

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

### Public Comment

Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than 50 days after the date of publication of this notice, and rebuttal briefs no later than 55 days after the date of publication of this notice. Rebuttal briefs must be limited to the issues raised in the case briefs. 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 fifty-seven days after publication of this notice, at the U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

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 date of 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. At the hearing, oral presentations will be limited to issues raised in the briefs. See 19 CFR 351.310(c). We will make our final determination, unless postponed, no later than 75 days after this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: April 26, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-821-815]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From the Russian Federation

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

**ACTION:** Notice of preliminary determination of the less-than-fair-value investigation of certain cold-rolled carbon steel flat products from the Russian Federation.

**SUMMARY:** The Department of Commerce ("Commerce") has preliminarily determined that imports of 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 ("LTFV").

**EFFECTIVE DATE:** May 9, 2002.

**FOR FURTHER INFORMATION CONTACT:** Juanita H. Chen 202-482-0409 or Aishe Allen at 202-482-0172, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

#### The Applicable Statute and Regulations

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 C.F.R. Part 351 (2001).

#### Background

On October 18, 2001, the Department initiated antidumping duty investigations to determine whether imports of cold-rolled steel from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela are being, or are likely to be, sold in the United States at LTFV. 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"). The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation ("Petitioners").<sup>1</sup>

On November 13, 2001, the International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of cold-rolled steel from all of these countries. See Certain Cold-Rolled Carbon Steel Products From Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, 66 FR 57985 (November 19, 2001).

On November 23, 2001, the Department issued its respondent selection memorandum, selecting JSC Severstal ("Severstal") as the sole mandatory respondent to be investigated. See Memorandum from James C. Doyle to Edward C. Yang: Selection of Respondents, at 2 (November 23, 2001) ("Respondent Selection Memo"). On November 27, 2001, the Department issued its antidumping questionnaire to Severstal and to the Government of the Russian Federation ("GOR"). The Department received no responses to the questionnaire. See Memorandum to The File from Juanita H. Chen: Failure of Respondent JSC Severstal to Respond to Questionnaire (February 4, 2002) ("Failure to Respond Memo").

On February 7, 2002, three of the petitioners requested that the Department postpone the preliminary determination by fifty days. See Letter to the Department from Bethlehem Steel Corporation, National Steel Corp., and United States Steel Corporation (February 7, 2002). On February 22, 2002, the Department postponed the preliminary determination in this investigation to April 26, 2002. See Postponement of Preliminary Determinations of Antidumping Duty Investigations: Certain Cold-Rolled

<sup>1</sup> Effective January 1, 2002, the party previously known as "United States Steel LLC" changed its name to "United States Steel Corporation." See letter from Skadden, Arps, Slate, Meagher & Flom LLP (February 1, 2002).

Carbon Steel Flat Products from Argentina, et al., 67 FR 8227 (February 22, 2002).

On March 15, 2002, petitioners submitted a letter requesting that the Department apply a dumping margin based on total adverse facts available for Severstal. Petitioners argue that because Severstal failed to timely provide the information requested by the Department, as adverse facts available, the Department should apply the highest calculated dumping margin of 332.59 percent from the antidumping petition or, in the alternative, apply the highest dumping margin of 137.33 percent from the notice of initiation.

### Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, as well as a complete discussion of all scope exclusion requests submitted in the context of the on-going cold-rolled steel investigations, please see the "Scope Appendix" attached to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, published concurrently with this preliminary determination.

### 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).

### Critical Circumstances

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").

### 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. This NME designation remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. No party has sought revocation of the NME status in this investigation.<sup>2</sup> Therefore, in accordance with section 771(1)(C) of the Act, we will continue to treat Russia as a NME country.

### 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 preliminarily determine all exporters are subject to the Russia-wide rate.

### 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.

<sup>2</sup> We note there is an ongoing inquiry into the status of Russia as a NME country, for which a hearing was conducted on March 27, 2002. Information on this separate proceeding can be found at Import Administration's website, at <http://ia.ita.doc.gov/>

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.

Given the extent to which Severstal exported cold-rolled steel from Russia during the POI, Severstal was designated as the sole mandatory respondent in the investigation. See Respondent Selection Memo, at 4. However, both Severstal and the GOR failed to submit any response to the Department's questionnaire. As noted in the *Failure to Respond Memo*, Severstal indicated that it did not plan to respond to the Department's NME antidumping questionnaire, with the understanding that the Department would apply facts available methodology. Without a response from Severstal to the Department's antidumping questionnaire, we have no foundation for determining a margin. Thus, the Department has applied facts available ("FA"), in accordance with section 776(a)(2) of the Act, in making our preliminary antidumping determination.

### 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 outright its intention of not responding to the questionnaire at all. See *Failure to Respond Memo*. As a general matter, it is reasonable for the Department to assume that Severstal possessed the records necessary for this investigation, and that by not supplying any information requested by the Department, Severstal failed to cooperate to the best of its ability. Because the Department has determined Severstal failed to cooperate to the best

of its ability, 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) ("Initiation Checklist"). 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.

#### Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for Russia when we make our final determination regarding sales at LTFV in this investigation, which will be no later than 75 days after the publication of this notice in the **Federal Register**.

#### Suspension of Liquidation

Because of our preliminary affirmative critical circumstances finding, we are directing Customs to suspend liquidation of all entries of cold-rolled steel from Russia entered, or

withdrawn from warehouse, for consumption on or after 90 days prior to the date on which this notice is published in the **Federal Register**, in accordance with section 733(e) of the Act. See Critical Circumstances Notice. We are also instructing Customs to require a cash deposit or the posting of a bond equal to the preliminary dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

We determine that the following percentage weighted-average margin exists for the POI:

#### COLD-ROLLED CARBON STEEL FLAT PRODUCTS

Producer/manufacturer/exporter	Weighted-average margin
Russia-Wide Rate .....	137.33%

The Russia-wide rate applies to all entries of the subject merchandise.

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary 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 the date of our final determination whether imports of cold-rolled steel from Russia are materially injuring, or threaten material injury to, the U.S. industry.

#### Public Comment

Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than 50 days after the date of publication of this notice, and rebuttal briefs no later than five business days after the deadline for submission of case briefs. Rebuttal briefs must be limited to the issues raised in the case briefs. 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 two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of

the hearing 48 hours before the scheduled date.

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 date of 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. At the hearing, oral presentations will be limited to issues raised in the briefs. See 19 CFR 351.310(c). If this investigation proceeds normally, we will make our final determination no later than 75 days after this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: April 26, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-11193 Filed 5-8-02; 8:45 am]

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-791-814]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Preliminary Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From South Africa

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

**ACTION:** Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Negative Preliminary Determination of Critical Circumstances.

**SUMMARY:** We preliminarily determine that certain cold-rolled carbon steel flat products from South Africa are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended. In addition, we preliminarily determine that critical circumstances do not exist for import of cold-rolled carbon steel flat products from South Africa.

Interested parties are invited to comment on this preliminary determination.

**EFFECTIVE DATE:** May 9, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Minoo Hatten, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW.,