and Spare Parts

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–307–822]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Venezuela

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

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3207 and (202) 482–3434, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2002).

Final Determination

We determine that certain cold-rolled carbon steel flat products from Venezuela are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margin of dumping is shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on May 9, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products from Venezuela,* 67 FR 31273 (May 9, 2002) (''*Preliminary Determination*''). Since the publication of the *Preliminary Determination,* the following events have occurred.

On May 6, 2002, Siderurgica del Orinoco C.A. (''Sidor'') requested that the Department correct a ministerial error found in Sidor's preliminary determination calculations of the margin. On May 17, 2002, the Department determined that, although there was a certain ministerial error, it did not meet the definition of a significant ministerial error within the meaning of 19 CFR 351.224(g)(1). As a result, at that time we did not make the suggested correction. However, we have made the adjustment for the ministerial error in this final determination. *See Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Venezuela: Analysis of Allegation of Ministerial Error* (''*Ministerial Error Memo*'') dated May 17, 2002.

On May 10, 2002, Sidor submitted a proposed suspension agreement. *See Suspension Agreement Section* below.

On June 17 through June 28, 2002, the Department conducted a verification of Sidor at Puerto Ordaz, Venezuela. On July 31 through August 2, 2002, the Department conducted a verification of Siderca Corporation in Houston, Texas.

On August 21, 2002, Sidor submitted its case brief with respect to the Department's *Preliminary Determination* and verifications. On August 22, 2002, petitioners submitted their case brief with respect to the Department's *Preliminary Determination* and verifications. On August 26, 2002, petitioners and respondent submitted rebuttal briefs.

Scope of Investigation

With respect to scope, in the preliminary LTFV determinations in all of the cold-rolled steel investigation cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*:). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (''CRU''), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the following paragraph.

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings,* see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation (''POI'') is January 1, 2001, through June 30, 2001. This period corresponds to the two most recent fiscal quarters prior to the filing of the petition (*i.e.*, September 2001).

Facts Available

Section 776(a)(2) of the Act, provides that: If an interested party or any other

person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title. Because the cost of production data and constructed value information submitted by Sidor could not be verified, and the Department could not use Sidor's home market sales data, the Department applied total facts available pursuant to section 776(a)(2).

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide the person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate. Further, section 782(i)(1) states that Department shall verify all information relied upon in making a final determination in an investigation.

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may draw an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Section 776(b)(4) of the Act states that adverse inferences may be based on any other information placed on the record.

We find that, in accordance with sections 776(a)(2)(D) and 776(b) of the Act, the use of facts available for Sidor is appropriate for this final determination. Sidor failed to provide a reconciliation of the POI cost of manufacture per its books and records to the per-unit costs reported to the Department, thereby negating the Department's ability to use Sidor's home market sales data. Without this reconciliation, we are unable to determine whether Sidor accounted for all costs related to the merchandise under investigation. As such, the use of facts available in the final determination is warranted pursuant to section 776(a)(2)(D) of the Act.

The Department applies adverse facts available ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *Uruguay Round Agreements Act, Statement of Administrative Action,* H.R. Doc No. 103–316, vol. 1, at 870 (1994) (''SAA''). In this case, Sidor failed to cooperate to the best of its ability by not being adequately prepared for verification and not being able to reconcile its own cost data.

In selecting from among the facts available, section 776(b) of the Act authorizes the Department to use an inference that is adverse to a party if the Department finds that the party has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See* SAA 870. To examine whether the respondent ''cooperated'' by ''acting to the best of its ability'' under section 776(b) of the Act, the Department considers, inter alia, the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808 (October 16, 1997). In this case, Sidor has hindered the calculation of an accurate margin.

It is the Department's practice to assign the highest rate from any segment of a proceeding as total adverse facts available when a respondent fails to cooperate to the best of its ability. *See, e.g., Stainless Steel Plate in Coils From Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review,* 67 FR 5789 (February 7, 2002) (''Consistent with Department practice in cases where a respondent fails to cooperate to the best of its ability, and in keeping with section 776(b)(3) of the Act, as adverse facts available we have applied a margin based on the highest margin from this or any prior segment of the proceeding.''). Therefore, the Department is applying the rate from the Preliminary Determination to Sidor for this Final Determination. We are applying the petition rate for the All Other's Rate. *See All Other's Rate Section* below.

All Other's Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''all-others'' rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than facts available margins to establish the ''all others'' rate. Where the data does not permit weight-averaging such rates, the SAA at 873 provides that we may use other reasonable methods. Because the petition in this case contained only an estimated price-to-price dumping margin, which the Department adjusted for purposes of initiation, there are no additional estimated margins available with which to create the ''all others'' rate. *See Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Mexico,* 67 FR 566, 567–68 (January 4, 2002).

Therefore, we are not applying Sidor's adverse rate from the final determination to the All Other's Rate, but instead are using the lower petition rate as we recognize that nonparticipating parties have no culpability for the absence of company-specific information on the record and should not receive the adverse facts available rate. *See Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand,* 65 FR 5520 (February 4, 2000).

Analysis of Comments Received

All issues raised in the case brief by parties to this investigation are addressed in the *Decision Memorandum,* which is hereby adopted by this notice. A list of the issues which parties raised, and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in B–099. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn/.* The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

We have adjusted the calculation methodology used in the *Preliminary Determination* to correct for a clerical error (*see Case History* section and *Ministerial Error Memo*) in determining

the final dumping margin in this proceeding.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Suspension Agreement

On May 10, 2002, Sidor submitted a proposal for a suspension agreement in accordance with the Department's regulations at 19 CFR 351.208. On June 19, 2002, the Department met with representatives of Sidor to discuss the proposed suspension agreement. No agreement was concluded.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of cold-rolled steel from Venezuela, that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
Sidor	58.95
All Others	53.90

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix 1—General Issues

Comment 1: Reliability of Costs
Comment 2: Major Inputs
Comment 3: Depreciation
Comment 4: General and Administrative Expenses (''G&A'')
Comment 5: Financial Expenses
Comment 6: Sidor's Home Market Credit Expenses
Comment 7: Constructed Export Price Offset
Comment 8: Home Market Indirect Export Billing Adjustment
Comment 9: U.S. Inland Trucking Freight Expense
Comment 10: Ministerial Error
Comment 11: Ministerial Error
Comment 12: Computer Code Language

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–815]

Notice of the Final Determination Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From the Russian Federation

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

ACTION: Notice of the final determination of sales at less than fair value.

SUMMARY: The Department of Commerce is issuing its final determination of the less-than-fair-value investigation of certain cold-rolled carbon steel flat products from the Russian Federation.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Amy Ryan at 202–482–0961 or James C. Doyle at 202–482–0159, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (''cold-rolled steel'') from the Russian Federation (''Russia'') are being, or are likely to be sold, in the United States at less than fair value (''LFTV''), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From the Russian Federation*, 67 FR 31241 (May 9, 2002) (''*Preliminary Determination*''). This investigation was initiated on October 18, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 54198 (October 26, 2001) (''*Initiation Notice*'').

We gave interested parties an opportunity to comment on the preliminary determination. No case or rebuttal briefs were submitted.

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).