[A–401–805]

Certain Cut-to-Length Carbon Steel Plate From Sweden: Preliminary Results of Antidumping Duty Administrative Review

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

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

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Sweden. This review covers one manufacturer/exporter of the subject merchandise to the United States and the period August 1, 1994 through July 31, 1995.

We have preliminarily determined that sales have been made below normal value (NV) by the company subject to this review. If these preliminary results are adopted in our final results of these administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the export price (EP) or constructed export price (CEP) and the NV.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: October 4, 1996.

FOR FURTHER INFORMATION CONTACT: Elizabeth Patience or Jean Kemp, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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).

Background

On August 19, 1993, the Department published in the Federal Register (58 FR 44162) the antidumping duty order on certain cut-to-length carbon steel plate from Sweden. On August 31, 1995, Bethlehem Steel Corporation, U.S. Steel Group (a Unit of USX Corporation), Inland Steel Industries Inc., Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, Geneva Steel, and Lukens Steel Company, petitioners, requested a review for SSAB Svenskt Stål AB (SSAB). On August 31, 1995, SSAB also requested a review for its exports of subject merchandise. On September 9, 1995, in accordance with 19 C.F.R. 353.22(c), we initiated the administrative review of this order for the period August 1, 1994, through July 31, 1995 (60 FR 46818). The Department is now conducting this administrative review in accordance with section 751(a) of the Act.

SSAB's two affiliated steel producing companies, SSAB Oxelösund AB (SSOX) and SSAB Tunnplåt AB (SSTP), produced the subject merchandise at three production facilities. The SSOX facility was the source of all subject merchandise sold in the US and the vast majority of potential matches.

Scope of Review

Certain cut-to-length plate includes hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The period of review (POR) is August 1, 1994, through July 31, 1995.

Verification

As provided in section 782(i) of the Act, we conducted verification of the information provided by respondent, using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports (Memorandum to the File from Elizabeth Patience and Lisa Raisner, September 25, 1996, the SSAB Sales Verification Report; Memorandum to the File from Elizabeth Patience and James Rice, September 25, 1996, the U.S. Sales Verification Report; Memorandum to the File from Elizabeth Patience and Alex Braier, September 25, 1996, the Downstream Sales Verification Report; Memorandum from Theresa Caherty and Elizabeth Patience, September 20, 1996, the Cost Verification Report).

Facts Available

On February 6, 1996, petitioners requested that the Department initiate a cost investigation of SSAB. The Department initiated a cost of production (COP) investigation of SSAB on March 15, 1996. In its initial Section D questionnaire, the Department specified that the COP and constructed value (CV) figures should be based on the actual costs incurred by the company during the POR and recorded in the normal accounting system. The initial questionnaire also specified that the submitted costs must *reconcile* to the actual costs reported in the cost accounting system used by the company to prepare its financial statements. Moreover, the initial questionnaire specified that if the company did not intend to use its normal accounting system and cost allocation methods to compute COP and CV, the company *must* contact the Department before preparing the response; SSAB did not contact us before it submitted the response on April 17, 1996. After reviewing SSAB's Section D response, we noted that the company did not use its normal accounting system to calculate COP and CV data. Specifically, we found that the response was based on a special system (''kalkyl'') which is not used in the respondent's normal accounting system. The kalkyl system is, in essence, a sales estimating tool. In

accordance with Section 782(d), on May 7, 1996 and June 14, 1996, the Department issued supplemental Section D questionnaires, which requested that SSAB provide a complete explanation of the kalkyl system. The supplemental questionnaires also requested worksheets that reconciled the submitted cost information to the financial accounting records. The supplemental Section D questionnaires further instructed the company to contact the Department if there was any uncertainty as to these instructions. On August 1, 1996, in advance of the scheduled COP/CV verification, the Department issued an agenda for the COP/CV verification. The agenda stated that the cost data submitted to the Department must be reconciled to the company's general ledger, cost accounting system, and financial statements. Additionally, the agenda indicated specific steps that would be followed at verification to reconcile the submitted cost data to the normal accounting books and records. The agenda also stated that if the company had any questions or if any of the verification procedures could not be performed, the officials should contact the Department. The company made minor inquiries about the supplemental questionnaire but did not discuss with the Department its use of the kalkyl system or its inability to perform the necessary reconciliation. In addition, they made no inquiries about the verification agenda.

In accordance with Section 782(i), from August 12 through August 16, 1996, the Department conducted a verification of the company's submitted cost data. SSOX was unable to reconcile its submitted cost data to its normal accounting books and records. At verification, we found that the system used to prepare the cost response was a special version of the kalkyl system. SSOX was unable to reconcile its normal kalkyl system to this ''modified'' kalkyl system. Further, SSOX was unable to reconcile its financial accounting system to its ''normal'' kalkyl system. In short, SSOX was unable to reconcile its submitted cost data to its normal accounting books and records and was thus unable to demonstrate that the submitted COP and CV data was based on the company's actual production experience. (For a more detailed explanation, see the public version of the Cost Verification Report.)

Because the company was unable to reconcile the submitted costs to its normal accounting books and records, the verification could not proceed in an orderly and timely manner. Therefore, major areas of the response and significant items identified in the agenda were not tested or were incomplete. These areas included materials, labor, variable overhead, fixed overhead, and transactions with affiliated entities.

Our verification testing and other evidence on the record regarding SSAB's use of a modified kalkyl system indicate that this system had a significant distortive impact on SSAB's reported COP and CV data. SSAB's failure to reconcile its submitted costs to its normal books and records prevents us from quantifying the magnitude of the distortions which exist in its submitted data. (For a more detailed explanation, see the public version of the Cost Verification Report.)

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.

Subsection (e) provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the Department if—

(1) the information is submitted by the deadline established for its submission,

(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 in providing the information and meeting the requirements established by the Department with respect to the information, and

(5) the information can be used without undue difficulties.

SSAB's failure to reconcile its submitted costs to its financial accounting system constitutes a verification failure under Section 776(a)(2)(D) of the Act. We must therefore consider whether the submitted cost data is useable under Section 782(e) of the Act.

When examined in light of the requirements of section 782(e), the facts in this case indicate that SSAB's reported cost data is so thoroughly and systematically flawed as to render it unusable. First, for the reasons detailed above, the accuracy of SSAB's submitted cost data could not be verified, as required by section (e)(2). Second, because of the flaws in its cost data, (which are detailed in the Cost Verification Report) SSAB's submitted cost data ''cannot serve as a reliable basis for reaching the applicable determination'' under section (e)(3), nor can it ''be used without undue difficulties'' under section (e)(5). Third, in its failure to provide cost information that could be reconciled to its financial statements, and its failure to give the Department fair notice of this defect, SSAB has not acted to the ''best of its ability'' in meeting the Department's requirements, pursuant to section 782(e)(4) of the Act.

The use of facts available is also subject to section 782(d) of the Act. Subsection 782(d) provides that if the Department ''determines that a response to a request for information * * * does not comply with the request, {the Department} shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for completion of investigations or reviews under this title.'' SSAB had ample opportunity to correct the defects in its submitted cost data. As indicated above, the deficiency in SSAB's submissions in reconciling its submitted costs to its accounting records was brought to its attention in a supplemental questionnaire and again during verification. SSAB, however, failed to modify its methodology to comply with the Department's instructions.

For the foregoing reasons, the Department has determined that, insofar as SSAB's cost data could not be verified, section 776(a) of the Act requires the Department to use the facts available with respect to this data. However, the Department must also determine whether (1) the use of facts available for SSAB's cost data renders the rest of SSAB's submitted information (*i.e.*, the sales data) unusable, and (2) whether the use of adverse information as facts available is warranted.

First, we have determined that the required use of facts available for SSAB's cost data renders its sales data unusable. Because of the flawed nature of the cost data, home market sales

cannot be tested to determine whether they were made at prices above production cost. Insofar as the Department can only make price-to-price comparisons (normal value to export price) on those home market sales that are made above cost, the systematically flawed nature of the cost data makes these comparisons impossible. A second problem with using the home market sales data is the absence of reliable difference in merchandise figures (DIFMERs). Under section 773(a)(6)(C), when comparing normal value to export price or constructed export price, the Department is required to account for the effect of physical differences between the merchandise sold in each market. In this case, DIFMERs were required for substantially all United States and home market matches. Because DIFMER data is based on cost information from the section D response (which as discussed above could not be verified), the effect of physical differences could not be determined by the Department.

In the absence of home market sales data (*i.e.*, when the home market is viable but there are insufficient sales above COP to compare with U.S. sales), the Department would normally resort to the use of constructed value as normal value. However, the constructed value information reported by SSAB includes the discredited cost data. Therefore, the use of facts available for cost of production data precludes the use of the submitted constructed value information.

Ranged public data submitted by other respondents was not an available alternative basis of normal value, nor was the petitioners' own cost data. The petitioners' cost data is not on the record in this review because their allegation of sales below cost of production was based on SSAB's data. Moreover, because SSAB is the only participant in this proceeding, we do not have ranged public data submitted by other respondents to use as facts available.

The Department's prior practice has been to reject a respondent's submitted information *in toto* when flawed and unreliable cost data renders any price-to-price comparison impossible. The rationale for this policy is contained in *Notice of Final Determination of Sales at Less than Fair Value: Grain-Oriented Electrical Steel From Italy,* 59 FR 33952, 33953–54 (July 1, 1994), (*Electrical Steel From Italy*), where the respondent failed the cost verification. The Department explained that the rejection of a respondent's questionnaire response *in toto* is appropriate and consistent with past practice in instances where a respondent failed to provide verifiable COP information:

If the Department were to accept verified sales information when a respondent's cost information (a substantial part of the response) does not verify, respondents would be in a position to manipulate margin calculations by permitting the Department to verify only that information which the respondent wishes the Department to use in its margin calculation.

That is the situation with SSAB, which has provided, in proper form, sales information which could be verified, but has not provided cost data which could be verified (see detailed discussion of verification testing in the Cost Verification Report). Although *Electrical Steel from Italy* was a case involving the Best Information Available (BIA) under the ''old'' statute, it is evidence of the Department's practice of regarding verified sales information as unusable when the corresponding cost data is so flawed that price-to-price comparisons are rendered impossible. Cf. *Certain Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Review,* 61 FR 18547, 18559 (April 26, 1996) (the use of total BIA warranted where reliable price-to-price comparisons are not possible).

Accordingly, we find that there is no reasonable basis for determining normal value for SSAB in this review. As a result, we could not use SSAB's U.S. sales data in determining an antidumping margin. The Department, therefore, had no choice but to resort to a total facts available methodology.

With regard to which total facts available are appropriate, section 776(b) provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. See also SAA at 870. Specifically, section 776(b) of the Act provides that, where 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 from [the Department] * * * [the Department] may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.''

As discussed above, SSAB failed to reconcile the reported costs to its financial accounting records. Moreover, SSAB made no effort to provide the Department with notice of this defect. We have thus determined that SSAB has not acted to the best of its ability to comply with our requests for information. Accordingly, consistent with section 776(b) of the Act, we have applied total adverse facts available.

Section 776(b) authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Section 776(c) provides that the Department shall, to the extent practicable, corroborate ''secondary information'' by reviewing independent sources reasonably at its disposal. The SAA, at 870, makes it clear that ''secondary information'' includes information from the petition in the less-than-fair-value (LTFV) investigation and information from a previous Section 751 review of the subject merchandise. The SAA also provides that ''corroborate''' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *Id.*

For our total adverse FA margin, we considered both the highest transaction margin from the first administrative review, a review which included only SSAB, and the BIA rate from the LTFV investigation, which was based on an average of petition rates. We chose the latter because, while SSAB did not act to the best of its ability in responding to our cost information requests, it did cooperate with respect to certain aspects of this review.

To corroborate the LTFV BIA rate of 24.23 percent, we examined the basis of the rates contained in the petition. The US price in the petition was based on actual prices from invoices, quotes to U.S. customers, and IM–145 import statistics. Additionally, the foreign market value was based on actual price quotations to home market customers, home market price lists and published reports of domestic prices. Home market price quotations were obtained through a market research report. See, *Initiation of Antidumping Duty Investigations and Postponement of Preliminary Determinations: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Various Countries,* 57 FR 33488 (July 29, 1992). As we stated in the *Final Determination of Sales at LTFV: Certain Pasta From Turkey,* 61 FR 30309 (June 14, 1996), export prices which are based on U.S. import statistics are considered corroborated. In addition, price lists and published reports of domestic prices which support the petition margin are independent sources. With regard to

market research reports, we have accepted these as corroborative in light of the Department's practice of confirming the accuracy of such reports prior to initiation. *See Pasta From Turkey* at 30312. Thus, the LTFV BIA rate is corroborated.

Preliminary Results of Review

As a result of our review, we preliminarily determine the dumping margin (in percent) for the period August 1, 1994, through July 31, 1995 to be as follows:

Manufacturer/exporter	Margin (percent)
SSAB	24.23

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 180 days after the date of publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed company will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate made effective by the final results of the 1993–1994 administrative review of this order. (See, *Certain Cut-to-Length Carbon Steel Plate From Sweden; Final Results of Antidumping Duty Administrative Review,* 61 FR 15772 (April 9, 1996).) As noted in these final results, this rate is the ''all others'' rate from the relevant LTFV investigation. (See, *Final Determination,* 58 FR 37213 (July 9, 1993).) These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: September 25, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–25534 Filed 10–3–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–405–802]

Certain Cut-to-Length Carbon Steel Plate From Finland: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review

SUMMARY: In response to requests from the respondent, Rautaruukki Oy (Rautaruukki), and from petitioners (Bethlehem Steel Corporation, U.S. Steel Company a Unit of USX Corporation, Inland Steel Industries, Inc., Geneva Steel, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and Lukens Steel Company), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Finland. This review covers the above manufacturer/exporter of the subject merchandise to the United States. The period of review (POR) is August 1, 1994, through July 31, 1995.

We preliminarily determine the dumping margin for Rautaruukki to be 16.6 percent during the POR. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding should also submit with the argument (1) a statement of the issue, and 2) a brief summary of the argument.

EFFECTIVE DATE: October 4, 1996.

FOR FURTHER INFORMATION CONTACT: Robin Gray or Jacqueline Wimbush, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0159 or (202) 482–1394, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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 Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 Fed. Reg. 25130).

Background

On July 9, 1993, the Department published in the Federal Register (58 Fed. Reg. 37136) the final affirmative antidumping duty determination on certain cut-to-length carbon steel plate from Finland. We published an antidumping duty order on August 19, 1993 (58 Fed. Reg. 44165). On August 1, 1995, the Department published the Opportunity to Request an Administrative Review of this order for the period August 1, 1994–July 31, 1995 (60 Fed. Reg. 39150). The Department received requests for an administrative review of Rautaruukki's exports from Rautaruukki itself, a producer/exporter of the subject merchandise, and from the petitioners. We initiated the review on September 8, 1995 (60 Fed. Reg. 46817).

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On April 1, 1996, the Department extended the time limits for the preliminary and final results in this