

margin based on the petition information, that difference is a result of the more complete data-set provided by Samsung. Within that data-set, we have confirmed that some of Samsung's product-specific margins exceed the 55.36 percentage rate calculated in the petition. Thus, because the petition rate is not contradicted by the evidence gathered during the investigation, we continue to find it of probative value in drawing an adverse inference concerning dumping by LG.

LG's reliance on *D&L Supply* is misplaced. *D&L Supply* dealt with a situation in which the Department attempted to rely on a calculated margin from a prior review when that calculated margin had been revised as a result of litigation. The Federal Circuit held that continued use of the judicially invalidated rate was erroneous. That situation is significantly different from the present case. In this case, the petition was based on data from one respondent and the Department has calculated a different weighted-average dumping margin for that respondent. A petition rate is normally based on a limited selection of the products and prices at which subject merchandise has been sold during the period of the investigation. Only by participation in the investigation will the Department obtain, for each individual respondent, more complete data on the products and prices sold by the respondents throughout the period of investigation. Based on the complete universe of products and prices for each respondent, the Department calculates a weighted-average dumping margin for the respondent. Of course, each respondent's products and prices will be different and, typically, different from that contained in the petition. However, it is only by cooperating in the investigation that the Department obtains the data to determine the extent to which a respondent's product-mix and price-mix differs from the information contained in the petition. Finally, LG argues that Samsung's reported U.S. and home market prices were different from those used in the petition. It further maintains that had Samsung's reported prices been used, the result would have lowered the margin. However, the prices cited in the petition represented a reasonable estimate of Samsung's prices based on the information available at the time the petition was filed. Corroboration of the petition does not require the substitution if actual reported numbers where the Department finds that the information originally submitted has probative value. Because the

Department has found that the petition prices were probative of the level of dumping which may have taken place during the period of investigation, we have continued to rely on it in this final determination.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) and 735(c)(4)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of SRAMs from Korea that are entered, or withdrawn from warehouse, for consumption on or after October 1, 1997 (the date of publication of the preliminary determination in the **Federal Register**). The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Samsung Electronics Co. Ltd ...	1.00
Hyundai Electronics Co. Ltd	5.08
LG Semicon Co. Ltd	55.36
All others rate	5.08

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 Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: February 13, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-307-813]

Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Venezuela

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

ACTION: Final determination of sales at less than fair value.

SUMMARY: The Department has made a final affirmative determination in this antidumping duty investigation. Because the respondent, C.V.G. Siderurgica del Orinoco, C.A., did not permit verification of its questionnaire responses, the margin in this determination is based on the facts available, in accordance with section 776(a)(2) of the Tariff Act of 1930, as amended. As facts available, we have applied the highest margin derived from the petition.

EFFECTIVE DATE: February 23, 1998.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Daniel Manzoni, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4136 or (202) 482-1121, respectively.

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"). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR 351 (62 FR 27296; May 19, 1997), do not govern this investigation, citations to those regulations are provided, where appropriate, to explain current Departmental practice.

Final Determination

We determine that steel wire rod ("SWR") from Venezuela is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735(b) of the Act. The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination in this investigation (Preliminary Determination and Postponement of Final Determination: Steel Wire Rod from Venezuela, 62 FR 51584, October 1, 1997), (Preliminary Determination) the following events have occurred:

On October 2, 1997, we issued a supplemental questionnaire regarding the cost of production questionnaire response to the respondent, C.V.G. Siderurgica del Orinoco, C.A. ("Sidor").

On October 28, 1997, Sidor advised the Department that it would not respond to the Department's October 2, 1997, supplemental questionnaire and it would not participate in verification of its questionnaire responses.

On January 5, 1998, the petitioners submitted a case brief and on January 12, 1998, Sidor submitted a rebuttal brief.

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon steel and alloy steel products, in coils, of approximately round cross section, between 5.00 mm (0.20 inch) and 19.0 mm (0.75 inch), inclusive, in solid cross-sectional diameter. Specifically excluded are steel products possessing the above noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States ("HTSUS") definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; (e) free machining steel that contains by weight 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4 percent of phosphorus, more than 0.05 percent of selenium, and/or more than 0.01 percent of tellurium; or (f) concrete reinforcing bars and rods. The following products are also excluded from the scope of this investigation:

- Coiled products 5.50 mm or less in true diameter with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.68 percent; aluminum less than or equal to 0.005 percent; phosphorus plus sulfur less than or equal to 0.040 percent; maximum combined copper, nickel and chromium content of 0.13 percent; and nitrogen less than or equal to 0.006 percent. This product is commonly referred to as "Tire Cord Wire Rod."

- Coiled products 7.9 to 18 mm in diameter, with a partial decarburization of 75 microns or less in depth and seams no more than 75 microns in

depth, containing 0.48 to 0.73 percent carbon by weight. This product is commonly referred to as "Valve Spring Quality Wire Rod."

- Coiled products 11 mm to 12.5 mm in diameter, with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.72 percent; manganese 0.50–1.10 percent; phosphorus less than or equal to 0.030 percent; sulfur less than or equal to 0.035 percent; and silicon 0.10–0.35 percent. This product is free of injurious piping and undue segregation. The use of this excluded product is to fulfill contracts for the sale of Class III pipe wrap wire in conformity with ASTM specification A648–95 and imports of this product must be accompanied by such a declaration on the mill certificate and/or sales invoice. This excluded product is commonly referred to as "Semifinished Class III Pipe Wrap Wire."

The products under investigation are currently classifiable under subheadings 7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, and 7227.90.6050 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Exclusion of Pipe Wrap Wire

As stated in the Preliminary Determination, North American Wire Products Corporation ("NAW"), an importer of the subject merchandise from Germany, requested that the Department exclude steel wire rod used to manufacture Class III pipe wrapping wire from the scope of the investigations of steel wire rod from Canada, Germany, Trinidad and Tobago, and Venezuela. On December 22, 1997, NAW submitted to the Department a proposed exclusion definition. On December 30, 1997, and January 7, 1998, the petitioners submitted letters concurring with the definition of the scope exclusion and requesting exclusion of this product from the scope of the investigation. We have reviewed NAW's request and petitioners' comments and have excluded steel wire rod for manufacturing Class III pipe wrapping wire from the scope of this investigation (see Memorandum to Richard W. Moreland dated January 9, 1998, and instructions to Customs dated January 13, 1998).

Period of Investigation

The period of investigation ("POI") is January 1, 1996, through December 31, 1996.

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, (3) significantly impedes an antidumping investigation, or (4) provides such information but the information cannot be verified, the Department is required to use facts otherwise available to make its determination (subject to subsections 782(c) (1) and (e)).

In addition, section 776 (b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences against an interested party if that party failed to cooperate by not acting to the best of its ability to comply with requests for information. See also "Statement of Administrative Action" accompanying the URAA, H.R. Rep. No. 316, 103rd Cong., 2d Sess. 870 ("SAA"). The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition.

Sidor's decision not to respond to the Department's October 2, 1997, supplemental cost of production questionnaire and refusal to permit the Department to verify the information it submitted for the record in this investigation demonstrates that it failed to act to the best of its ability in this investigation. Therefore, the Department has determined that, in selecting from among the facts available, an adverse inference is appropriate. Consistent with Department practice in cases where a respondent withdraws its participation in an investigation, as adverse facts available, we have applied a margin based on information in the petition (see, e.g., Final Determination of Sales at Less Than Fair Value: Vector Supercomputers From Japan, 62 FR 45623, August 28, 1997, ("Vector Supercomputers")). See also Comment 1.

Section 776(c) of the Act provides that, when the Department relies on secondary information (such as information contained in the petition) as facts available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Corroborate means determine that the secondary information to be used has probative value. See SAA at 870.

The petitioners calculated the highest margin in the petition, 66.75 percent, based on a comparison of the petitioners' estimate of ex-factory export price to the petitioners' estimate of the constructed value ("CV"), as shown at Exhibit D of the petitioners' March 11, 1997, submission. The petitioners derived export price based on price quotations to U.S. purchasers. Because Sidor's questionnaire response data is unverified, we did not rely on this data for purposes of corroboration. Therefore, we have compared the petitioners' export price estimate to IM-145 Import Statistics. Our comparison of these prices showed them to be reasonably consistent (see Memorandum to the file dated February 6, 1998). Accordingly, we determine that this export price calculation set forth in the petition has probative value.

To calculate CV, the petitioners used manufacturing costs based on one petitioner's own production experience and publicly available industry data. When analyzing the petition, the Department reviewed all of the data the petitioners relied upon in calculating the estimated CV, and adjusted those calculations where necessary. For purposes of corroboration, we re-examined the data submitted by the petitioners and found it to be reasonable and of probative value. In addition, we note that no party has presented to the Department any information to support a challenge to the appropriateness of the information contained in the petition as the basis for a facts available margin for Sidor. See Vector Supercomputers, where the Department applied facts available margin in closely similar circumstances. In accordance with section 776(c) of the Act, we have corroborated the highest margin in the petition, which is secondary information upon which we have relied as facts available.

Interested Party Comment

Comment: Facts Available Rate for Sidor

The petitioners contend that, because Sidor refused to allow the Department to verify its questionnaire responses and refused to respond to the Department's October 2, 1997, supplemental questionnaire, the Department must assign Sidor a margin based on adverse facts available. Accordingly, the petitioners claim that the Department should assign the higher of the highest non-aberrational dumping margin calculated from Sidor's questionnaire responses, or the highest estimated dumping margin listed in the petition.

Sidor contends that the Department should apply the rate of 51.21 percent calculated for the preliminary determination as the appropriate facts available rate for this proceeding. However, Sidor has provided no support for its position.

DOC Position

We agree with the petitioners that the highest rate alleged in the petition, and as corroborated by the Department, is the appropriate facts available rate in this determination. Under section 782(i)(1) of the Act, the Department must rely on verified information for making a final determination in an antidumping duty investigation. Sidor's refusal to permit verification of its questionnaire responses prevents the Department from using Sidor's information for our final determination. Therefore, we did not use the margin calculated in the preliminary determination because it is based on unverified questionnaire response information. Using Sidor's unverified information as the basis for the final margin could possibly reward the respondent by assigning a margin lower than what would have been calculated using verified information. As noted above, in cases such as this one, the Department relies on the facts otherwise available, normally data from the petition, for making its determination. We have no basis in this instance to depart from this practice. Normally, the all-others rate is to be amount equal to the weighted average of the estimated weighted average dumping margins for exporters and producers individually investigated, excluding margins based entirely on facts available. Section 735(c)(5)(A). However, if all of the estimated dumping margins are based entirely on facts available, the statute permits the Department to use any reasonable method to establish the all others rate. Section 735(c)(5)(B). As discussed above, Sidor was the only respondent in this investigation and its margin was based entirely on facts available. The margin calculated for Sidor for purposes of the preliminary results of this investigation cannot serve as a reasonable all others rate because, as discussed above, it has not been verified. Further, there is no other information on which to base an all others rate. Accordingly, we have based the all others rate on Sidor's rate.

Suspension of Liquidation

On February 13, 1998, pursuant to section 734(b) the Act, the Department signed a suspension agreement, with SIDOR. Pursuant to section 734(f)(2)(A) of the Act, we are instructing Customs

to terminate the suspension of liquidation of all entries of steel wire rod from Venezuela. Any cash deposits of entries of steel wire rod from Venezuela shall be refunded and any bonds released.

On February 13, 1998, we received a request from Sidor requesting that we continue the investigation. As a result of this request, we have continued and completed the investigation in accordance with section 734(g) of the Act. We have found the following margins of dumping:

Exporter/manufacturer	Margin percentage
CVG Siderurgica Del Orinoco C.A. ("Sidor")	66.75
All Others	66.75

ITC Notification

In Accordance with section 734(d) of the Act, we have notified the ITC of our determination. If our 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's injury determination is negative, the agreement will have no force or effect. See section 734(f)(3)(A) of the Act. If the ITC's injury determination is affirmative, the Department will not issue an antidumping duty order as long as the suspension agreement remains in force, the agreement continues to meet the requirements of subsections (b) and (d) of section 734 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.

This determination is published pursuant to section 735(d) of the Act.

Dated: February 13, 1998.
Robert S. LaRussa,
Assistant Secretary for Import Administration.
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DEPARTMENT OF COMMERCE

International Trade Administration

[A-307-813]

Suspension of Antidumping Duty Investigation: Steel Wire Rod From Venezuela

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