as described in this notice, BIS is seeking public comments on any effects that implementation of the Chemical Weapons Convention, through the Chemical Weapons Convention Implementation Act and the Chemical Weapons Convention Regulations, has had on commercial activities involving "Schedule 1" chemicals during calendar year 2008. To allow BIS to properly evaluate the significance of any harm to commercial activities involving "Schedule 1" chemicals, public comments submitted in response to this notice of inquiry should include both a quantitative and qualitative assessment of the impact of the CWC on such activities.

#### Submission of Comments

All comments must be submitted to one of the addresses indicated in this notice. The Department requires that all comments be submitted in written form.

The Department encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on November 26, 2008. The Department will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them. All comments submitted in response to this notice will be a matter of public record

and will be available for public inspection and copying.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration, at (202) 482-1093, for assistance.

Dated: October 21, 2008.

**Christopher R. Wall,**

*Assistant Secretary for Export Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-201-805

#### Initiation of Antidumping Duty Changed Circumstances Review: Circular Welded Non-Alloy Steel Pipe from Mexico

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

**SUMMARY:** In response to a request from Ternium México, S.A. de C.V. ("Ternium Mexico"), and pursuant to section 751(b) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.216 and 351.221(c)(3), the Department is initiating a changed circumstances review of the antidumping duty order on circular welded non-alloy steel pipe ("standard pipe") from Mexico. This review will determine whether Ternium Mexico is the successor-in-interest to Hylsa, S.A. de C.V. ("Hylsa").

**EFFECTIVE DATE:** October 27, 2008.

**FOR FURTHER INFORMATION CONTACT:** John Drury or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone: (202) 482-0195 or (202) 482-3019, respectively.

#### Background

The Department published an antidumping duty order on standard pipe from Mexico on November 2, 1992. See *Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea ("Korea"), Mexico, and Venezuela*

and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea, 57 FR 49453 (November 2, 1992).

On September 3, 2008, Ternium Mexico filed a request for a changed circumstances review of the antidumping duty order on standard pipe from Mexico, claiming that Hylsa, the respondent in the original investigation, has changed its name to Ternium Mexico. Ternium Mexico requested that the Department determine whether it is the successor-in-interest to Hylsa, in accordance with section 751(b) of the Act, and 19 CFR 351.216. In addition, Ternium Mexico submitted documentation in support of its claim. In response to Ternium Mexico's request, the Department is initiating a changed circumstances review of this order.

### Scope of the Order

The merchandise covered by this order is circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A-53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in this order. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this order, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the United States as line pipe of a kind used for oil or gas pipelines is also not included in this order.

Imports of the products covered by this order are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25,

7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

### Initiation of Antidumping Duty Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed circumstances review upon receipt of a request from an interested party or receipt of information concerning an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. On September 3, 2008, Ternium Mexico submitted its request for a changed circumstances review. With this request, Ternium Mexico submitted certain information related to its claim that Hylsa changed its name to Ternium Mexico including information describing the acquisition of Hylsa by Ternium Luxembourg and the changes in Hylsa's operating and corporate structure immediately following that acquisition. On September 17, 2008, Allied Tube and Conduit ("petitioner") submitted comments with respect to Ternium Mexico's submission. Ternium Mexico filed additional comments in response to those made by the petitioner on September 29, 2008. Based on the information Ternium Mexico submitted regarding a name change, the Department has determined that changed circumstances sufficient to warrant a review exist. See 19 CFR 351.216(d). In antidumping duty changed circumstances reviews involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.

See *Brass Sheet and Strip From Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20462 (May 13, 1992) and *Certain Cut-to-Length Carbon Steel Plate from Romania: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 22847 (May 3, 2005) ("Plate from Romania"). While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations are essentially the same as those of the predecessor company. See, e.g., *Industrial Phosphoric Acid from Israel: Final Results of Antidumping Duty Changed Circumstances Review*, 59 FR

6944, 6945 (February 14, 1994), and *Plate from Romania*, 70 FR 22847. Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor. See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999). Although Ternium Mexico submitted documentation related to its name change and some limited information regarding the four factors that the Department considers in its successor-in-interest analysis, it failed to provide complete supporting documentation for the four elements listed above that is sufficient for making the successor-in-interest determination without requesting additional information. Accordingly, the Department has determined that it would be inappropriate to expedite this action by combining the preliminary results of review with this notice of initiation, as permitted under 19 CFR 351.221(c)(3)(ii). Therefore, the Department is not issuing the preliminary results of its antidumping duty changed circumstances review at this time.

The Department will issue questionnaires requesting additional information for the review, and will publish in the **Federal Register** a notice of the preliminary results of the antidumping duty changed circumstances review, in accordance with 19 CFR 351.221(b)(2) and (4), and 19 CFR 351.221(c)(3)(i). The notice will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed based on those results. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated.

During the course of this antidumping duty changed circumstances review, the cash deposit requirements for the subject merchandise exported and manufactured by Ternium Mexico will continue to be the rate established in the final results of the last administrative review for all other manufacturers and exporters not previously reviewed. See *Circular Welded Non-Alloy Steel Pipe*

*From Mexico: Final Results of Antidumping Duty Administrative Review*, 66 FR 21311 (April 30, 2001). The cash deposit will be altered, if warranted, pursuant only to the final results of this review.

This notice of initiation is in accordance with section 751(b)(1) of the Act, 19 CFR 351.216(b) and (d), and 19 CFR 351.221(b)(1).

Dated: October 20, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-868

#### **Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China**

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

**ACTION:** Notice of Preliminary Determination of Circumvention of Antidumping Duty Order

**SUMMARY:** We preliminarily determine that imports from the People's Republic of China ("PRC") of folding metal tables with legs connected by cross-bars, so that the legs fold in sets, and otherwise meeting the description of in-scope merchandise, are within the class or kind of merchandise subject to the order on folding metal tables and chairs ("FMTCs") from the PRC.

**EFFECTIVE DATE:** October 27, 2008.

**FOR FURTHER INFORMATION CONTACT:** Charles Riggle, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0650.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On October 31, 2005, Mecos requested that the Department of Commerce ("Department") determine whether folding metal tables with cross-bars are circumventing the order. On June 1, 2006, the Department initiated a formal anti-circumvention inquiry relating to minor alterations with respect to folding metal tables and chairs. On November 6, 2006, the Department issued a questionnaire to all producers in the

PRC on the scope service list. On December 21, 2006, Cosco Home and Office Products ("Cosco"), a U.S. importer of subject merchandise, and PRC producers Feili Group (Fujian) Co., Ltd. and Feili Furniture Development Limited Quanzhou City (collectively "Feili"), New-Tec Integration (Xiamen) Co., Ltd. ("New-Tec"), Dongguan Shichang Metals Factory Co. Ltd. ("Shichang"), and Lifetime Products (Xiamen), Inc. ("Lifetime"), submitted responses to the Department's questionnaire. On January 12, 2007, Lifetime, Mecos and Cosco submitted comments on the questionnaire responses.

On February 2, 2007, Mecos submitted rebuttals to Cosco's comments on the questionnaire responses. On May 25, 2007 and June 1, 2007, the Department verified the information in Feili's and New-Tec's questionnaire responses, respectively. On August 13, 2007, the Department issued verification reports for Feili ("Feili Verification Report") and New-Tec ("New-Tec Verification Report").

##### **Scope of the Order**

The products covered by this order consist of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (folding metal tables). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal tables are the following:

- Lawn furniture;
- Trays commonly referred to as "TV trays;"
- Side tables;
- Child-sized tables;
- Portable counter sets consisting of rectangular tables 36" high and matching stools; and,
- Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by 48" to 96" long and with a set of

folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (folding metal chairs). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal chairs are the following:

- Folding metal chairs with a wooden back or seat, or both;
- Lawn furniture;
- Stools;
- Chairs with arms; and
- Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401.71.0010, 9401.71.0030, 9401.79.0045, 9401.79.0050, 9403.20.015, 9403.20.0030, 9403.70.8010, 9403.70.8020, and 9403.70.8030 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Based on a request by RPA International Pty., Ltd. and RPS, LLC (collectively, "RPA"), the Department ruled on January 13, 2003, that RPA's poly-fold metal folding chairs are within the scope of the order because they are identical in all material respects to the merchandise described in the petition, the initial investigation, and the determinations of the Secretary.

On May 5, 2003, in response to a request by Staples, the Office Superstore Inc. ("Staples"), the Department issued a scope ruling that the chair component of Staples' "Complete Office-To-Go," a folding chair with a tubular steel frame and a seat and back of plastic, with measurements of: height: 32.5 inches; width: 18.5 inches; and depth: 21.5 inches, is covered by the scope of the