

This administrative review and notice are in accordance with section 751(a)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—List of Comments and Issues in the Decision Memorandum

Comment 1: 1995 Capital Increase for Usinor

Comment 2: Characterization of Programs

Providing No Benefit During the POR

Comment 3: Post-Privatization Treatment of

Usinor's Pre-Privatization Benefits

Comment 4: Appropriate AUL for Usinor

Comment 5: ECSC Article 55 Benefits

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-614-803]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from New Zealand

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

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT:

Salim Bhabhrawala at (202) 482-1784, or Tracy Levstik at (202) 482-2815, Office of AD/CVD Enforcement V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

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

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from New Zealand 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 margins of sales at LTFV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

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 and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products From New Zealand*, 67 FR 31231 (May 9, 2002) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. In July 2002, we gave interested parties an opportunity to comment on the preliminary determination. There were no case or rebuttal briefs submitted. A public hearing was not requested.¹

With respect to scope, in the preliminary LTFV determinations in this and the companion cold-rolled steel investigations, 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 petitioners²

¹ Normally, when the Department issues a final determination, the **Federal Register** notice is accompanied by a separate Issues and Decision Memorandum. Since no briefs were filed in this case, a separate memorandum is not required.

² 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 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 *Scope of Investigation* section below.

Scope of Investigation

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 the *Scope Appendix* 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 CRU.

Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

Analysis of Comments Received

As noted above, we received no comments from interested parties in response to our preliminary determination.

and Weirton Steel Corporation (collectively, the petitioners).

Facts Available

1. Application of Facts Available (FA)

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

On May, 16 2002, the sole respondent, BHP New Zealand Steel Limited (NZS) notified the Department that it did not intend to participate further in the Department's investigation and requested the return of all of its data. NZS was notified by the Department in all correspondence concerning the due dates for submitting data that failure to submit the requested information by the date specified may result in use of the FA, as required by section 776(c) of the Act and section 351.308 of the Department's regulations. See letters from the Department to NZS dated November 19, 2001; January 9, 2002; January 23, 2002; February 15, 2002; April 29, 2002; and April 30, 2002. Because NZS withheld information requested by the Department essential to the calculation of dumping margins, thereby significantly impeding the conduct of this proceeding, we have applied FA to calculate the dumping margin, pursuant to sections 776(a)(2)(A) and (C) of the Act.

2. Selection of Adverse Facts Available (AFA)

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. See, e.g., *Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative*

Review, 62 FR 53808, 53819–20 (October 16, 1997). As a general matter, it is reasonable for the Department to assume that NZS possessed the records necessary for the Department to complete its investigation since it provided a nearly complete response before withdrawing it from the record. Therefore, by withdrawing the information the Department requested, NZS failed to cooperate to the best of its ability. As NZS failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As AFA, we have assigned a margin of 21.72 percent, the sole rate derived from the petition. See *Initiation Notice* at 54205.

3. Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d). The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value (see SAA at 870).

The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (see SAA at 870). In order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose. See *New Zealand Initiation Checklist* (Initiation Checklist) on file in the CRU, for a discussion of the margin calculation in the petition. In addition, in order to determine the probative value of the margin in the petition for

use as AFA for purposes of this determination, we examined evidence supporting the calculation in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margin in the petition was based.

Export Price

With respect to the margin in the petition, EP was based on average per-unit customs import value (AUV) data for one HTSUS category that accounted for a large portion of imports of subject merchandise from New Zealand during the period. The petitioners made no adjustments to EP because using an unadjusted AUV as the export price is a conservative methodology. Our review of the EP calculation indicated that the information in the petition has probative value, as the unadjusted AUV included in the margin calculation in the petition is from public sources and concurrent, for the most part, with the POI. Consequently, we consider EPs which are based on U.S. customs data corroborated. See *Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 7684 (January 4, 1999) (Comment 13).

Normal Value

The petitioners calculated NV from price information obtained from foreign market research for grades and sizes of cold-rolled steel comparable to the products exported to the United States which serve as the basis for EP. The petitioners made no adjustment to NV. With regard to the NV contained in the petition, the Department has no useful information from the respondent or other interested parties and is aware of no other independent sources of information that would enable us to further corroborate the margin calculations in the petition. See *Initiation Checklist*. It is worth noting that the implementing regulation for section 776 of the Act states, "(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question." See 19 CFR 351.308(d). Additionally, the SAA at 870 specifically states that where "corroboration may not be practicable in a given circumstance, the Department need not prove that the facts available are the best alternative information." Therefore, based on our efforts, described above, to corroborate

information contained in the petition, and in accordance with section 776(c) of the Act, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this final determination. Accordingly, in selecting AFA with respect to NZS, the Department applied the petition rate of 21.72 percent.

All Others

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*, 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 the Department may weight-average margins other than zero, *de minimis*, and FA margins to establish the "All Others" rate. Where the data do not permit weight-averaging such rates, the SAA, at 873, provides that we may use other reasonable methods. As noted above, there was only one estimated margin derived from the petition. Therefore, we applied that margin of 21.72 percent as the "All Others" rate. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia*, 66 FR 22163 (May 3, 2001).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all imports of cold-rolled steel from New Zealand that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002 (the date of publication of the *Preliminary Determination* in the **Federal Register**). Customs 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. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margins exist for the period July 1, 2000, through June 30, 2001:

Manufacturer/exporter	Margin (percent)
BHP New Zealand Steel Limited (NZS)	21.72
All Others	21.72

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials 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 Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to 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 in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-24784 Filed 10-2-02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-849]

Notice of Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From the Republic of Korea

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

ACTION: Notice of final affirmative countervailing duty determination.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT:

Tipten Troidl at (202) 482-1767 or Darla Brown at (202) 482-2849, Office of AD/

CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUMMARY: On March 4, 2002, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of certain cold-rolled carbon steel flat products (subject merchandise) from the Republic of Korea for the period of investigation (POI) calendar year 2000 (67 FR 9685).

The net subsidy rate in the final determination differs from that of the preliminary determination. The revised final net subsidy rate is listed below in the "Suspension of Liquidation" section of this notice.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (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 (2001).

Background

On March 4, 2002, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of certain cold-rolled carbon steel flat products from the Republic of Korea. See *Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from the Republic of Korea*, 67 FR 9685 (March 4, 2002) (*Preliminary Determination*). This investigation covers the POI calendar year 2000.

We invited interested parties to comment on the *Preliminary Determination*. We received both case briefs and rebuttal briefs from interested parties. A public hearing was held on August 27, 2002. All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" (*Decision Memorandum*) dated September 23, 2002, which is hereby adopted by this notice.

With respect to scope, in the *Preliminary Determinations* in these cases, the Department preliminarily