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DEPARTMENT OF COMMERCE

International Trade Administration

A-588-850

Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4 ½ Inches) from Japan: Preliminary Results of the Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (“Department”) preliminarily determines that JFE Steel Corporation (“JFE”); Nippon Steel Corporation (“Nippon”); NKK Tubes (“NKK”); and Sumitomo Metal Industries, Ltd. (“SMI”) made no shipments of merchandise subject to the antidumping duty order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4 ½ inches) from Japan during the period June 1, 2010, through May 31, 2011. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: Insert date of publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6478.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2011, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan for the period June 1, 2010, through May 31, 2011. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*;

Opportunity To Request Administrative Review, 76 FR 31586 (June 1, 2011). On June 30, 2011, United States Steel Corporation (“U.S. Steel”), a domestic producer of the subject merchandise, made a timely request that the Department conduct an administrative review of JFE, Nippon, NKK, and SMI. On July 28, 2011, in accordance with section 751(a) of the Tariff Act of 1930, as amended (“the Act”), the Department published in the *Federal Register* a notice of initiation of this antidumping duty administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocations in Part and Deferral of Administrative Reviews*, 76 FR 45227 (July 28, 2011).

On August 4, 2011, Nippon submitted a letter to the Department certifying that it made no shipments or entries for consumption in the United States of subject merchandise during the period of review (“POR”). On August 31, 2011, the Department issued its antidumping duty questionnaire to JFE, NKK, and SMI. On September 1, 2011, September 9, 2011 and September 19, 2011, SMI, NKK, and JFE, respectively, submitted letters to the Department certifying that each company made no shipments or entries for consumption in the United States of subject merchandise during the POR.

Scope of the Order

The products covered by the order are large diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes produced, or equivalent, to the American Society for Testing and Materials (“ASTM”) A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-589, ASTM A-795, and the American Petroleum Institute (“API”) 5L specifications and meeting the physical parameters described below, regardless of application. The scope of the order also includes all other products used in standard, line, or pressure pipe

applications and meeting the physical parameters described below, regardless of specification, with the exception of the exclusions discussed below. Specifically included within the scope of the order are seamless pipes greater than 4.5 inches (114.3 mm) up to and including 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to the order are currently classifiable under the subheadings 7304.10.10.30, 7304.10.10.45, 7304.10.10.60, 7304.10.50.50, 7304.19.10.30, 7304.19.10.45, 7304.19.10.60, 7304.19.50.50, 7304.31.60.10, 7304.31.60.50, 7304.39.00.04, 7304.39.00.06, 7304.39.00.08, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.51.50.15, 7304.51.50.45, 7304.51.50.60, 7304.59.20.30, 7304.59.20.55, 7304.59.20.60, 7304.59.20.70, 7304.59.60.00, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, and 7304.59.80.70 of the Harmonized Tariff Schedule of the United States (“HTSUS”).

Specifications, Characteristics, and Uses: Large diameter seamless pipe is used primarily for line applications such as oil, gas, or water pipeline, or utility distribution systems. Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A-106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of

Mechanical Engineers (“ASME”) code stress levels. Alloy pipes made to ASTM A-335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A-106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A-106 standard.

Seamless standard pipes are most commonly produced to the ASTM A-53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A-333 or ASTM A-334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification. Seamless water well pipe (ASTM A-589) and seamless galvanized pipe for fire protection uses (ASTM A-795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A-106, ASTM A-53, API 5L-B, and API 5L-X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A-106 pressure pipes and triple or quadruple certified

pipes in large diameters is for use as oil and gas distribution lines for commercial applications. A more minor application for large diameter seamless pipes is for use in pressure piping systems by refineries, petrochemical plants, and chemical plants, as well as in power generation plants and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A-106 pipes may be used in some boiler applications.

The scope of the order includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, with the exception of the exclusions discussed below, whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of the order. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-589, ASTM A-795, and API 5L specifications shall be covered if used in a standard, line, or pressure application, with the exception of the specific exclusions discussed below.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A-106 applications. These specifications generally include ASTM A-161, ASTM A-192, ASTM A-210, ASTM A-252, ASTM A-501, ASTM A-523, ASTM A-524, and ASTM A-618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of the order.

Specifically excluded from the scope of the order are: A. Boiler tubing and mechanical tubing, if such products are not produced to ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-589, ASTM A-795, and API 5L specifications and are not used in standard,

line, or pressure pipe applications. B. Finished and unfinished oil country tubular goods (“OCTG”), if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in the scope when used in standard, line or pressure applications. C. Products produced to the A-335 specification unless they are used in an application that would normally utilize ASTM A-53, ASTM A-106, ASTM A-333, ASTM A-334, ASTM A-589, ASTM A-795, and API 5L specifications. D. Line and riser pipe for deepwater application, i.e., line and riser pipe that is: (1) used in a deepwater application, which means for use in water depths of 1,500 feet or more; (2) intended for use in and is actually used for a specific deepwater project; (3) rated for a specified minimum yield strength of not less than 60,000 psi; and (4) not identified or certified through the use of a monogram, stencil, or otherwise marked with an API specification (e.g., “API 5L”).

With regard to the excluded products listed above, the Department will not instruct U.S. Customs and Border Protection (“CBP”) to require end-use certification until such time as petitioner or other interested parties provide to the Department a reasonable basis to believe or suspect that the products are being utilized in a covered application. If such information is provided, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that such products are being used in a covered application as described above. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to the A-335 specification is being used in an A-106 application, we will require end-use certifications for imports of that specification. Normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate

implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Preliminary Determination of No Shipments

As noted above, all four of the potential respondents submitted letters to the Department indicating that they did not make any shipments or entries of subject merchandise to the United States during the POR. In response to the Department's query to CBP, CBP data showed subject merchandise manufactured by SMI may have entered for consumption into the United States during the POR. On December 14 and 20, 2011, the Department placed on the record of the review the CBP data and copies of the entry documents in question.

The Department confirmed with CBP the no shipment claims of NKK, JFE, and Nippon. Because the evidence on the record indicates NKK, JFE, and Nippon did not export subject merchandise to the United States during the POR, we preliminarily determine these three companies had no reviewable transactions during the POR.

On December 16, 2011, the Department requested that SMI substantiate its claims of no shipments. On January 20, 2012, SMI reiterated that it did not make any U.S. sales of subject merchandise during the POR and that it did not sell subject merchandise to any end users or distributors with knowledge that the subject merchandise would be subsequently exported to the United States during the POR. SMI did report selling subject merchandise through trading companies, distributors, and end users in Japan and third countries. However, SMI added that it neither initiated nor was aware of its subject merchandise being exported from Japan or third countries to the United States during the POR.

Based on SMI's submissions and our review of CBP documentation, the Department preliminarily determines that the record evidence supports SMI's explanation that, at the time of the sale, it had no knowledge that any of these entries of subject merchandise entered the United States during the POR. Accordingly, we preliminarily determine that subject merchandise produced by SMI entered the United States during the POR under its antidumping case number, but did so by way of intermediaries without its knowledge. *See* Memorandum to the File titled, "Preliminary Determination of No Shipments in the Antidumping Duty Administrative Review on Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4 ½ Inches) from Japan," dated concurrently with this notice for a full analysis. Thus, the Department finds that SMI's claim of no shipments or entries for consumption is substantiated. Based upon the certifications and the evidence on the record, we are satisfied that SMI had no shipments of subject merchandise to the United States during the POR, and, as such, we preliminarily determine that SMI had no reviewable transactions during the POR.

Since the implementation of the 1997 regulations, our practice concerning no-shipment respondents had been 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* 19 CFR 351.213(d)(3); *see also Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Japan: Rescission of Antidumping Duty Administrative Review*, 75 FR 38781 (July 6, 2010). In such circumstances, we normally instruct CBP to liquidate any entries from the no-shipment company at the deposit rate in effect on the date of entry. *See* 19 CFR 351.212(a)

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 Policy Notice*”).

Because “as entered” liquidation instructions do not alleviate the concerns which the *Assessment Policy Notice* was intended to address, we determine that it is appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by Nippon, JFE, SMI, and NKK, and exported by other parties at the all-others rate, should we continue to find that Nippon, JFE, SMI, and NKK had no shipments of subject merchandise in the POR in our final results. *See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989, 56990 (September 17, 2010). In addition, the Department finds that it is more consistent with the *Assessment Policy Notice* not to rescind the review in part in these circumstances but, rather, to complete the review with respect to Nippon, JFE, SMI, and NKK and to issue appropriate instructions to CBP based on the final results of the review. *See* the “Assessment Rates” section of this notice below.

Public Comment

Pursuant to 19 CFR 351.309(c), 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, should be filed not later than five days after the time limit for filing case briefs. *See* 19 CFR 351.309(d). Parties submitting arguments in this proceeding are requested to submit with each argument: 1) a statement of the issue; 2) a brief summary of the argument; and 3) a

table of authorities, in accordance with 19 CFR 351.309(d)(2). Further, parties submitting case and/or rebuttal briefs are requested to provide the Department with an additional electronic copy of the public version of any such comments on a computer diskette. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice in the *Federal Register*. If a hearing is requested, the Department will notify interested parties of the hearing schedule. Issues raised in the hearing will be limited to those raised in the case briefs.

The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, unless extended. *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Cash-Deposit Requirements

If we continue to make a final determination of no shipments, cash deposit requirements will not change, and we will not issue cash deposit instructions to CBP. The following cash deposit requirements are currently in effect: (1) for previously reviewed or investigated companies, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (2) if the exporter is not a firm covered in a prior review or in the less-than-fair-value (“LTFV”) investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; (3) if neither the exporter nor the manufacturer is a firm covered in this or any previous segment of the proceeding, the cash-deposit rate will continue to be the all-others rate established in the LTFV investigation, which is 68.88 percent. *See Notice of Antidumping Duty Orders: Certain Large*

Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Japan and the Republic of South Africa, 65 FR 39360 (June 26, 2000). These deposit requirements continue to remain in effect until further notice.

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department intends to issue appraisement instructions directly to CBP 15 days after the date of publication of the final results of this review.

As noted above, the Department clarified its “automatic assessment” regulation on May 6, 2003. *See Assessment Policy Notice*. This clarification will apply to POR entries by all respondent companies if we continue to make a final determination of no shipments because they certified that they made no POR shipments of subject merchandise for which they had knowledge of U.S. destination. We will instruct CBP to liquidate these entries at the all-others rate established in the less-than-fair-value investigation, 68.88 per cent, if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

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 Secretary’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

February 24, 2012 _____
(Date)

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