

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the Customs Service to continue to suspend all entries of cold-rolled steel from Venezuela, that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of our preliminary determination.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/manufacture	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Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.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).

On May 13, 2002, the Russian Ministry of Economic Development and Trade submitted to the Department a proposed draft of a suspension agreement between them and the Department. On May 30, 2002, the Russian government requested an extension of the final determination in order to have time to negotiate an agreement to suspend this investigation. On August 23, 2002, in Washington, DC, representatives from three of Russia's cold-rolled producers initialed the agreed upon suspension agreement. Please see IA's Web site at <http://www.ia.ita.doc.gov/download/russia-cold-rolled/ip-ltr-draft-cold-rolled-susp-agreement> for the initialed draft agreement and cover letter sent to the interested parties. We invited comments on the proposed agreement and received them from petitioners on September 16, 2002.

On September 23, 2002, the final suspension agreement was signed by JSC Severstal, Novolipetsk Iron and Steel Corporation and JSC Magnitogorsk Iron and Steel Works, (collectively the "Russian cold-rolled steel producers") and the Department, the effective date being September 23, 2002. On September 24, 2002, on behalf of the Russian cold-rolled steel producers, we received a request for continuation of the investigation. Pursuant to this request, we have continued and completed the investigation in accordance with section 734(g) of the Act.

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).

Final Critical Circumstances Determination

On November 29, 2001 and December 7, 2001, four of the petitioners in the investigation (Nucor Corporation, Steel Dynamics, Inc., WCI Steel, Inc., and Weirton Steel Company) submitted an allegation of critical circumstances with respect to imports of cold-rolled steel from Russia and requested an expedited decision in the matter. On April 10, 2002, the Department issued its preliminary affirmative determination that critical circumstances exist with respect to imports of cold-rolled steel from Russia. See *Memorandum to Faryar Shirzad from Joseph A. Spetrini: Preliminary Affirmative Determinations of Critical Circumstances* (April 10, 2002); and *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157 (April 18, 2002) ("Critical Circumstances Notice"). We received no comments regarding our preliminary finding that critical circumstances exist for imports of cold-rolled steel from Russia. Therefore, we have not changed our determination and continue to find that critical circumstances exist for imports of cold-rolled steel from Russia.

Nonmarket Economy Country Status

The Department has treated Russia as a nonmarket economy ("NME") country in all past antidumping investigations. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*, 65 FR 42669 (July 11, 2000); *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 64 FR 38626 (July 19, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, 62 FR 61787. No party has sought revocation of the NME status in this investigation.² Therefore, in accordance with section 771(1)(C) of the Act, we will continue to

² We note that effective April 1, 2002, Russia is considered a market economy country. However, because the POI took place before this date, Russia continues to be considered an NME for this investigation. See *Memorandum From Albert Hsu, Barbara Mayer and Christopher Smith through Jeff May to Faryar Shirzad: Inquiry into the Status of the Russian Federation as a Non-Market Economy Country Under the U.S. Antidumping Law* (June 6, 2002) at Import Administration's Web site, <http://www.ia.ita.doc.gov/download/russia-nme-status/russia-nme-decision-final.html>.

treat Russia as a NME country for purposes of this investigation.

Russia-Wide Rate

In a NME proceeding, the Department presumes that all companies within the country are subject to governmental control, and assigns separate rates only if the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities. See *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). As no party requested that it be assigned a separate rate in this investigation, there was no demonstration of eligibility for a separate rate under the separate rates criteria. Accordingly, we determine that all exporters are subject to the Russia-wide rate.

Analysis of Comments Received

As noted above, there were no case or rebuttal briefs submitted in this investigation, nor was there a hearing. Additionally, we received no comments from interested parties in response to our preliminary results.

Facts Available

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 for submission of the information, or in the form and manner requested, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) 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.

As explained in the *Preliminary Determination*, neither Severstal or the Government of Russia ("GOR") responded to the Department's questionnaire. Without a response to the Department's antidumping questionnaire, we have no foundation for determining a margin. As done in

the preliminary determination in this investigation, the Department has applied facts available ("FA"), in accordance with section 776(a)(2) of the Act, in making our final antidumping determination. See *Preliminary Determination* for a further discussion of this issue.

Selection of Adverse FA

In selecting from among the facts otherwise available, section 776(b) of the Act provides that if the Department finds the respondent "has failed to cooperate by not acting to the best of its ability to comply with a request for information * * * {the Department} may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." 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). Severstal did not attempt to respond to the Department's questionnaire, but stated its intention of not responding to the questionnaire at all. See *Memorandum to The File from Juanita H. Chen: Failure of Respondent JSC Severstal to Respond to Questionnaire* (February 4, 2002). As noted above, the GOR also did not respond at all to the Department's questionnaire. Because the Department has determined that both Severstal and the GOR failed to cooperate to the best of their abilities, we are applying an adverse inference pursuant to section 776(b) of the Act. As adverse FA, we have applied the margin from initiation (i.e., the highest margin based on the amended petition), which is 137.33 percent, as the Russia-wide rate. See AD Initiation Checklist (October 18, 2001). Pursuant to section 776(c) of the Act, the Department has corroborated the 137.33 percent margin from initiation to the extent practicable. See *Total Facts Available Corroboration Memorandum* (April 26, 2002). This Russia-wide rate applies to all entries of subject merchandise. See *Preliminary Determination* for a further discussion of this issue.

Termination of Suspension of Liquidation

On September 23, 2002, the Department signed a suspension agreement with the Russian cold-rolled steel producers. Therefore, we will instruct Customs to terminate the suspension of liquidation of all entries of hot-rolled steel from Russia. Any cash deposits of entries of hot-rolled steel from Russia shall be refunded and any bonds shall be released.

On September 24, 2002, on behalf of the Russian cold-rolled steel producers, we received a request for continuation of the investigation. Pursuant to this request, we have continued and completed the investigation in accordance with section 734(g) of the Act. We have found the following weight-averaged dumping margin exists for the period January 1, 2001 through June 30, 2001:

Manufacturer/exporter	Margin (percent)
Russia-Wide Rate	137.33

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. Because our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threatening material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the Agreement will have no force of effect, and the investigation shall be terminated. See Section 734(f)(3)(A) of the Act. If the ITC determines that such injury does exist, the Agreement shall remain in force but the Department shall not issue an antidumping order so long as (1) the Agreement remains in force, (2) the Agreement continues to meet the requirements of subsections (d) and (l) of the Act, and the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms. See section 734(f)(3)(B) of the Act.

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 in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 24, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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