

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

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held three days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 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 the following information: (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.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: April 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-11194 Filed 5-8-02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-812]

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

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

SUMMARY: We preliminarily determine that certain cold-rolled carbon steel flat products from Spain 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.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 75 days after the date of this preliminary determination.

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Irina Itkin at (202) 482-0656, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Preliminary Determination

We preliminarily determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Spain are being sold, or are 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

This investigation was initiated on October 18, 2001.¹ See *Notice of*

¹ The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively "the petitioners").

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 (Oct. 26, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

On November 13, 2001, the United States 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 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 of cold-rolled steel products. See *Certain Cold-Rolled Steel Products From Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 57985 (Nov. 19, 2001).

On November 16, 2001, the Department issued a complete antidumping questionnaire to Aceralia.² See the memorandum from the Team to Louis Apple entitled "Antidumping Duty Investigation of Cold-Rolled Carbon Steel Flat Products from Spain—Selection of Respondents," dated November 16, 2001 (*First Respondent Selection Memo*).

On December 13, 2001, Aceralia notified the Department that it did not make sales of subject merchandise during the Period of Investigation (POI). Rather, Aceralia stated that all of its U.S. sales during the POI consisted of either merchandise which was outside the scope of the investigation or a single trial sale of subject merchandise which was later cancelled. On December 19, 2002, we requested that Aceralia provide information on the physical

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

characteristics of the merchandise which it claimed was outside the scope.

On December 19 and 20, 2002, the Department issued questionnaires to two additional companies believed to produce and/or export subject merchandise (*i.e.*, Laminacion y Derivados, S.A. (Layde) and Troquenor, S.A. (Troquenor), respectively). See the memorandum from the Team to Louis Apple entitled “Antidumping Duty Investigation of Cold-Rolled Carbon Steel Flat Products from Spain—Selection of Respondents” dated December 19, 2001 (*Second Respondent Selection Memo*). For further discussion, see the “Selection of Respondents” section of this notice, below.

On December 21 and 27, 2001, we requested additional information from Aceralia regarding the physical characteristics of its out-of-scope merchandise. Also on these dates, we informed Aceralia that, if we determined that Aceralia did in fact make sales of subject merchandise, its response to the remaining sections of the questionnaire would continue to be due in January 2002 with no further extensions possible.

On January 11, 2002, Aceralia provided the information requested in December 2001. On January 22, 2002, we requested further clarification regarding the products exported by Aceralia during the POI. This information was received on January 29, 2002.

Also on January 22, 2002, Layde informed the Department that it had no commercial sales of subject merchandise during the POI. On January 23, 2002, we requested that Layde demonstrate that the subject merchandise exported to the United States was scrapped.

On January 29, 2002, Troquenor informed the Department that all of its exports to the United States were of hot-rolled steel products. On January 31, 2002, we requested that Troquenor provide documentation showing that this was the case. Troquenor provided this information on February 22, 2002.

On February 7, 2002, the petitioners requested a postponement of the preliminary determination in this investigation. On February 22, 2002, the Department published a **Federal Register** notice postponing the deadline for the preliminary determination until April 26, 2002. See *Postponement of Preliminary Determinations of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (A-357-816), Australia (A-602-804), Belgium (A-423-811), Brazil (A-351-834), the People's Republic of China (A-570-872)*,

France (A-427-822), Germany (A-428-834), India (A-533-826), Japan (A-588-859), Korea (A-580-848), the Netherlands (A-421-810), New Zealand (A-614-803), Russia (A-821-815), South Africa (A-791-814), Spain (A-469-812), Sweden (A-401-807), Taiwan (A-583-839), Thailand (A-549-819), Turkey (A-489-810) and Venezuela (A-307-822), 67 FR 8227 (Feb. 22, 2002).

On February 11, 2002, we requested that Aceralia provide documentation showing that its sale of in-scope merchandise during the POI was cancelled and the corresponding coils were returned by the customer. On February 19, 2002, Aceralia submitted its response to this request.

Also on February 19, 2002, Layde informed the Department that it in fact sold a small quantity of subject merchandise to an unaffiliated customer during the POI. On February 22, 2002, we requested that Layde provide additional documentation regarding this transaction.

On February 28, 2002, Layde informed the Department that it would not provide any additional information in this investigation.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. Using company-specific export data for the period of investigation (POI), which we obtained from a variety of sources under the *Harmonized Tariff Schedule of the United States* (HTSUS) number that corresponds to the subject merchandise, we found that ten producers/exporters may have exported cold-rolled steel to the United States during the POI.

According to data on the record, Aceralia represented the vast majority of the imports of subject merchandise during the POI. Due to limited resources, we determined that we could only investigate this one largest producer/exporter. Therefore, we designated Aceralia as the mandatory respondent and sent it the antidumping questionnaire. See the *First Respondent Selection Memo*.

On December 13, 2001, Aceralia notified the Department that it did not make sales of subject merchandise during the POI. Rather, Aceralia stated that all of its U.S. sales during the POI consisted of either merchandise which was outside the scope of the investigation or a single trial sale of subject merchandise which was later cancelled.

According to data on the record, Layde was the only other producer of subject merchandise identified in the petition, and Troquenor was the next largest producer of merchandise shown in the Customs Service data relied on previously to select Aceralia. Therefore, we designated Layde and Troquenor as additional mandatory respondents and sent them the antidumping questionnaire. See the *Second Respondent Selection Memo*.

On January 29, 2002, Troquenor informed the Department that it did not export any subject merchandise to the United States during the POI. Because neither Aceralia nor Troquenor had POI sales of cold-rolled steel, we are not treating them as respondents in this investigation. Therefore, the Department will apply the “all others” rate to future shipments to the United States made by these companies. For further discussion, see the memorandum from the Team to Louis Apple entitled “Analysis of Merchandise Sold by Aceralia and Troquenor During the POI in the Antidumping Duty Investigation of Cold-Rolled Carbon Steel Flat Products from Spain,” dated April 15, 2002.

Period of Investigation

The POI is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

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.

Facts Available (FA)

1. Application of FA

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

On December 19, 2001, the Department issued its questionnaire to Layde. On January 22, 2002, Layde informed the Department that it had no commercial sales of subject merchandise during the POI. Subsequently, the Department requested further information regarding Layde's claims. In response to this request, Layde stated that it had sales of subject merchandise to the United States in the amount of 12.02 short tons. Upon the Department's request that it report these sales, Layde informed the Department that it no longer intended to participate in this investigation because the total quantity of its sales to the United States was negligible. *See* the February 28, 2002, letter from Layde. Because Layde failed to supply necessary information, we have applied FA to calculate the dumping margin, pursuant to section 776(a)(2)(B) of the Act.

Selection of Adverse FA (AFA)

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–20 (Oct. 16, 1997). The respondent was notified in the Department's questionnaires and in subsequent communications that failure to submit the requested information by the date specified might result in use of FA. As a general matter, it is reasonable for the Department to assume that Layde possessed the

records necessary for this investigation and that by not supplying the information the Department requested, Layde failed to cooperate to the best of its ability. As Layde failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act.

2. Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as “[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” *See, Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d).*

The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value (*see SAA at 870*). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (*see SAA at 870*).

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*see Spain Initiation Checklist* on file in the Central Records Unit (*Initiation Checklist*), Room B–099, of the Main Commerce Department building, for a discussion of the margin calculation in the petition). In addition, in order to determine the probative value of the margin in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculation in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and

normal value (NV) calculations on which the margin in the petition was based.

Export Price

With respect to the margin in the petition, EP was based on average per-unit customs import values (AUV) for one ten-digit category of the HTSUS corresponding to in-scope imports from Spain during the POI. Our review of the EP calculation indicated that the information in the petition has probative value because certain information (e.g., import statistics) included in the margin calculation in the petition is from public sources concurrent, for the most part, with the POI. We compared the AUV data with U.S. customs data and found the price used by the petitioners to be accurate. As the AUV data is based on official statistics, no further corroboration is necessary. *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 76, 84 (Jan. 4, 1999) (Comment 13).

Normal Value

The petitioners based normal value on a home market price quote obtained from a Spanish cold-rolled steel producer. The grade and size of this merchandise was comparable to the HTSUS classification used for purposes of EP. In addition, this price quote was contemporaneous with the AUV data used by the petitioners.

The Department was provided with no useful information by the respondents or other interested parties and is aware of no other independent sources of information that would enable us to further corroborate the margin calculations in the petition (e.g. the Department attempted to locate home market prices through publicly available sources (*see* the memorandum to the File from the Team entitled “Home Market Price Data From Publicly-Available Sources in the Antidumping Duty Investigation of Cold-Rolled Carbon Steel Flat Products from Spain,” dated April 12, 2002)).

It is worth noting that the implementing regulation for section 776 of the Act states, “[t]he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using secondary information in question.” *See* 19 CFR 351.308(c). Additionally, the SAA at 870 specifically states that where “corroboration may not be practicable in a given circumstance,” the Department need not prove that the

facts available are the best alternative information."

Therefore, based on our efforts, described above, to corroborate information contained in the petition, and in accordance with 776(c) of the Act, we consider the margins in the petitions to be corroborated to the extent practicable for purposes of this preliminary determination.

Accordingly, in selecting AFA with respect to Layde, the Department decided to apply the margin rate of 46.20 percent, which is the estimated dumping margin calculated by the petitioners in the amended petition of this investigation. *See Initiation Notice.*

All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis*, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated "all others" rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than zero, *de minimis*, and FA margins to establish the "all others" rate. Where the data do not permit weight-averaging such rates, the SAA, at 873, provides that we may use other reasonable methods. Because the petition contained only one estimated dumping margin, 46.20 percent, there are no additional estimated margins available with which to create an "all others" rate based on an average. Therefore, we have selected the margin of 46.20 percent as the "all others" rate. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia*, 66 FR 22163 (May 3, 2001).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from Spain 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 EP, 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/producer	Weighted-average margin (in percent)
Laminacion y Derivados, S.A. (Layde)	46.20
All Others	46.20

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in this investigation in accordance with 19 CFR 351.224(b).

ITC Notification

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

Public Comment

For the investigation of cold-rolled steel from Spain, case briefs must be submitted no later than 35 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Public versions of all comments and rebuttals should be provided to the Department and made available on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, 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 within 30 days of the publication of this notice. Requests

should specify the number of participants and provide 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 in the investigation of cold-rolled steel from Spain no later than 75 days after the date of this preliminary determination.

This determination is issued and published pursuant to 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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DEPARTMENT OF COMMERCE

International Trade Administration

[A-401-807]

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

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

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Geoffrey Craig at (202) 482-4161 or Frank Thomson at (202) 482-4793, AD/CVD Enforcement Office VI, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Preliminary Determination

We preliminarily determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Sweden are being sold, or are 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.