

{s}ection 232 duties for the disputed transactions and that therefore they were not part of the sales price used to establish base {export price}.”⁶

In its final remand redetermination, issued on April 8, 2022, Commerce found that the record supported Power Steel’s claim that it did not pay section 232 duties on two of its U.S. sales, and thus, that section 232 duties were not included in the gross unit price that was used as the basis for export price. Commerce recalculated the weighted-average dumping margin for Power Steel, which changed from 3.27 percent

in the *Final Results* to 0.01 percent.⁷ Thus, Commerce found that Power Steel did not make sales at less than normal value during the period of review. The CIT sustained Commerce’s final redetermination.⁸

Timken Notice

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ the Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not “in harmony” with a Commerce

determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s April 28, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Power Steel as follows:

Company	Final results (percent)	Final results of remand redetermination (percent)
Power Steel Co., Ltd	3.27	* 0.01

* (*de minimis*).

Cash Deposit Requirements

Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP).

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: Were produced and/or exported by Power Steel, and were entered, or withdrawn from warehouse, for consumption during the period March 7, 2017, through September 30, 2018, excluding the period September 3, 2017, through September 14, 2017. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT’s ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on all unliquidated entries of subject merchandise produced and/or exported by Power Steel in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*.¹¹ Where an import-specific *ad valorem* assessment rate is zero or *de*

minimis,¹² we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e), and 777(i)(1) of the Act.

Dated: May 5, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–10077 Filed 5–10–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–856]

Oil Country Tubular Goods From Mexico: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that oil country tubular goods (OCTG) from Mexico are being, or are likely to

be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2020, through September 30, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 11, 2022.

FOR FURTHER INFORMATION CONTACT:

Emily Bradshaw or Yang Jin Chun, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3896 or (202) 482–5760, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this LTFV investigation on November 1, 2021.¹ On February 17, 2022, Commerce postponed the preliminary determination of this investigation until May 4, 2022.² For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.³ A list of sections in the Preliminary Decision Memorandum is

⁶ *Id.* at 10–11.

⁷ See *Final Results of Remand Redetermination, Power Steel Co., Ltd. v. United States*, Court No. 20–03771, Slip. Op. 21–173, dated April 8, 2022, (Final Results of Remand Redetermination).

⁸ See *Power Steel Co., Ltd. v. United States*, Court No. 20–3771, Slip. Op. 22–39 (CIT April 28, 2022).

⁹ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁰ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹¹ See 19 CFR 351.106(c)(2).

¹² *Id.*

¹ See *Oil Country Tubular Goods from Argentina, Mexico, and the Russian Federation: Initiation of Less-Than-Fair-Value Investigations*, 86 FR 60205 (November 1, 2021) (*Initiation Notice*).

² See *Oil Country Tubular Goods from Argentina, Mexico, and the Russian Federation: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 87 FR 9034 (February 17, 2022).

³ See Memorandum, “Oil Country Tubular Goods from Mexico: Decision Memorandum for Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are OCTG from Mexico. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ in the *Initiation Notice*, Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, see the Preliminary Scope Decision Memorandum.⁶ As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified the scope language that appeared in the *Initiation Notice*.

In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case briefs.⁷ Commerce did not receive any comments from interested parties regarding the scope as stated in the Preliminary Scope Decision Memorandum prior to the deadline. As explained in the Preliminary Scope Decision Memorandum, there will be no

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ See *Initiation Notice*.

⁶ See Memorandum, "Antidumping Duty Investigations of Oil Country Tubular Goods from Argentina, Mexico, and the Russian Federation and Countervailing Duty Investigations of Oil Country Tubular Goods from the Republic of Korea, and the Russian Federation: Preliminary Scope Decision Memorandum," dated March 7, 2022 (Preliminary Scope Decision Memorandum).

⁷ Case briefs, other written comments, and rebuttal briefs submitted by parties in response to this preliminary LTFV determination should not include scope-related issues. See Preliminary Scope Decision Memorandum and "Public Comment" section of this notice.

further opportunity for comments on scope-related issues.⁸

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated constructed export prices in accordance with section 772(b) of the Act. Commerce calculated normal value in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* dumping margins, and any dumping margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated an estimated weighted-average dumping margin above *de minimis* for the sole mandatory respondent, Tubos de Acero de Mexico, S.A. (TAMSA). Because TAMSA is the sole mandatory respondent for which Commerce calculated a weighted-average dumping margin, Commerce assigned TAMSA's preliminary margin to all other producers and exporters of the merchandise under consideration.

Preliminary Affirmative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances exist for all companies in Mexico. For a full description of the methodology and results of Commerce's critical circumstances analysis, see the Preliminary Decision Memorandum.⁹

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist in this investigation:

⁸ See Preliminary Scope Decision Memorandum at 4.

⁹ See Preliminary Decision Memorandum at 12–16.

Exporter/producer	Estimated weighted-average dumping margin (percent)
Tubos de Acero de Mexico, S.A	69.56
All Others	69.56

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of OCTG from Mexico, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed in the table above is the company-specific estimated weighted-average dumping margin calculated in this preliminary determination; (2) if the exporter is not the respondent identified in the table above, but the producer is, then the cash deposit rate is the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise in the table above; and (3) the cash deposit rate for all other producers and exporters is the all-others estimated weighted-average dumping margin listed in the table above.

Further, section 733(e)(2) of the Act provides that, in the event of an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) The date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. As noted above, Commerce preliminarily finds that critical circumstances exist for imports of OCTG from Mexico produced and exported by all companies. In accordance with 733(e)(2)(A) of the Act, suspension of liquidation shall apply to unliquidated entries of subject merchandise for shipments that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice, the date suspension of liquidation is first ordered.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its preliminary calculations and related analysis to interested parties within five days of any public announcement of the preliminary determination or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.¹⁰

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance.¹¹ Interested parties will be notified of the timeline for the submission of such case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.¹² Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹³

¹⁰ See Commerce's Letter, "Antidumping Duty Investigation of Oil Country Tubular Goods from Mexico: Notification of Intent to Conduct Virtual Verification," dated March 16, 2022.

¹¹ Case briefs, other written comments, and rebuttal briefs submitted by parties in response to this preliminary LTFV determination should not include scope-related issues. The scope case briefs deadline expired on April 13, 2022. See Preliminary Scope Decision Memorandum at 3–4; see also *Oil Country Tubular Goods from the Republic of Korea: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 87 FR 14248 (March 14, 2022), and *Oil Country Tubular Goods from the Russian Federation: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 87 FR 14249 (March 14, 2022).

¹² See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

¹³ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days after the date of publication of this notice in the **Federal Register**. Requests for a hearing should contain: (1) The requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party that will attend the hearing, including, whether any individuals are foreign nationals; and (3) a list of the issues the party intends to discuss at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date and time of the hearing two days before the scheduled hearing date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until no later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 27, 2022, pursuant to 19 CFR 351.210(e), TAMSAs requested that, contingent upon an affirmative preliminary determination of sales at LTFV, Commerce postpone the final determination in this investigation up to 135 days after publication of this notice and that the provisional measures be extended to a period not to exceed six months.¹⁴

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of

exports of the subject merchandise;¹⁵ and (3) no compelling reasons for denial exist, Commerce is postponing the final determination in this investigation and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination in this investigation no later than 135 days after the date of publication of this preliminary determination in the **Federal Register** pursuant to section 735(a)(2) of the Act.¹⁶

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If Commerce's final determination is affirmative, then the ITC will determine before the later of 120 days after the date of this preliminary determination, or 45 days after the final determination, whether imports of OCTG from Mexico into the United States are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This preliminary determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: May 4, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation is certain OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than case iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of this investigation also covers OCTG coupling stock.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by performing any heat treatment, cutting, upsetting, threading, coupling, or any other finishing, packaging, or processing that would not otherwise

¹⁴ See TAMSAs's Letter, "Request for Postponement of Final Determination and Extension of Provisional Measures Period," dated April 27, 2022.

¹⁵ See Memorandum, "Less-Than-Fair-Value Investigation of Oil Country Tubular Goods from Mexico: Respondent Selection," dated November 12, 2021, at Attachment.

¹⁶ See also 19 CFR 351.210(e).

remove the merchandise from the scope of the investigation if performed in the country of manufacture of the OCTG.

Excluded from the scope of this investigation are: Casing, tubing, or coupling stock containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers:

7304.29.1010, 7304.29.1020, 7304.29.1030, 7304.29.1040, 7304.29.1050, 7304.29.1060, 7304.29.1080, 7304.29.2010, 7304.29.2020, 7304.29.2030, 7304.29.2040, 7304.29.2050, 7304.29.2060, 7304.29.2080, 7304.29.3110, 7304.29.3120, 7304.29.3130, 7304.29.3140, 7304.29.3150, 7304.29.3160, 7304.29.3180, 7304.29.4110, 7304.29.4120, 7304.29.4130, 7304.29.4140, 7304.29.4150, 7304.29.4160, 7304.29.4180, 7304.29.5015, 7304.29.5030, 7304.29.5045, 7304.29.5060, 7304.29.5075, 7304.29.6115, 7304.29.6130, 7304.29.6145, 7304.29.6160, 7304.29.6175, 7305.20.2000, 7305.20.4000, 7305.20.6000, 7305.20.8000, 7306.29.1030, 7306.29.1090, 7306.29.2000, 7306.29.3100, 7306.29.4100, 7306.29.6010, 7306.29.6050, 7306.29.8110, and 7306.29.8150.

The merchandise subject to this investigation may also enter under the following HTSUS item numbers:

7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.39.0076, 7304.39.0080, 7304.59.6000, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, 7304.59.8070, 7304.59.8080, 7305.31.4000, 7305.31.6090, 7306.30.5055, 7306.30.5090, 7306.50.5050, and 7306.50.5070.

The HTSUS subheadings and specifications above are provided for convenience and customs purposes only. The written description of the scope of this investigation is dispositive.

Appendix II—List of Sections in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of the Investigation
- V. Discussion of the Methodology
- VI. Preliminary Affirmative Determination of Critical Circumstances
- VII. Currency Conversion
- VIII. Recommendation

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB850]

Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Issuance of Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The National Marine Fisheries Service (NMFS) is issuing a permit to authorize the incidental, but not intentional, take of specific Endangered Species Act (ESA)-listed marine mammal species or stocks under the Marine Mammal Protection Act (MMPA), in the California (CA) thresher shark/swordfish drift gillnet fishery and the corresponding high seas component of the fishery as defined on the MMPA List of Fisheries as the Pacific highly migratory species drift gillnet fishery.

DATES: The permit is effective for a three-year period beginning May 11, 2022.

ADDRESSES: Reference materials for the permit including the final negligible impact determination are available on the internet at: <https://www.fisheries.noaa.gov/action/negligible-impact-determination-and-mmpa-section-101a5e-authorization-ca-thresher-shark> or <https://www.regulations.gov/docket/NOAA-NMFS-2021-0105>. Other supporting information is available on the internet including: Recovery plans for the ESA-listed marine mammal species, <https://www.fisheries.noaa.gov/national/ endangered-species-conservation/recovery-species-under-endangered-species-act>; 2021 MMPA List of Fisheries (LOF), <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>; the most recent Marine Mammal Stock Assessment Reports (SAR) by region, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>, and stock, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock>; and Take Reduction Teams and Plans, [https://www.fisheries.noaa.gov/national/marine-](https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-)

mammal-take-reduction-plans-and-teams.

FOR FURTHER INFORMATION CONTACT: Tina Fahy, NMFS West Coast Region, (562) 980–4023, Christina.Fahy@noaa.gov; or Jaclyn Taylor, NMFS Office of Protected Resources, (301) 427–8402, Jaclyn.Taylor@noaa.gov.

SUPPLEMENTARY INFORMATION: The MMPA requires NMFS to authorize the incidental take of ESA-listed marine mammals in commercial fisheries provided it can make the following determinations: (1) The incidental mortality and serious injury (M/SI) from commercial fisheries will have a negligible impact on the affected species or stocks; (2) a recovery plan for all affected species or stocks of threatened or endangered marine mammals has been developed or is being developed; and (3) where required under MMPA section 118, a take reduction plan has been developed or is being developed, a monitoring program is implemented, and vessels participating in the fishery are registered. NMFS has determined that the CA thresher shark/swordfish drift gillnet/Pacific highly migratory species drift gillnet fishery meets these three requirements and is issuing a permit to the fishery to authorize the incidental take of ESA-listed marine mammal species or stocks (CA/OR/WA stock of humpback whale and CA/OR/WA stock of sperm whale) under the MMPA for a period of three years.

Background

The MMPA List of Fisheries (LOF) classifies each commercial fishery as a Category I, II, or III fishery based on the level of mortality and injury of marine mammals occurring incidental to each fishery as defined in 50 CFR 229.2. Category I and II fisheries must register with NMFS and are subsequently authorized to incidentally take marine mammals during commercial fishing operations. However, that authorization is limited to those marine mammals that are not listed as threatened or endangered under the ESA. Section 101(a)(5)(E) of the MMPA, 16 U.S.C. 1371, states that NMFS, as delegated by the Secretary of Commerce, for a period of up to three years shall allow the incidental, but not intentional, taking of marine mammal stocks designated as depleted because of their listing as an endangered species or threatened species under the ESA, 16 U.S.C. 1531 *et seq.*, by persons using vessels of the United States and those vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson-Stevens Fishery Conservation and Management Act, 16