

merchandise on each of the importer's/customer's entries during the review period.

### Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for subject merchandise manufactured and exported by Jinan Yipin, the cash-deposit will be that established in the final results of this review except if the rate is less than .50 percent and therefore *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash-deposit rate will be zero; (2) for all other PRC exporters, including Shandong Heze, the rate will continue to be the PRC country-wide rate, which is 376.67 percent; and (3) for all other non-PRC exporters of subject merchandise from the PRC, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: July 24, 2002

**Bernard T. Carreau,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 02-19342 Filed 7-30-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-833]

### Stainless Steel Bar From Japan: 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 a request from a domestic interested party, the Department of Commerce is conducting an administrative review of the antidumping duty order on stainless steel bar from Japan for the period February 1, 2001, through January 31, 2002. This review covers one producer/exporter of subject merchandise, Aichi Steel Works, Ltd.

We have preliminarily determined a dumping margin in this review. If these preliminary results are adopted in the final results of this administrative review, we will instruct the Customs Service to assess antidumping duties on any entries of subject merchandise manufactured or exported by Aichi Steel Works, Ltd.

We invite interested parties to comment on these preliminary results.

**EFFECTIVE DATE:** July 31, 2002.

**FOR FURTHER INFORMATION CONTACT:** Brian Ellman, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4852.

### SUPPLEMENTARY INFORMATION:

#### 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 of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (April 2001).

#### Background

On February 1, 2002, the Department published a notice of "Opportunity to Request Administrative Review" (67 FR 4945) with respect to the antidumping duty order on stainless steel bar from

Japan. The petitioners, Carpenter Technology, Crucible Specialty, Electralloy, and Slater Steels, requested a review of Aichi Steel Works, Ltd. (Aichi) on February 27, 2002. In response to the petitioners' request, the Department published a notice of initiation of an administrative review on March 27, 2002 (67 FR 14696), in accordance with 19 CFR 351.213(b).

#### Scope of Order

The merchandise covered by this review is stainless steel bar. For purposes of this review, the term "stainless steel bar" means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross-section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.*, cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross-section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this review is currently classifiable under subheadings 7222.11.00, 7222.19.00, 7222.20.00 and 7222.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this review is dispositive.

#### Period of Review

The period of review is February 1, 2001, to January 31, 2002.

#### Facts Available

Section 776(a)(2) of the Act provides that, if an interested party 1) withholds information that has been requested by the Department, 2) fails to provide such

information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, 3) significantly impedes a determination under the antidumping statute, or 4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, then the Department shall, subject to section 782(d) of the Act, use facts otherwise available in determining dumping margins.

The Department sent Aichi a questionnaire on April 4, 2002, with a due date of May 13, 2002, seeking information necessary to conduct a review of any shipments that the firm may have made to the United States during the period of review. Aichi did not respond to our original questionnaire, nor did it make any effort to inform the Department of its intention not to respond. On May 15, 2002, two days after the deadline for responding to the Department's questionnaire, the Department contacted counsel for Aichi, and received a return phone message five days later, on May 20, 2002, in which counsel for Aichi indicated that the company would not be responding to the Department's questionnaire in this segment of the proceeding. See Memorandum regarding Notification of Respondent's Decision Not to Respond to Department's Questionnaire: Stainless Steel Bar from Japan (May 21, 2002). The company did not notify the Department of any difficulties in complying with the request for information, nor did it seek an opportunity to submit information in alternative forms with an appropriate explanation. Therefore, Aichi failed to comply with the provisions of section 782(c) of the Act. Because Aichi has withheld information that was requested by the Department, and has failed to provide any information whatsoever, the statute directs that we determine Aichi's dumping margin using facts otherwise available, pursuant to sections 776(a)(2)(A) and (B) of the Act. Because Aichi has provided no information whatsoever, sections 782(d) and (e) of the Act are inapplicable.

In selecting from the facts otherwise available, section 776(b) of the Act provides that the Department may use an inference that is adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with a request for information. The section also provides that an adverse inference may include reliance on information derived from the petition, the final determination in the investigation segment, a previous review under section 751 of the Act or

a determination under section 753 of the Act, or any other information placed on the record. See sections 776(b)(1)-(4) of the Act. In addition, the Statement of Administrative Action accompanying the URAA, H.Doc.103-316, vol.1 (1994) (SAA), establishes that the Department may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." SAA at 870. As noted above, Aichi not only failed to respond to the Department's questionnaire, it took no affirmative steps to inform the Department of its intention not to participate until the Department contacted its counsel. Moreover, Aichi did not inform the Department of any difficulties in meeting requirements, nor did it seek to submit data in alternative forms with an appropriate explanation. On these grounds, the Department finds that Aichi failed to cooperate by not acting to the best of its ability to comply with the Department's request for information, and accordingly, pursuant to section 776(b), we are employing an adverse inference in selecting from the facts available.

The Department's practice when selecting an adverse rate from among the possible sources of information has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Static Random Access Memory Semiconductors From Taiwan; Final Determination of Sales at Less Than Fair Value*, 63 FR 8932 (February 23, 1998). In employing adverse inferences, the Department is instructed to consider "the extent to which a party may benefit from its own lack of cooperation." SAA at 870.

In order to ensure that the rate is sufficiently adverse so as to induce Aichi's cooperation, we have assigned this company as adverse facts available a rate of 61.47 percent, which is the margin calculated in the original less-than fair-value (LTFV) investigation using information provided in the petition. See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Japan*, 59 FR 66930 (December 28, 1994). The rate was selected as the best information available in the final determination of the investigation, and has been applied as the "all-others" rate in every subsequent review. Although two other rates have been calculated for Aichi in prior segments of this proceeding, those rates were calculated based on Aichi's cooperation. To apply one of those rates

as the adverse facts available rate would unduly reward Aichi's lack of cooperation in the current review. Therefore, pursuant to section 776(b)(1), the Department finds that the rate of 61.47 percent is an appropriate basis for adverse inference.

Section 776(c) of the Act provides that the Department when using secondary information shall, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Information from a prior segment of the proceeding, such as that used here, constitutes secondary information. See SAA at 870. The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. SAA at 870. As explained in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used.

To assess the reliability of the petition margin, in accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the calculations of export price and normal value upon which the petitioners based their margins for the petition. The U.S. prices in the petition were based on quotes to U.S. customers, most of which were obtained through market research. See *Petition for the Imposition of Antidumping Duties*, December 30, 1993. We were able to corroborate the U.S. prices in the petition by comparing these prices to publicly available information based on IM-145 import statistics covering sales from Japan which were contemporaneous with the period of this administrative review. See Memorandum from Brian Ellman, Case Analyst to the File, Corroboration of Petition Rate for Use as Facts Available, July 8, 2002.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an

appropriate margin. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996) (the Department disregarded the highest dumping margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). There is no evidence of circumstances indicating that the margin used as facts available in this review is not appropriate.

Throughout the history of this proceeding, all producers/exporters of subject merchandise except Aichi have been subject to the rate of 61.47 percent for several years. Aichi was also subject to this rate as a result of the investigation. As this rate has never before been challenged, except by Aichi in previous segments, nor has any information been presented in the current review that calls into question the reliability or the relevance of the information contained in the petition, the Department finds that the information is reliable. The implementing regulation for section 776 of the Act, codified at 19 CFR 351.308(d), 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." Additionally, the SAA at 870 states specifically that "{t}he fact that corroboration may not be practicable in a given circumstance will not prevent the agencies from applying an adverse inference." The SAA at 869 emphasizes that 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 776(c) of the Act, which discusses facts available and corroboration, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this preliminary determination (*see Certain Forged Stainless Steel Flanges From India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 10358, 10360 (March 7, 2002)). Therefore, the requirements of section 776(c) of the Act are satisfied.

#### Preliminary Results of the Review

As a result of this review, the Department preliminarily determines that a margin of 61.47 percent exists for Aichi for the period February 1, 2001, to January 31, 2002.

Interested parties may request a hearing not later than 30 days after publication of this notice. Interested parties may also submit written arguments in case briefs on these preliminary results within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument a statement of the issue and a brief summary of the argument. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs.

The Department will publish the final results of this administrative review, including a discussion of its analysis of issues raised in any case or rebuttal brief or at a hearing. The Department will issue final results of this review within 120 days of publication of these preliminary results.

Upon completion of the final results in this review, the Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The rate will be assessed uniformly on all entries of Aichi merchandise made during the period of review. The Department will issue appraisement instructions for Aichi merchandise directly to the Customs Service.

Furthermore, the following deposit rates 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 this administrative review, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for Aichi will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original 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 (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 61.47 percent, the "all others" rate established in the LTFV investigation (59 FR 66930, December 28, 1994). This deposit rate, 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

351.402(f)(2) 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.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 23, 2002.

**Bernard Carreau,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### University of California, Riverside; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

*Docket Number:* 02-021. *Applicant:* University of California, Riverside, Riverside, CA 92521. *Instrument:* Two (2) Confocal Microscopes, Models TCS SP2/UV and TCS SPS RS-2P. *Manufacturer:* Leica Microsystems, Germany. *Intended Use:* See notice at 67 FR 44424, July 2, 2002.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) A confocal microscope with spectral detection, (2) a pinhole design for registration of all fluorescence colors and (3) fast scan speed. The National Institutes of Health advises in its memorandum of June 12, 2002 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.