

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-423-810]

**Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Luxembourg**

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

**ACTION:** Notice of final determination of sales at less than fair value.

**SUMMARY:** On December 28, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of structural steel beams from Luxembourg. Subsequently, we published an amended preliminary determination of sales at not less than fair value on January 31, 2002. The period of investigation is April 1, 2000, through March 31, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margin for the investigated company is listed below in the section entitled "Final Determination Margins."

**EFFECTIVE DATE:** May 20, 2002.

**FOR FURTHER INFORMATION CONTACT:**

David J. Goldberger or Margarita Panayi, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-0049, respectively.

**SUPPLEMENTARY INFORMATION:****The Applicable Statute and Regulations**

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 regulations of the Department of Commerce (the Department) are to 19 CFR part 351 (April 2001).

**Final Determination:** We determine that structural steel beams from Luxembourg are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

**Case History**

The preliminary determination in this investigation was issued on December

19, 2001. See *Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Luxembourg*, 66 FR 67223 (December 28, 2001) (*Preliminary Determination*). On January 31, 2002, we published an amended preliminary determination. See *Notice of Amended Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Luxembourg*, 67 FR 4701 (January 31, 2002).

In January, February and March, we conducted verifications of the questionnaire responses of the sole respondent in this case, ProfilARBED, S.A. (ProfilARBED).

In April 2002, we received case and rebuttal briefs from the petitioners (the Committee for Fair Beam Imports and its individual members) and ProfilARBED. The Department held a public hearing on April 19, 2002, at the request of the petitioners and ProfilARBED.

**Scope of Investigation**

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at

subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

**Scope Comments**

Prior to the preliminary determination in this case, interested parties in this and the concurrent structural steel beams investigations requested that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation.

**Period of Investigation**

The period of investigation is April 1, 2000, through March 31, 2001, which corresponds to ProfilARBED's four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

**Analysis of Comments Received**

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

**Changes Since the Preliminary Determination**

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see the "Margin Calculations" section of the Decision Memorandum, *ProfilARBED Final Determination Calculations*, Memorandum to the File dated May 13, 2002, and *Cost of Production and Constructed Value Calculation*

*Adjustments for the Final*

*Determination*, Memorandum to Neal Halper from Heidi S. Norris dated May 13, 2002 (*Cost Calculation Memo*).

1. We used the revised third country and U.S. sales listings, submitted on April 17, 2002, which took into account revisions presented at the commencement of verifications and our verification findings, as discussed in the April 10, 2002, letter requesting the revised data bases.

2. We used the revised cost of production (COP) data base submitted on April 5, 2002, which included the corrections for the formula errors presented at the commencement of the COP verification.

3. We reclassified the shape variable (SHAPET/U) for ProfilARBED's sales of IPN beams, consistent with our determination in the companion structural steel beams from Italy investigation, and the classification of IPN beams by ProfilARBED's Spanish affiliate, Aceralia Corporacion Siderurgica (Aceralia), in the companion structural steel beams from Spain investigation.

4. We made corrections to ProfilARBED's April 17, 2002, third country sales listing to account for errors identified in the petitioners' April 26, 2002, letter and ProfilARBED's April 30, 2002, and May 1, 2002, letters.

5. For ProfilARBED's sales to affiliated resellers that were shipped directly to the customer, and where the price from ProfilARBED to the affiliate was not at arm's length, we applied the highest gross third country price reported for that product, less movement expenses, among the sales to unaffiliated customers and affiliated customers at arm's length.

6. We adjusted the cost of manufacture to reflect the higher of the transfer price, COP, or market price for electricity.

7. We adjusted the cost of manufacture to reflect the transfer price paid by ProfilARBED to their affiliates for the leases.

8. We revised the general and administrative (G&A) expense ratio to account for exchange rate gains and losses and to exclude sales commission offsets and a financial income offset.

9. We revised the financial expense rate, as described in the *Cost Calculation Memo*.

10. We revised the date of sale for U.S. sales to the date of shipment from the European port, except for U.S. warehouse sales, where we applied the earlier of invoice date or warehouse shipment date.

11. We applied the average ocean freight expense reported for west coast

U.S. ports to all U.S. sales, except for those specific transactions where the reported expense was higher than this average, as facts available, because ProfilARBED failed to disclose properly that it used an affiliated supplier of ocean freight services.

12. We revised the U.S. imputed credit calculation to account for a revised U.S. interest rate, based on our verification findings, and the date of sale revision. In addition, we revised the inventory carrying expenses reported on U.S. sales shipped directly to the customer to account for the revised date of sale.

13. We revised the U.S. indirect selling expenses incurred in the United States to include a portion incurred by another U.S. affiliate.

14. We revised the offset to the interest expense component of U.S. indirect selling expenses to account for imputed credit expenses on a company-wide basis.

15. Except for sales shipped through the U.S. ports where we were able to verify the port-specific charges, we applied the highest U.S. port-specific per-unit brokerage and handling expense rate on the record of this investigation, to all U.S. sales incurring this expense.

#### Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

#### Final Determination Margins

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
ProfilARBED, S.A .....	15.23
All Others .....	15.23

In accordance with section 735(c)(5)(A), we have based the "all others" rate on the dumping margin found for the sole producer/exporter investigated in this proceeding, ProfilARBED.

#### Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to suspend liquidation of all entries of structural steel beams from Luxembourg that are entered, or withdrawn from warehouse, for consumption on or after the

publication date of this final determination. The Customs Service shall require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margin shown above. The suspension of liquidation instructions will remain in effect until further notice.

#### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 75 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 735(d) and 777(i) of the Act.

Dated: May 13, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

#### Appendix—Issues in the Decision Memorandum

##### Comments

1. Third-Country Sales Data Base
2. Sales by Affiliated Resellers in Germany
3. Third-Country Sales Rebate Adjustments
4. Date of Sale for CEP Transactions
5. Ocean Freight Expenses Through Affiliate
6. Inclusion of U.S. Affiliate's Expenses in Calculation of U.S. Indirect Selling Expense
7. Interest Expenses Included in U.S. Indirect Selling Expenses
8. Price of Electricity from Affiliates
9. Price of Natural Gas from Affiliates

- 10. Valuation of Leases from Affiliates
- 11. Exchange Rate Gains and Losses in the G&A Calculation
- 12. Petitioners Ability to Comment Meaningfully
- 13. Calculation of the Overall Dumping Margin

[FR Doc. 02-12595 Filed 5-17-02; 8:45 am]

BILLING CODE 3510-05-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-821-814]

#### Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From the Russian Federation

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

**ACTION:** Notice of final determination of sales at less than fair value.

**SUMMARY:** On December 28, 2001, the Department of Commerce published its preliminary determination of sales at less than fair value of structural steel beams from the Russian Federation. On January 7 and 9, 2002, we received timely allegations of ministerial errors from the petitioner and the respondent. Because we agreed with the interested parties' ministerial-error allegations, we published on January 31, 2002, the amended preliminary antidumping duty determination of sales at less than fair value of structural steel means from the Russian Federation.

Based on our analysis of the comments received and certain findings from the verifications, we have made changes in the margin calculations. Therefore, the final determination differs from the amended preliminary determination.

We find that structural steel beams from the Russian Federation are being, or are likely to be, sold in the United States at less than fair value as provided in section 735 of the Tariff Act of 1930, as amended. The estimated margin of sales at less than fair value are shown in the "Continuation of Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** May 20, 2002.

**FOR FURTHER INFORMATION CONTACT:** Hermes Pinilla or Richard Rimlinger, AD/CVD Enforcement Group I, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3477 or (202) 482-4477, respectively.

**SUPPLEMENTARY INFORMATION:**

### The Applicable Statute and Regulations

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 regulations of the Department of Commerce (the Department) are to 19 CFR Part 351 (April 2001).

### Final Determination

We determine that structural steel beams from the Russian Federation are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

### Case History

The preliminary determination in this investigation was issued on December 28, 2001. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From the Russian Federation*, 66 FR 66217 (Dec. 28, 2001) (*Preliminary Determination*). On January 7 and 9, 2002, we received timely allegations of ministerial errors from the petitioner and the respondent. Because we agreed with the interested parties' ministerial-error allegations, we published the amended preliminary antidumping duty determination of sales at less than fair value of structural steel beams from the Russian Federation. See *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Structural Steel Beams From the Russian Federation*, 67 FR 4704 (January 31, 2002).

In March, we conducted verification of the questionnaires responses of the sole respondent in this case, Nizhny Tagil Iron and Steel Works (Tagil).

On April 15, 2002, we received a case brief from the petitioner (i.e., the Committee for Fair Beam Imports), and on April 17, 2002, the respondent submitted its rebuttal brief.

### Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and

M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is currently classified in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

### Scope Comments

Prior to the preliminary determination in this case, interested parties in this and the concurrent structural steel beams investigations requested that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles. We preliminarily found that both products fell within the scope of this investigation. Because we have received no further scope comments in this proceeding, we are making a final determination that these products fall within the scope of this investigation.

### Period of Investigation

The period of investigation (POI) is October 1, 2000, through March 31, 2001.

### Analysis of Comments Received

All issues raised in the case briefs by the petitioner to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public