

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are directing the Customs Service to suspend liquidation of all imports of subject merchandise from Spain entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.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.*

[FR Doc. 02-11195 Filed 5-8-02; 8:45 am]

BILLING CODE 3510-DS-P

## 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.

### Case History

This investigation was initiated on October 18, 2001.<sup>1</sup> 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*). Since the initiation of the investigation, the following events have occurred.

On October 31, 2001, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes, and we received comments on our proposed matching criteria on November 8, 2001. On November 8, 2001, we received model match comments from petitioners. On November 26, 2001, we informed respondents of our revised model match criteria.

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 (November 19, 2001).

On November 16, 2001, the Department issued an antidumping questionnaire to SSAB Svenskt Stal AB (SSAB).<sup>2</sup> See *Memorandum to Melissa Skinner, Selection of Respondents for*

*the Antidumping Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Sweden (Respondent Selection Memo)* (November 29, 2001). On December 7, 2001, SSAB stated that it did not intend to participate in this investigation.

On December 4, 2001, we received a letter from AB Sandvik Steel (Sandvik) requesting to participate in the cold-rolled investigation as a voluntary respondent. On December 7, 2001, we accepted Sandvik as a voluntary respondent. In letters dated December 12, 2001, and January 3, 2002, we granted Sandvik extensions to respond to the questionnaire. We received Sandvik's Sections A, B, C and E questionnaire response on January 14, 2002. In a letter dated February 4, 2002, the petitioners requested that the Department commence a sales below cost investigation of cold-rolled steel manufactured by Sandvik.

On February 6, 2002, Sandvik informed the Department that it was withdrawing its participation in this investigation and requested that we remove its proprietary information from the official record of this proceeding and return the information to Sandvik.

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 (February 22, 2002).

On April 11, 2002, we informed SSAB that failure to submit the requested information by the date specified might result in use of the facts available (FA) under section 776 of the Act and section 351.308 of the Department's regulations.

### 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), based on the Harmonized Tariff Schedules of the United States (HTSUS) number that corresponds to the subject merchandise, we obtained information from a variety of sources and found that sixteen producers/exporters may have exported cold-rolled steel to the United States during the POI. According to data on the record, SSAB represented a significantly large percent of the imports during the POI. Due to limited resources, we determined that we could only investigate this one largest producer/exporter. See *Respondent Selection Memo*. Therefore, we designated SSAB as the mandatory respondent and sent it the antidumping questionnaire. On December 7, 2001, SSAB stated that it did not intend to participate in this investigation.

### 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, 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.

<sup>1</sup> 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 (collectively, the petitioners).

<sup>2</sup> 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.

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 November 16, 2001, the Department issued an antidumping questionnaire to SSAB. Section A was due on December 7, 2001, and Sections B–D were due on December 24, 2001. SSAB did not respond to the sections A, B, C, and D by the respective due dates, nor did the company request that the Department grant any extension of the deadlines to respond. On December 7, 2001, SSAB notified the Department that it did not intend to respond to the Department's questionnaire. In a letter dated April 11, 2002, we informed SSAB that failure to submit the requested information by the date specified might result in use of the FA under section 776 of the Act and section 351.308 of the Department's regulations. SSAB did not respond to the Department's requests for information at all.

As described above, SSAB failed to provide a response to the Department's questionnaire despite the Department's repeated requests for information. Because SSAB failed to provide any of the necessary information requested by the Department and significantly impeded the proceeding, pursuant to section 776(a)(2)(B) and (C) of the Act, we have applied the FA to calculate the dumping margin.

On December 7, 2001, we accepted Sandvik as a voluntary respondent. We note that 19 CFR 351.204(d)(2) of the Department's regulations states that "A voluntary respondent accepted for individual examination under subparagraph (d)(1) of this section will be subject to the same requirements as an exporter or producer initially selected by the Secretary for individual examination under section 777A(c)(2) or section 777A(e)(2)(A) of the Act, including the requirements of section 782(a) of the Act and, where applicable, the use of the facts available under section 776 of the Act and 351.308."

In letters dated December 12, 2001, and January 3, 2002, we granted Sandvik extensions to respond to the questionnaire. We received Sandvik's Sections A, B, C and E questionnaire response on January 14, 2002. After

submitting a questionnaire response, on February 6, 2002, Sandvik subsequently informed the Department that it was withdrawing its participation in this investigation and requested that we remove its proprietary information from the official record of this proceeding and return the information to Sandvik.

As described above, Sandvik withdrew its participation in this investigation subsequent to being accepted as a voluntary respondent and its proprietary information has been taken off the official record of this proceeding. Thus, because Sandvik failed to provide the necessary information requested by the Department and significantly impeded the proceeding, pursuant to section 776(a)(2)(B) and (C) of the Act, we have applied the FA to calculate the dumping margin.

## 2. 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 (October 16, 1997). SSAB was notified in the Department's questionnaire and in a separate letter that failure to submit the requested information by the date specified might result in use of the FA. Sandvik was also notified in the Department's questionnaire that failure to submit the requested information by the date specified might result in use of the FA. Moreover, SSAB and Sandvik failed to offer any alternative methods for submitting the requested information. As a general matter, it is reasonable for the Department to assume that SSAB and Sandvik possessed the records necessary for this investigation and that by not supplying the information the Department requested, SSAB and Sandvik failed to cooperate to the best of their ability. As SSAB and Sandvik failed to cooperate to the best of their ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As AFA, we have used 40.54 percent, the rate derived from the petition. *See Initiation Notice*.

## 3. 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 Sweden Initiation Checklist (Initiation Checklist)* on file in the Central Records Unit, 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 the ten-digit category of the HTSUS accounting for a significant percentage of in-scope imports from Sweden during the POI and that is comparable to the product on which the normal value price quote information is based. Our review of the EP calculation indicated

that the information in the petition has probative value, as 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 export prices contained in the petition with U.S. Census values for the same HTSUS categories and found the export prices suggested in the petition to be reasonable and, therefore, corroborated for purposes of calculating a facts available margin. Export prices which are based on U.S. customs data are considered corroborated. *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 76, 84 (January 4, 1999) (Comment 13).

#### Normal Value

The petitioners calculated NV from price information obtained from foreign market research for cold-rolled steel comparable to the products exported to the United States which serve as the basis for EP. The petitioners deducted freight cost from the home market price.

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.

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. Our findings are outlined below.

Accordingly, in selecting AFA with respect to SSAB and Sandvik, the Department decided to apply the margin rate of 40.54 percent. *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. In this case, we have determined that the only reasonable method is to use the single margin alleged in the petition, which was also the source of our facts available margin for SSAB and Sandvik. Therefore, we applied the margin of 40.54 percent as the "all others" rate. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from India*, 64 FR 73126 (December 29, 1999); and *Notice of Final Determination of Sales at Less than Fair Value: Welded Large Diameter Line Pipe from Mexico*, 67 FR 566, 567-68 (January 4, 2002).

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of cold-rolled steel from Sweden that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
SSAB Svenskt Stal AB .....	40.54
AB Sandvik Steel .....	40.54
All Others .....	40.54

#### Disclosure

Within five days of the date of publication of this notice, the Department will disclose its calculations to the parties to this proceeding 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 Sweden, case briefs must be submitted no later than 50 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five calendar 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 Sweden 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.*

[FR Doc. 02-11196 Filed 5-8-02; 8:45 am]

**BILLING CODE 3510-DS-P**