

benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see *Policy Bulletin 96-1: Currency Conversions*, 61 FR 9434 (March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the New Taiwan dollar did not undergo a sustained movement during the POI.

**Verification**

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin Percentage
Walsin Cartech Specialty Steel Corporation .....	27.81
Yieh Hsing Enterprise Corporation, Ltd. ....	10.50
All Others .....	17.09

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

**Public Comment**

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than May 22, 1998, and rebuttal briefs no later than May 29, 1998. A list of authorities used and an executive summary of issues must accompany any briefs submitted to

the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on June 2, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within thirty days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 777(i) of the Act.

Dated: February 25, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-401-806]

**Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Wire Rod From Sweden**

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

**EFFECTIVE DATE:** March 5, 1998.

**FOR FURTHER INFORMATION CONTACT:** Sunkyu Kim or Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2613 or (202) 482-1766, 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 to the regulations at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

**Preliminary Determination**

We preliminarily determine that stainless steel wire rod ("SSWR") from Sweden is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

**Case History**

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan* (62 FR 45224, August 26, 1997)), the following events have occurred:

In August 1997, the Department obtained information from the U.S. Embassy in Sweden identifying Fagersta Stainless AB ("Fagersta") as the only potential producer and/or exporter of the subject merchandise to the United States. Based on this information, the Department issued the antidumping questionnaire to Fagersta in September 1997. Section A of the questionnaire requests general information concerning the company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of that merchandise in all markets. Sections B and C of the questionnaire request home market sales listings and U.S. sales listings. Section D of the questionnaire requests information regarding the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E of the questionnaire requests information regarding the cost of further manufacture or assembly performed in the United States.

Also in September 1997, the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination in this case (see ITC Investigation No. 731-TA-770).

In October 1997, the Department received a response to Section A of the

questionnaire from Fagersta. On October 14, 1997, Fagersta requested that the Department modify the reporting period for a U.S. affiliate. The Department granted this request on October 16, 1997. Fagersta (hereinafter "the respondent") submitted its response to sections B, C, and E of the questionnaire in November 1997.

On October 10, 1997, the petitioners in this case (i.e., AL Tech Specialty Steel Corp., Carpenter Technology Corp., Republic Engineered Steels, Talley Metals Technology, Incl, and United Steelworkers of America) requested that the Department revise its questionnaire to obtain information on the actual nickel, chromium, and molybdenum content for each sale of the SSWR made during the period of investigation. On October 17, 1997, the respondent requested that the Department deny the petitioners' request. The Department, upon consideration of the comments from all parties on this matter, issued a memorandum on December 18, 1997, indicating its decision to make no changes in the model-matching criteria specified in the September 19, 1997, questionnaire (see Memorandum from Team to Holly Kuga, Office Director, dated December 18, 1997).

On October 20, 1997, Fagersta requested that it be allowed to exclude from its sales listing U.S. sales of certain wire products further manufactured from subject merchandise. On November 6, 1997, the Department denied this request and required Fagersta to report these sales of further-manufactured products in its response. On November 7, 1997, Fagersta requested that it be allowed to exclude certain other sales made in the United States. Fagersta stated that these sales constitute an insignificant amount of its total U.S. sales made during the period of investigation and that they are unrepresentative of Fagersta's normal sales. We granted Fagersta's request on November 12, 1997.

On November 25, 1997, the petitioners submitted a timely allegation pursuant to section 773(b) of the Act that Fagersta had made sales in the home market at less than the cost of production ("COP"). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that Fagersta sold SSWR in the home market at prices at less than the COP. Accordingly, we initiated a COP investigation with respect to Fagersta pursuant to section 773(b) of the Act (see Memorandum from Team to Louis Apple, Office Director, dated December 16, 1997).

On December 11, 1997, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination. We granted this request and, on December 16, 1997, we postponed the preliminary determination until no later than February 25, 1998 (62 FR 66849, December 22, 1997).

We received Fagersta's response to Section D of the questionnaire in January 1998. We issued supplemental questionnaires for Sections A, B, C and E to Fagersta in January 1998 and received responses to these questionnaires along with a revised U.S. sales listing in February 1998. Fagersta also submitted additional clarifications to its responses in February 1998.

*Postponement of Final Determination and Extension of Provisional Measures*

Pursuant to section 735(a)(2) of the Act, on February 9, 1998, Fagersta requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. On February 12, 1998, Fagersta amended its request to include a request to extend the provisional measures to not more than six months.

In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) Fagersta accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

*Scope of Investigation*

For purposes of this investigation, SSWR comprises products that are hot-rolled or hot-rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot-rolling or hot-rolling, annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar.

The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire-drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches diameter. Two stainless steel grades, SF20T and K-M35FL, are excluded from the scope of the investigation. The chemical makeup for the excluded grades is as follows:

**SF20T**

Carbon .....	0.05 max .....	Chromium .....	19.00/21.00.
Manganese .....	2.00 max .....	Molybdenum .....	1.50/2.50.
Phosphorous .....	0.05 max .....	Lead .....	added (0.10/0.30).
Sulfur .....	0.15 max .....	Tellurium .....	added (0.03 min).
Silicon .....	1.00 max .....		

**K-M35FL**

Carbon .....	0.015 max .....	Nickel .....	0.30 max.
Silicon .....	0.70/1.00 .....	Chromium .....	12.50/14.00.
Manganese .....	0.40 max .....	Lead .....	0.10/0.30.
Phosphorous .....	0.04 max .....	Aluminum .....	0.20/0.35.
Sulfur .....	0.03 max .....		

The products under investigation are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 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 investigation is dispositive.

#### *Period of Investigation*

The period of investigation ("POI") is July 1, 1996, through June 30, 1997.

#### *Fair Value Comparisons*

To determine whether sales of SSWR from Sweden to the United States were made at less than fair value, we compared the export price ("EP") or constructed export price ("CEP") to the Normal Value ("NV"), as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs for comparison to weighted-average NVs.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX v. United States*, 1998 WL 3626 (Fed Cir.). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the "ordinary course of trade." This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. See Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of Investigation" section of this

notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire. We have implemented the Court's decision in this case, to the extent that the data on the record permitted.

In instances where the respondent has reported a non-AISI grade (or an internal grade code) for a product that falls within a single AISI category, we have used the actual AISI grade rather than the non-AISI grades reported by respondents for purposes of our analysis. However, in instances where the chemical content ranges of reported non-AISI (or an internal grade code) grades are outside the parameters of an AISI grade, we have preliminarily used the grade code reported by the respondent for analysis purposes. We intend to examine this issue further for the final determination.

With respect to home market sales of non-prime merchandise made by Fagersta during the POI, we excluded these sales from our preliminary analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POI, in accordance with our past practice (see, e.g., *Final Determinations of Sales at Less Than Fair Value: 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 Korea* (58 FR 37176, 37180, July 9, 1993)).

#### *Level of Trade*

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. For EP, the LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

Fagersta reported one customer category (i.e., "wire drawers") and one channel of distribution (i.e., direct sales from mill to end users) for its home market sales. In its response, Fagersta claims that its sales to the unaffiliated customers are at a different LOT than its sales to the affiliated customers because Fagersta provides significantly different selling services to its affiliated customers than what it provides to its unaffiliated customers. Specifically, Fagersta identified the following selling services it provides to its unaffiliated customers: (1) General promotion and marketing services; (2) freight and delivery; (3) post-sale warranty services; and (4) pre-sale technical services. For sales to its affiliated customers, Fagersta listed the following services: (1) Priority production and delivery or just-in-time processing; (2) high level of technical cooperation; (3) network data exchange; (4) prices set annually; (5) warranty service; (6) billet rebates; and (7) freight and delivery. Fagersta claims that, because it offers significantly different services to its affiliated customers, in comparison to its services to unaffiliated customers, Fagersta charges its affiliated customers higher prices. Therefore, Fagersta claimed an LOT adjustment on this basis.

In determining whether separate levels of trade actually existed in the home market, we examined whether Fagersta's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions. As noted above, Fagersta's sales to its unaffiliated and affiliated

customers were made through the same channel of distribution and to the same category of customer. With respect to selling activities, we note that, in some instances, the activities Fagersta characterized as selling functions (e.g., billet rebates and annual price setting) are not distinct selling functions which we consider to be relevant to our LOT analysis. Furthermore, based on our analysis, we note that, while there are some differences in selling activities between Fagersta's sales to affiliated customers and unaffiliated customers (e.g., just-in-time processing services), we do not find that such differences are sufficient to establish a difference in marketing stage (or its equivalent). As discussed in the Department's regulations, substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. See 19 CFR 351.412. See also *Notice of Final Results: Antidumping Duty Administrative Review of Antifriction Bearings from France et al.*, 62 FR 2081, 2105 (January 15, 1997). Based on this analysis, we find that Fagersta's home market sales comprise a single level of trade.

Fagersta reported both EP and CEP sales in the U.S. market. For EP sales, Fagersta reported one channel of distribution (i.e., direct sales from the mill to unaffiliated end users). In analyzing Fagersta's selling activities for its EP sales, we noted that the sales involved basically the same selling functions associated with the home market level of trade described above. Therefore, based upon this information, we have determined that the level of trade for all EP sales is the same as that in the home market.

The CEP sales were based on sales made by Fagersta to Sandvik Steel Company ("SSUS"), one of Fagersta's U.S. affiliates, which then sold the merchandise to unaffiliated purchasers in the United States. Based on our analysis, we find that the selling functions performed at the CEP level are essentially the same as those performed in the home market. Specifically, after making deductions pursuant to section 772(d) of the Act, we determined that there were three selling activities performed by Fagersta associated with its sales to SSUS: (1) Freight and delivery; (2) post-sale warranty services; and (3) pre-sale technical services, which are the same functions we found in the home market. Therefore, we determine that Fagersta's CEP sales and its home market sales are made at the same level of trade. Accordingly, because we find the U.S. sales and home market sales to be at the same level of

trade, no level-of-trade adjustment under section 773(a)(7)(A) of the Act is warranted.

#### *Export Price and Constructed Export Price*

Fagersta reported as EP transactions its sales of subject merchandise sold to unaffiliated U.S. customers prior to importation through two affiliated companies in the United States (Avesta Sheffield Inc. ("ASI") and SSUS). Fagersta reported as CEP transactions its sales of subject merchandise sold to SSUS for its own account. SSUS then resold the subject merchandise to unaffiliated customers or further manufactured the wire rod into wire products which are outside the scope of this investigation.

With respect to sales made through ASI and SSUS prior to importation, Fagersta claims that these sales are properly classified as EP sales because ASI and SSUS act only as sales-document processors and communication links to facilitate Fagersta's U.S. sales to unaffiliated customers. Specifically, Fagersta states the following: (1) neither ASI nor SSUS takes physical possession of the merchandise; (2) the merchandise is shipped directly from Fagersta to the customer; (3) neither ASI nor SSUS has independent authority to establish prices; (4) the essential terms of sales are set and approved by Fagersta in Sweden; and (5) all relevant sales activities are performed by Fagersta in Sweden before exportation. Therefore, according to Fagersta, ASI and SSUS are mere conduits of sales information for Fagersta's direct mill sales to unaffiliated U.S. customers.

We examine several factors to determine whether sales made prior to importation through an affiliated sales agent to an unaffiliated customer in the United States are EP sales, such as (1) whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether the sales follow customary commercial channels between the parties involved; and (3) whether the function of the U.S. selling agent is limited to that of a "processor of sales-related documentation" and a "communication link" with the unrelated U.S. buyer. Where the factors indicate that the activities of the U.S. affiliate are ancillary to the sale (e.g., arranging transportation or customs clearance), we treat the transactions as EP sales. Where the U.S. affiliate is substantially involved in the sales process (e.g., negotiating prices), we treat the transactions as CEP sales.

Based on our review of the selling activities of Fagersta's U.S. affiliates, we preliminarily determine that EP is appropriate for Fagersta's sales to the United States through ASI and SSUS. The customary commercial channel between Fagersta and its unaffiliated customers is that Fagersta ships the EP merchandise directly to the unaffiliated U.S. customers without having the merchandise enter into the inventory of the U.S. affiliates and that the U.S. affiliates' activities are limited to that of a "processor of sales-related documentation" and a "communication link" with the unaffiliated U.S. buyers. Accordingly, for purposes of the preliminary determination, we are treating the sales in question as EP transactions. We will examine this issue further at verification.

We calculated EP, in accordance with section 772(a) of the Act, for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted, based on the facts of record. We based EP on the packed delivered price to unaffiliated purchasers in the United States. We added to the starting price any alloy surcharges and, where appropriate, made adjustments for price-billing errors and freight revenue. We made deductions for early payment discounts and rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, and U.S. inland freight expenses (freight from port to warehouse and freight from warehouse to the customer).

We calculated CEP, in accordance with subsections 772(b) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States. In addition, Fagersta reported sales of wire and wire products (non-subject merchandise) which were further manufactured from wire rod (subject merchandise) by one of its affiliates in the United States. In deciding whether to base CEP on the sales of subject merchandise that are further manufactured, the Department determines whether the value added is likely to exceed substantially the value of the subject merchandise in accordance with section 772(e) of the Act. Section 772(e) of the Act provides alternatives to backing out the value added after importation, when doing so

would cause an undue burden on the Department. See Statement of Administrative Action, H.R. Doc. No. 316, Vol. 1, 103d Cong., 2d Sess. (1994), 825–826. Normally, when the estimated value-added amount exceeds 65% of the value of the merchandise sold to unaffiliated purchasers, the CEP for such merchandise will be established by an alternative methodology in accordance with section 772(e) of the Act. See 19 CFR 351.402(c)(2). In this case, we determine that section 772(e) of the Act does not apply because the value added in the United States by the affiliated person is not likely to exceed substantially the value of the subject merchandise. Therefore, for subject merchandise further manufactured in the United States, we used the starting price of the subject merchandise and deducted the costs of further manufacturing to determine CEP for such merchandise, in accordance with section 772(d)(2) of the Act.

We based CEP on the packed FOB or delivered prices to unaffiliated purchasers in the United States. We added to the starting price any alloy surcharges and, where appropriate, made adjustments for price-billing errors and freight revenue. We made deductions for early payment discounts and rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight expenses (freight from port to warehouse and freight from warehouse to the customer), and post-sale warehousing expenses. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs and warranty expenses), inventory carrying costs, U.S. repacking expenses, and indirect selling expenses. We also deducted an amount for further-manufacturing costs, where applicable, in accordance with section 772(d)(2) of the Act and made an adjustment for profit in accordance with section 772(d)(3) of the Act.

#### Normal Value

After testing (1) home market viability; (2) whether sales to affiliates were at arm's-length prices and (3) whether home market sales were at below-cost prices, we calculated NV as noted in the "Price to Price

Comparisons" and "Price to CV Comparisons" sections of this notice.

#### 1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent.

#### 2. Affiliated-Party Transactions and Arm's-Length Test

Fagersta, in its response, claimed that we should not include in our analysis Fagersta's sales of wire rod to its affiliated customers in the home market. According to Fagersta, due to the close relationship between Fagersta and its affiliates based on their common ownership and interdependence in the production of wire rod and wire products, Fagersta's transactions with these affiliated companies should be treated as internal transfers. Fagersta cited to the *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of the Antidumping Duty Administrative Reviews*, 62 FR 18404 (April 15, 1997) ("*Carbon Steel Flat Products From Korea*") in support of its claim. This case upon which Fagersta relied is inapposite. The issue in *Carbon Steel Flat Products from Korea* was whether to "collapse" affiliated producers/exporters for margin-calculation purposes. We do not use that type of analysis to determine whether transactions between affiliated parties are an appropriate basis for determining NV. The Department's standard practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are at arm's-length prices. Therefore, in accordance with that practice, we performed an arm's-length test on Fagersta's sales to affiliates as follows.

Sales to affiliated customers in the home market not made at arm's-length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102. To test whether

these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c) and 62 FR at 27355. In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina* (58 FR 37062, 37077 (July 9, 1993)). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

#### 3. Cost of Production Analysis

As stated in the "Case History" section of the notice, based on a timely allegation filed by the petitioners, the Department initiated a COP investigation of Fagersta to determine whether sales were made at prices less than the COP.

We conducted the COP analysis described below.

##### A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Fagersta's cost of materials and fabrication for the foreign like product, plus an amount for home market SG&A, interest expenses, and packing costs. We used the information from Fagersta's January 26, 1998, questionnaire response to calculate COP.

Fagersta purchased a major input (*i.e.*, steel billets) for SSWR from affiliated parties. In accordance with section 773(f)(3) of the Act, we used the higher of the transfer price or cost of production to value the billets in our analysis. No information on the market value of billets was available. We excluded from billet costs the net foreign exchange gain that had been charged to material acquisitions because Fagersta did not describe in its response how it derived the amount of the gain and how the gain was related to purchases of materials used to produce the subject merchandise. See

Memorandum to Chris Marsh from Art Stein, dated February 25, 1998.

*B. Test of Home Market Sales Prices*

We compared the weighted-average COP for Fagersta, adjusted where appropriate, to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses.

*C. Results of the COP Test*

Pursuant to section 773(b)(2)(C), where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

We found that, for certain grades of SSWR, more than 20 percent of Fagersta's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining above-cost sales as the basis for determining NV if such sales existed, in accordance with section 773(b)(1). For those U.S. sales of SSWR for which there were no comparable (above-cost) home market sales in the ordinary course of trade, we compared export prices or constructed export prices to CV in accordance with section 773(a)(4) of the Act.

*D. Calculation of CV*

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of Fagersta's cost of materials, fabrication, SG&A, interest, and U.S. packing costs. As noted above in the "Calculation of COP" section of the notice, for CV we adjusted billet costs to exclude the net foreign exchange gain that had been charged to materials acquisitions. In accordance with sections 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

*Price-to-Price Comparisons*

We calculated NV based on delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length prices. We made deductions, where appropriate, from the starting price for discounts, rebates, inland freight, and "billing error" rebates. We made adjustments for differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses and warranties. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

*Price-to-CV Comparisons*

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. Where we compared CV to EP, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses in accordance with section 773(a)(6)(C)(iii) of the Act. Where we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses.

*Currency Conversion*

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily

exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) of the Act directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see *Policy Bulletin 96-1: Currency Conversions* (61 FR 9434, March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Swedish Krona did not undergo a sustained movement.

*Verification*

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

*Suspension of Liquidation*

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Fagersta Stainless AB .....	6.51
All Others .....	6.51

*ITC Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports

are materially injuring, or threaten material injury to, the U.S. industry.

#### Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than June 1, 1998, and rebuttal briefs no later than June 8, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on June 12, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 777(i) of the Act.

Dated: February 25, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-824]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany

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

**EFFECTIVE DATE:** March 5, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Sunkyu Kim or Everett Kelly, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2613 or (202) 482-4194, 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 to the regulations at 19 CFR part 351 (62 FR 27296, May 19, 1997).

#### Preliminary Determination

We preliminarily determine that stainless steel wire rod ("SSWR") from Germany is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since the initiation of this investigation on August 19, 1997 (see *Notice of Initiation of Antidumping Duty Investigations: Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden and Taiwan* (62 FR 45224, August 26, 1997) ("Notice of Initiation")), the following events have occurred:

On September 15, 1997, the United States International Trade Commission ("ITC") notified the Department of its affirmative preliminary injury determination in this case (see ITC Investigation No. 731-TA-770).

In September 1997, the Department obtained information from the U.S. Embassy in Germany identifying Krupp Edelstahlprofile and BGH Edelstahl Freital GmbH as the potential producers and/or exporters of the subject merchandise to the United States. Based on this information, on September 19, 1997, the Department issued the antidumping duty questionnaire to the following producers/exporters of SSWR to the United States: Krupp Edelstahlprofile GmbH and Krupp Hoesch Steel Products (collectively "Krupp") and BGH Edelstahl Freital GmbH ("BGH Edelstahl").

On October 23, 1997, BGH Edelstahl informed the Department, via facsimile message, that it would not respond to

the Department's antidumping questionnaire.

On October 24, 1997, Krupp submitted its response to Section A of the questionnaire. Subsequently, on October 27, 1997, Krupp informed the Department that it would not respond to Sections B, C, and D of the Department's antidumping questionnaire.

On December 11, 1997, petitioners made a timely request that the Department postpone the preliminary determination in this investigation and the companion investigations of SSWR from Italy, Japan, Korea, Spain, Sweden, and Taiwan to February 25, 1998. We did so on December 16, 1997, in accordance with section 733(c)(1) of the Act (see *Notice of Postponement of Preliminary Antidumping Duty Determinations: Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan*, 62 FR 66849, 66850 (December 22, 1997)).

#### Scope of Investigation

For purposes of this investigation, SSWR comprises products that are hot-rolled or hot-rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime, or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot-rolling or hot-rolling, annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar.

The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire-drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches in diameter. Two stainless steel grades, SF20T and K-M35FL, are excluded from the scope of the investigation. The chemical makeup for the excluded grades is as follows: