

On August 24, 2004, Agro Dutch alleged that the Department made a ministerial error in calculating the margin for Premier. On August 26, 2004, the petitioner filed a reply to the Agro Dutch's ministerial error allegation, and also alleged certain additional ministerial errors in the preliminary and final results margin calculations for Premier.

The alleged ministerial errors are described below. Also *see* Memorandum to Louis Apple from The Team, dated September 2, 2004, for further discussion of the ministerial error allegations and the Department's analysis.

Agro Dutch

1. The Department inadvertently used outdated home market and U.S. sales databases in its final margin calculations for Premier. According to Agro Dutch, this error impacted the final margin calculations for Agro Dutch because the profit used to calculate

constructed value (CV) for Agro Dutch was based in part on the profit rate of Premier.

Petitioner

1. The Department inadvertently used computer programs that predate the preliminary results for purposes of the final results with respect to Premier.

2. Instead of applying a revised financial expense ratio to the cost of manufacturing (COM), the Department added an absolute value to the COM in its cost of production and CV calculations for Premier.

3. The Department omitted the revised general and administrative expense ratio both from the preliminary and final results programming for Premier.

After analyzing the submissions cited above, we have determined that ministerial errors, within the meaning of 19 CFR 351.224(f), were made in the final results margin calculations for Premier, as discussed above. *See* Memorandum to Louis Apple from The

Team, dated September 2, 2004, for further discussion of the ministerial error allegations and the Department's analysis. Therefore, we have recalculated the margin for Premier. The Department hereby amends its final results with respect to Premier to correct these errors. Because the corrections made to the Premier final results margin calculations caused Premier's weighted-average home market selling expenses and profit, which were used in part to calculate Agro Dutch's CV, to change, we have also amended the final margin calculations for Agro Dutch.

The collection of cash deposits will be revised accordingly and parties will be notified of this determination, in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Amended Final Results

As a result of our correction of ministerial errors in the Final Results, the revised weighted-average dumping margins are as follows:

Exporter/manufacture	Original weighted-average margin percentage	Amended weighted-average margin percentage
Agro Dutch Industries, Ltd.	34.57	33.47
Premier Mushroom Farms	18.30	25.73

This determination is issued and published in accordance with sections 751 and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: September 7, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-838]

Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Softwood Lumber From Canada

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

ACTION: Notice of preliminary results of antidumping duty changed circumstances review.

EFFECTIVE DATE: September 14, 2004.

FOR FURTHER INFORMATION CONTACT: Constance Handley or Saliha Loucif,

Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0631 or (202) 482-1779, respectively.

SUMMARY: On May 11, 2004, the Department of Commerce (the Department) published a notice of initiation of changed circumstances review of the antidumping duty order on certain softwood lumber products from Canada. *See Initiation of Antidumping Duty Changed Circumstances Review: Certain Softwood Products From Canada*, 69 FR 26072, May 11, 2004 (*Initiation Notice*), to determine the appropriate cash deposit rate for the Canfor Corporation (Canfor), which merged with Slocan Forest Products Ltd. (Slocan) as of April 1, 2004. We have preliminarily determined that the post-merger Canfor is the successor-in-interest to both the pre-merger Canfor and Slocan. Therefore, we have preliminarily concluded that post-merger Canfor should be assigned a cash deposit rate reflecting a weighted-average of Canfor's and Slocan's respective cash deposit rates prior to the merger. Because Canfor and Slocan are both respondents in the

ongoing first administrative review covering the period May 22, 2002, through April 30, 2003, we plan to align the final results of this changed circumstances review with the final results of the first administrative review for the purposes of establishing the final cash deposit rate for the post-merger Canfor. The final results of the first administrative review are due December 13, 2004.¹ Interested parties are invited to comment on these preliminary results.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 2004, the Coalition for Fair Lumber Imports Executive Committee, the petitioner in this case, submitted a request that the Department initiate a changed circumstances review of the antidumping duty order on certain softwood lumber products from Canada pursuant to Section 751(b)(1) of the Trade Act of 1930, as amended ("the Act"), and 19 CFR 351.22 (c)(3)(ii) (2003). On May 11, 2004, the

¹ *See, Notice of Preliminary Results of Antidumping Duty Administrative Review and Postponement of Final Results: Certain Softwood Lumber Products From Canada* 69 FR 33235, 33236 (June 14, 2004).

Department published the *Initiation Notice* in the **Federal Register**. On June 23, 2004, the Department issued Canfor a questionnaire requesting further details on the merger of Canfor and Slocan. Canfor's response was received by the Department on July 7, 2004.

Scope of the Review

The products covered by this order are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Softwood lumber products excluded from the scope: Trusses and truss kits, properly classified under HTSUS 4418.90; I-joist beams; assembled box spring frames; pallets and pallet kits, properly classified under HTSUS 4415.20; garage doors; edge-glued wood, properly classified under HTSUS 4421.90.97.40 (formerly HTSUS 4421.90.98.40); properly classified complete door frames; properly classified complete window frames; and properly classified furniture.

Softwood lumber products excluded from the scope only if they meet certain requirements:

Stringers (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.97.40 (formerly HTSUS 4421.90.98.40).

Box-spring frame kits: if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1" in actual thickness or 83" in length.

Radius-cut box-spring-frame components, not exceeding 1" in actual thickness or 83" in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

Fence pickets requiring no further processing and properly classified under HTSUS 4421.90.70, 1" or less in actual thickness, up to 8" wide, 6' or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring $\frac{3}{4}$ inch or more.

U.S. origin lumber shipped to Canada for minor processing and imported into the United States, is excluded from the scope of this order if the following conditions are met: (1) The processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (2) if the importer establishes to U.S. Customs and Border Protections (CBPs) satisfaction that the lumber is of U.S. origin.

Softwood lumber products contained in single family home packages or kits,² regardless of tariff classification, are excluded from the scope of the orders if the following criteria are met:

(A) The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to

produce a home of at least 700 square feet produced to a specified plan, design or blueprint;

(B) The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, connectors and if included in purchase contract decking, trim, drywall and roof shingles specified in the plan, design or blueprint;

(C) Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;

(D) The whole package must be imported under a single consolidated entry when permitted by CBP, whether or not on a single or multiple trucks, rail cars or other vehicles, which shall be on the same day except when the home is over 2,000 square feet;

(E) The following documentation must be included with the entry documents:

A copy of the appropriate home design, plan, or blueprint matching the entry;

A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

A listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered; and,

In the case of multiple shipments on the same contract, all items listed immediately above which are included in the present shipment shall be identified as well.

We have determined that the excluded products listed above are outside the scope of this order provided the specified conditions are met. Lumber products that CBP may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this order and may be classified under HTSUS subheadings 4418.90.40.90, 4421.90.70.40, and 4421.90.98.40. Due to changes in the 2002 HTSUS whereby subheading 4418.90.40.90 and 4421.90.98.40 were changed to 4418.90.45.90 and 4421.90.97.40, respectively, we are adding these subheadings as well.

In addition, this scope language has been further clarified to now specify that all softwood lumber products entered from Canada claiming non-

² To ensure administrability, we clarified the language of this exclusion to require an importer certification and to permit single or multiple entries on multiple days as well as instructing importers to retain and make available for inspection specific documentation in support of each entry.

subject status based on U.S. country of origin will be treated as non-subject U.S.-origin merchandise under the antidumping and countervailing duty orders, provided that these softwood lumber products meet the following condition: upon entry, the importer, exporter, Canadian processor and/or original U.S. producer establish to CBP's satisfaction that the softwood lumber entered and documented as U.S.-origin softwood lumber was first produced in the United States as a lumber product satisfying the physical parameters of the softwood lumber scope.³ The presumption of non-subject status can, however, be rebutted by evidence demonstrating that the merchandise was substantially transformed in Canada.

Preliminary Results of the Review

In submissions to the Department dated April 29, 2004, and July 7, 2004,⁴ Canfor advised the Department that Canfor and Slocan merged on April 1, 2004, through a share purchase arrangement in which Canfor purchased all issued and outstanding Slocan shares. *See the Combination Agreement.*⁵ In submissions to the Department dated April 29, 2004, and July 7, 2004,⁶ Canfor advised the Department that Canfor and Slocan merged on April 1, 2004, through a share purchase arrangement in which Canfor purchased all issued and outstanding Slocan shares. *See the Combination Agreement.*⁷ The Amalgamation Application and Certificate of Amalgamation⁸ demonstrate that Slocan and its subsidiaries have been amalgamated with Canfor's principal subsidiary, Canadian Forest Products Ltd., and consequently, that Slocan has ceased to exist as a separate corporate entity. The post-merger Canfor assumed all softwood lumber, flooring and siding industry operations formerly held by Slocan, in addition to continuing its own operations.

In antidumping duty changed circumstances reviews involving a successor-in-interest determination, the Department typically examines several

factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460, 20462 (May 13, 1992) (*Canada Brass*). 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 company 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 Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994), and *Canada Brass*, 57 FR 20462. 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 Changes Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

Based on our review of the Questionnaire Response, we preliminarily determine that post-merger Canfor is the successor-in-interest to both the pre-merger Canfor and Slocan. As a result of the merger, significant components of both pre-merger Canfor's and Slocan's management, production facilities, supplier relationships, and customer base have been incorporated into both the post-merger Canfor and Slocan.

As a result of the amalgamation, Canfor's management structure has been revised to incorporate former Slocan managers. The new Board of Directors of the post-merger Canfor was elected at a shareholders' meeting on April 30, 2004.⁹ In accordance with the *Combination Agreement*,¹⁰ Canfor's post-merger management team is composed of fifteen Directors, four of whom are Slocan nominees. Slocan's former Chief Executive Officer (CEO) is the President and CEO of the post-merger Canfor. In addition, Canfor's new executive team includes former Slocan managers as Vice-President of Human Resources, Vice-President of Wood Products (managing manufacturing facilities that were formerly with Slocan) and Vice-President of Finance. A number of

senior managers with the pre-merger Canfor continue to hold managerial posts in the post-merger Canfor.¹¹ Thus, managers of both companies play important roles in senior management of the post-merger Canfor.

The transfer of Slocan's fixed assets to Canfor provides evidence of a dramatic increase in Canfor's production capacity.¹² As evidenced by their participation in both the investigation and administrative review in this case, both the pre-merger Canfor and Slocan were among the largest softwood lumber producers in Canada.¹³ Prior to the merger, Canfor had eleven primary sawmills and one remanufacturing plant; Slocan had eight sawmills and one remanufacturing plant. Following the merger, the post-merger Canfor operates the combined nineteen sawmills and two remanufacturing plants.¹⁴ While production from all the mills and remanufacturing plants is currently sold under the Canfor name, this includes a large quantity of lumber from mills which were formerly part of Slocan. Canfor reported that its post-merger products are the same as those produced by Canfor and Slocan prior to the merger.¹⁵ Clearly, the post-merger Canfor currently produces a much larger quantity of and a wider range of products than could be produced by either Canfor or Slocan before the amalgamation.¹⁶

Further, the amalgamation of Slocan allowed Canfor to significantly increase its customer base. In addition to Canfor's own customers, former Slocan customers now purchase from the post-merger Canfor.¹⁷ Likewise, suppliers that previously serviced Slocan continue to supply the post-merger Canfor.¹⁸ Thus, the post-merger Canfor has noticeably increased the number of customers to whom it sells, and its list of suppliers is now more diversified.

Additionally, Canfor's sales process has undergone apparent adjustments. Slocan's sales employees have relocated into the post-merger Canfor's sales office site, which has led to a departmental restructuring. The majority of Slocan's former sales managers have kept their titles upon joining the post-merger Canfor; others have experienced minor

¹¹ *Id.* at Exhibit 7.

¹² *Id.* at Exhibits 1 and 2.

¹³ *See* Memo from Valerie Ellis and Christopher Smith to Bernard Carrea, Deputy Assistant Secretary, dated May 5, 2001, and Memo from Keith Nickerson and Amber Musser to Holly Kuga, dated August 1, 2003.

¹⁴ *Id.* at page 4.

¹⁵ *Id.* at page 4.

¹⁶ *Id.* at page 4 and Exhibits 1, 2, and 6.

¹⁷ *Id.* at page 5 and Exhibit 1.

¹⁸ *Id.* at page 6 and Exhibit 1.

³ *See* the scope clarification message (3034202), dated February 3, 2003, to CBP, regarding treatment of U.S.-origin lumber on file in the Central Records Unit, Room B-099 of the main Commerce Building.

⁴ *See* letter from Canfor to the Department, dated April 29, 2004; *see also*, response of post-merger Canfor and Slocan's questionnaire response (*Questionnaire Response*) dated July 7, 2004.

⁵ Questionnaire Response at Exhibit 1.

⁶ *See* letter from Canfor to the Department, dated April 29, 2004; *see also*, response of post-merger Canfor and Slocan's questionnaire response (*Questionnaire Response*) dated July 7, 2004.

⁷ Questionnaire Response at Exhibit 1.

⁸ *Id.* at Exhibits 1 and 3.

⁹ *Id.* at Exhibit 7.

¹⁰ *Id.* at page 3.

changes in responsibilities, but kept their employment. Ultimately, the post-merger Canfor's sales organization plans to maintain nearly all of Canfor and Slocan's combined number of sales employees. In sum, Canfor's amalgamation with Slocan has precipitated important changes to the corporate structures of both the pre-merger Canfor and Slocan, as it applies to the sales of the subject merchandise.

However, when as the result of a merger, the post-merger entity contains significant elements of both companies involved in the merger, we consider the post-merger entity to be a successor-in-interest to both of the pre-merger companies.¹⁹ The post-merger Canfor's management, production facilities, supplier relationships, customer base and sales facilities combine important elements of both the pre-merger Canfor and Slocan.²⁰ Consequently, we preliminarily determine that the post-merger Canfor is the successor in interest to both the pre-merger Canfor and Slocan. Therefore, we have preliminarily concluded that the post-merger Canfor should be assigned a cash deposit rate reflecting a weighted-average of Canfor's and Slocan's respective cash deposit rates prior to the merger.

If the above preliminary results are affirmed in the Department's final results, the cash deposit rate from this changed circumstances review will apply to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Changed Circumstances Review*, 68 FR 25327 (May 12, 2003). This deposit rate shall remain in effect until publication of the final results of the next administrative review in which Canfor participates.

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first working day thereafter. Interested parties may submit case briefs not later than 30 days after the date of publication of this notice. 19

CFR 351.309(c)(ii). Rebuttal briefs, which must be limited to issues raised in such briefs, be filed not later than 37 days after the date of publication of this notice. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Consistent with our alignment with the final results of the first administrative review, we will issue the final results of this changed circumstances review no later than December 13, 2004.

This notice is in accordance with sections 751(b) and 777(i)(1) of the Act, and § 351.221(c)(3)(i) of the Department's regulations.

Dated: August 26, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4-2187 Filed 9-13-04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-810]

Stainless Steel Bar From India; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On March 8, 2004, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar from India (69 FR 10666). This review covers seven manufacturers/exporters of the subject merchandise to the United States. The period of review is February 1, 2002, through January 31, 2003. We are rescinding the review with respect to Ferro Alloys Corp., Ltd. and Mukand, Ltd. because they withdrew their requests for review within the time limit specified under 19 CFR 351.213(d)(1). Finally, we have determined to revoke the antidumping duty order with respect to Viraj Alloys, Ltd., Viraj Forgings, Ltd., and Viraj Impoexpo, Ltd.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for

the reviewed firms are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: September 14, 2004.

FOR FURTHER INFORMATION CONTACT: Greg Kalbaugh, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone (202) 482-3693.

SUPPLEMENTARY INFORMATION:

Background

This review covers the following seven manufacturers/exporters: Chandan Steel Limited (Chandan); Ferro Alloys Corp. Ltd. (FACOR); Isibars Limited (Isibars); Mukand, Ltd. (Mukand); Jyoti Steel Industries (Jyoti); Venus Wire Industries Limited; and Viraj Alloys, Ltd., Viraj Forgings, Ltd., and Viraj Impoexpo, Ltd. (collectively "Viraj").

On March 8, 2004, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on stainless steel bar (SSB) from India. *See Stainless Steel Bar From India; Preliminary Results of Antidumping Duty Administrative Review, Notice of Partial Rescission of Administrative Review, and Notice of Intent To Revoke in Part*, 69 FR 10666 (Mar. 8, 2004) (*Preliminary Results*).

We invited parties to comment on our preliminary results of review. In April 2004, we received case briefs from the petitioners (*i.e.*, Carpenter Technology Corp., Crucible Specialty Metals Division of Crucible Materials Corp., Electralloy Corp., Slater Steels Corp., Empire Specialty Steel and the United Steelworkers of America (AFL-CIO/CLC)), Chandan, and Viraj, and rebuttal briefs from the petitioners and Viraj.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

Imports covered by this review are shipments of SSB. SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in

¹⁹ *See Marine Harvest (Chile) S.A. v. United States*, Slip Op. 03-22 (Mar. 4, 2003), affirming Final Results of Redetermination Pursuant to Court Remand, 2003-22, January 7, 2003, (*upon remand from Marine Harvest (Chile) S.A. v. United States*, 244 F. Supp. 2d 1364 (CIT 2002)).

²⁰ *Id.* pages 1-7 and Exhibits 1, 2, and 3.