

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.

We are issuing and publishing these results in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i)(1) of the Act and 19 CFR 351.221(b).

Dated: June 20, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Importer Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-810]

Stainless Steel Bar From India: Notice of Amended Final Results Pursuant to Final Court Decision

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

ACTION: Notice of amended final results of antidumping administrative review pursuant to final court decision on stainless steel bar from India.

SUMMARY: On March 18, 2003, in *Carpenter Technology Corp. v. the United States*, Court No. 00-09-00447, Slip. Op. 03-28 (CIT 2003), a lawsuit challenging the Department of Commerce's ("the Department") *Stainless Steel Bar from India; Final Results of Administrative Review and New Shipper Review and Partial Rescission of Administrative Review*, 65 FR 48965 (August 10, 2000) and accompanying Issues and Decision Memorandum ("Issues and Decision Memorandum") (collectively, "*Final Results*"), the Court of International Trade ("CIT") affirmed the Department's remand determination and entered a judgment order. As no further appeals have been filed and there is now a final and conclusive court decision in this action, we are amending our *Final Results*.

EFFECTIVE DATE: July 7, 2003.

FOR FURTHER INFORMATION CONTACT: Ryan Langan, Import Administration,

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SUPPLEMENTARY INFORMATION:

Background

Following publication of the *Final Results*, Carpenter Technology Corp. ("Carpenter"), the petitioner in this case, and Viraj Impoexpo Ltd. ("Viraj"), a respondent in this case, filed lawsuits with the CIT challenging the Department's *Final Results*.

In the *Final Results*, in accordance with section 773(a)(1)(C) of the Tariff Act of 1930, as amended effective January 1, 1995 ("the Act") by the Uruguay Round Agreements Act ("URAA"), the Department calculated Viraj's antidumping duty margin using third country sales data for normal value because Viraj's home market sales information was incomplete. In using the third country database, the Department was unable to make adjustments for differences in merchandise because, although Viraj cooperated to the best of its ability, it did not report variable cost of manufacture ("VCOM") data in its third country and U.S. sales databases. See section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. Therefore, the Department relied on facts otherwise available to account for these differences. In doing so, the Department matched U.S. sales to third country sales according to size ranges ("banding") for price comparison purposes. Where banding did not result in an identical match, the Department applied the "all others" rate of 12.45 percent calculated in *Stainless Steel Bar from India; Notice of Final Determination of Sales at Less Than Fair Value*, 59 FR 66915 (December 28, 1994) ("*LTFV investigation*"). The "all others" rate was calculated in accordance with the Tariff Act of 1930, as amended, pre-URAA.

The Court remanded the use of banding to the Department for further explanation. The Court did not find the Department's matching methodology unreasonable or inconsistent with law and recognized the Department's broad authority to determine and apply a model-matching methodology to determine a relevant "foreign like product" under sections 773 and 771(16) of the Act. However, the Court noted the apparent disparate treatment between Viraj and another respondent, Panchmahal Steel, Ltd. The Court found that this "disparity" and the Department's language in its *Issues and Decision Memorandum* necessitated a further explanation from the

Department of its rationale for banding Viraj's sales.

Additionally, the Court questioned the Department's use of the "all others" rate applied to Viraj's unmatched sales. The Court found that the Department's use of a pre-URAA weighted-average "all others" rate that contained one margin based entirely on adverse facts available did not constitute non-adverse facts available. As such, the Court concluded that the Department could not apply this "all others" rate to Viraj, a cooperative respondent. See section 776(b) of the Act.

The *Draft Redetermination Pursuant to Court Remand* ("*Draft Results*") was released to the parties on September 5, 2002. In its *Draft Results*, the Department clarified to the courts its use of banding and the dissimilar treatment of Viraj and Panchmahal Steel, Ltd. We also reconsidered our use of the "all others" rate from the *LTFV investigation* as neutral facts otherwise available where Viraj's U.S. sales did not have an identical match under the banding methodology. We modified our application of neutral facts otherwise available in the margin calculations by substituting for "all others" rate the weighted-average dumping margin from Viraj's matched banded sales in order to confirm with the Court's conclusion that the "all others" rate was not a reasonable choice as neutral facts otherwise available.

Comments on the *Draft Results* were received from Carpenter on September 13, 2002, and Viraj submitted rebuttal comments on September 18, 2002. On September 30, 2002, the Department responded to the Court's Order of Remand by filing its *Final Results of Redetermination* pursuant to the Court remand ("*Final Results of Redetermination*"). The Department's *Final Results of Redetermination* was identical to the *Draft Results*.

The CIT affirmed the Department's *Final Results of Redetermination* on March 18, 2003. See *Carpenter Technology Corp. v. United States*, Consol. Court No. 00-09-00447, Slip. Op. 03-28.

Amendment to the Final Results

Pursuant to section 516A(e) of the Act, because no further appeals have been filed and there is not a final and conclusive decision in the court proceeding, we are amending the *Final Results* for the period of review February 1, 1998, through January 31, 1999. The revised weight-averaged dumping margin for Viraj Impoexpo Ltd. is as follows: