

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether imports of subject merchandise from Mexico are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, this 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 order directing Customs Service officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.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 also serves as a 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. Timely 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.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: August 23, 2002.

Faryar Shizad,

Assistant Secretary for Import Administration.

Appendix

Issues Covered in Decision Memorandum

I. Issues Specific to Sales

Comment 1: Constructed Export Price
 Comment 2: Post-Sale Discounts
 Comment 3: Credit Expense/Interest Rate
 Comment 4: Customs Duties Adjustment
 Comment 5: Critical Circumstances

B. Issues Specific to Costs

Comment 6: Initiation of Cost Investigation
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 Comment 10: Prior Period Expenses
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DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-832]

Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Germany

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

EFFECTIVE DATE: August 30, 2002.

FOR FURTHER INFORMATION CONTACT: Steve Bezirgianian, or Robert James, at (202) 482-1131, or (202) 482-0649, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

The Applicable Statute

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, as amended (the Tariff Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (2001).

Final Determination

We determine carbon and certain alloy steel wire rod from Germany (wire rod) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act. The estimated margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On April 10, 2002, the Department published its preliminary determination in this investigation. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Germany*, 67 FR at 17384 (*Preliminary Determination*). Since the April 2, 2002, signing of our *Preliminary Determination* the following events have occurred:

On April 4, 2002, the sole respondent, Saarstahl AG (Saarstahl) submitted a

request that the Department postpone its final determination by fifty additional days; Saarstahl also agreed to an extension of provisional measures to a period not to exceed six months, as required by section 733(d) of the Tariff Act. Accordingly, on May 13, 2002, we published in the **Federal Register** our notice of postponement of the final determination. See *Postponement of Final Antidumping Duty Determinations; Carbon and Certain Alloy Steel Wire Rod from Germany, Indonesia and Moldova*, 67 FR at 32013 (May 13, 2002).

The Department verified Saarstahl's cost of production responses from May 27 through May 31, 2002. From June 13, 2002 to June 20, 2002, we verified Saarstahl's sales responses. We issued our cost verification report on June 21, 2002, with our sales verification report following on July 10, 2002.

Saarstahl submitted information on June 7, 2002, concerning monthly imports of subject steel wire rod for the period January through April 2002.

On June 24, 2002, petitioners and Saarstahl submitted case briefs. Both parties submitted rebuttal briefs on July 29, 2002. On August 5, 2002, the Department held a public hearing.

Period of Investigation

The period of investigation (POI) is July 1, 2000 through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the filing of the petition (*i.e.*, August 2001), and is in accordance with section 351.204(b)(1) of the Department's regulations.

Scope Issues

Since the *Preliminary Determination* a number of parties filed requests asking the Department to exclude various products from the scope of these investigations. On May 6, 2002, Ispat Hamburger Stahlwerke GmbH and Ispat Walzdraht Hochfeld GmbH (collectively, Ispat Germany) requested an exclusion for "super clean valve spring wire." Two parties filed additional exclusion requests on June 14, 2002: Bluff City Steel asked that the Department exclude "clean-steel precision bar," and Lincoln Electric Company sought the exclusion of its EW 2512 grade of metal inert gas welding wire. On June 28, 2002, petitioners (Co-Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc.) filed objections to a range of scope exclusion requests including: (i) Bluff City Steel's request for clean precision bar; (ii) Lincoln Electric Company's request for EW 2512 grade wire rod; (iii) Ispat

Germany's request for "super clean valve spring wire;" (iv) Tokusen USA's January 22, 2002 request for grade 1070 grade tire cord and tire bead quality wire rod (tire cord wire rod); and (v) various parties' request for 1090 grade tire cord wire rod.

In addition, Moldova Steel Works requested the exclusion of various grades of tire cord wire rod on July 17, 2002. The Rubber Manufacturers Association (the RMA), Ispat Germany, Lincoln Electric and Bluff City filed rebuttals to petitioners' June 28 submission on July 8, 11, 17, and 29, 2002, respectively. The RMA filed additional comments on July 30, 2002.¹

The Department has analyzed these requests and the petitioners' objections and we find no modifications to the scope are warranted. See Memorandum from Richard Weible to Faryar Shirzad, "Carbon and Certain Alloy Steel Wire Rod * * * Requests for Scope Exclusion" dated August 23, 2002, which is on file in room B-099 of the main Commerce building.

Scope of the Investigation

The merchandise covered by these investigations is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth

(maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as "tire cord quality" or "tire bead quality" indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-

use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Critical Circumstances

Section 735(a)(3) of the Tariff Act provides that if our final determination is affirmative, then the determination shall also contain a finding of whether (i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported, knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there would be material injury by reason of such sales, and (ii) there have been massive imports of the subject merchandise over a relatively short period.

On February 5, 2002, we preliminarily found that both criteria, *i.e.*, knowledge of dumping and material injury and massive imports of subject merchandise, had been met by Saerstahl and preliminarily found that critical circumstances exist. See *Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances*, 67 Fed. Reg. at 6224 (February 11, 2002).

We have concluded in this final determination that critical circumstance exist for imports of steel wire rod from Germany. See the Department's response to Comment 6 in the Issues and Decision Memorandum, dated August 23, 2002.

Use of Facts Available

Section 776(a)(2) of the Tariff Act provides that if any interested party: (A)

¹ On August 9, 2002, Bekaert Corporation requested an exclusion for certain high chrome/high silicon steel wire rod from the scope of these investigations. This request was filed too late to be considered for the final determinations in these investigations.

Withholds information that has been requested by the Department; (B) fails to provide such information by the deadlines for submission of the information or in the form or manner requested; (C) significantly impedes an antidumping investigation; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d), use the facts otherwise available in making its determination.

Section 782(d) of the Tariff Act requires the Department to "promptly inform" a respondent of the nature of any deficiencies found in its response and to "provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations. * * *" To the extent the respondent fails to address the deficiencies, and subject to section 782(e), the Department may disregard all or part of the response. Section 782(e) provides the Department shall not decline to consider information deemed deficient under section 782(d) if: (1) The information is submitted by the deadline established for its submission; (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 it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties.

We used facts available in the *Preliminary Determination* because we determined certain information was not available on the record, or was not provided by the deadline or in the form or manner requested. Specifically, Saarstahl failed to provide requested documentation, including worksheets and other documentation, to support its derivation of various reported expenses. Further, Saarstahl failed to provide information in the manner requested pertaining to certain expenses incurred on both its home market and U.S. sales. For example, contrary to our specific instructions, Saarstahl reported movement expenses based upon "estimated freight expenses (*Fracht-Ruckstellung*) calculated at the time of sale for each invoice." Saarstahl's January 22, 2002, Section B response at B-21. This involved inland plant-to-warehouse and plant-to-customer freight, and warehousing expenses in the home market. For U.S. sales, the *Fracht-Ruckstellung* included foreign inland freight, freight to the port, ocean

freight, inland and marine insurance, U.S. customs duties and, where applicable, warehousing expenses. Saarstahl failed to provide the requested actual expenses or supporting documentation (for example, tariff schedules or contracts demonstrating the freight rates in effect during the POI). Furthermore, Saarstahl has not explained fully its original allocations based upon the *Fracht-Ruckstellung*, or provided the Department the means of establishing independently the validity of the underlying estimates. (For further details of these deficiencies, see the "Preliminary Analysis Memorandum," dated April 2, 2002.)

With regard to packing expenses, Saarstahl reported identical packing expenses, by mill, for both home market and U.S. sales, despite indications in its initial responses that sales for export require greater packing materials. Saarstahl also did not initially provide worksheets supporting the calculation of packing costs for two of the three mills producing subject wire rod products during the POI.

In accordance with section 776(a) of the Tariff Act, we have continued to use partial facts available in instances where Saarstahl failed to provide necessary information on its home market and U.S. freight expenses in the manner or form requested. As non-adverse facts available for U.S. sales, for the movement expenses at issue, we set these expenses to no less than the median value reported for each expense; similarly, for the home market, we set the movement expenses to no greater than the median value reported for each expense. As to packing expenses, we have altered our methodology to reflect our finding at verification that there is apparently little significant differences in packing costs for export sales versus home market sales. For further details regarding our selection of facts available for freight and packing expenses, see Comments 7 and 8, and our Final Analysis Memorandum, dated concurrently with this notice. A public file of this and all documents generated by the Department can be found in our Central Records Unit, room B-099 in the main Commerce building.

In addition, we applied adverse facts available for certain unreported U.S. sales discovered at verification. Section 776(b) of the Tariff Act provides that adverse inferences may be used in selecting the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. See Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103-316, vol.1, at 870 (1994) (SAA). For

additional details, see also Comment 2 of the Issues and Decision Memorandum, dated August 23, 2002.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Tariff Act.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Issues and Decision Memorandum, dated August 23, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we responded, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we have made certain changes to the calculations used in our preliminary results (see the Issues and Decision Memorandum comments for details):

We applied adverse facts available for unreported U.S. sales (see Comment 2).

We used a Euro interest rate for home market sales and for U.S. sales denominated in Euros (see Comment 3).

We used the last day of verification as a proxy for payment date for all unpaid sales in the home market and U.S. sales databases (see Comment 4)

We revised the credit period for all sales to one U.S. customer to account for split payments for one transaction reviewed at verification (see Comment 5).

We revised our application of facts available for packing expenses (see Comment 8).

We included in the U.S. sales database one sale of merchandise that Saarstahl had mischaracterized as tire cord wire rod outside of the scope of the investigation (see Comment 9).

In addition, we made several changes to our calculations to reflect other developments in the proceeding; we revised the factor used for the

calculation of GNA to reflect the findings at the cost verification (*see* the August 5, 2002, "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination" memorandum), and we added an adjustment for U.S. billing adjustments (BILADJU) to reflect information in Saarstahl's April 30, 2002, submission.

The methodologies employed to incorporate the above changes in our programming are described in the Final Analysis Memorandum.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, the Department will direct the U.S. Customs Service to continue to suspend liquidation of all entries of wire rod from Germany that are entered, or withdrawn from warehouse, for consumption on after 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or 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 margins for this proceeding are as follows:

Exporter/manufacturer	Margin (percent)
Saarstahl AG	15.12
All Others	15.12

Commission Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our determination. As our final determination is affirmative, the Commission shall, within 45 days, determine whether these imports are materially injuring, or threatening material injury to, the U.S. industry. If the Commission determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the Commission determines such injury does exist, the Department will issue an antidumping duty order.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of business proprietary information disclosed under APO in accordance with 19 CFR 351.305.

Timely notification of the return or 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.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Tariff Act.

Dated: August 23, 2002.

Faryar Shirzad,
Assistant Secretary for Import Administration.

Appendix of Issues in the Issues and Decision Memorandum

- Comment 1: Indirect Selling Expenses Incurred in Germany on U.S. Sales
- Comment 2: Adverse Facts Available for Unreported U.S. Sales
- Comment 3: Interest Rates for Euro-Denominated Sales
- Comment 4: Missing Payment Dates
- Comment 5: Credit Expense Calculations for "Split Payments"
- Comment 6: Critical Circumstances
- Comment 7: Use of Facts Available for Freight Expenses
- Comment 8: Use of Facts Available for Packing Expenses
- Comment 9: Exclusion of Tire Cord Wire Rod and Tire Bead Wire Rod
- Comment 10: The "Zeroing" Methodology
- Comment 11: The Arm's-Length Test
- Comment 12: Level of Trade

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-351-833]

Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil

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

ACTION: Notice of final affirmative countervailing duty determination and final negative critical circumstances determination.

SUMMARY: The Department of Commerce has made a final determination that countervailable subsidies are being provided to certain producers and exporters of carbon and certain alloy steel wire rod from Brazil. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below. We have also made a final determination that critical circumstances do not exist with respect

to imports of carbon and certain alloy steel wire rod from Brazil.

EFFECTIVE DATE: August 30, 2002.

FOR FURTHER INFORMATION CONTACT: Melani Miller, Jennifer D. Jones, Andrew Smith, or Daniel J. Alexy, Office of AD/CVD Enforcement Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0116, (202) 482-1276, (202) 482-4194, or (202) 482-1540, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 ("the Act"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department") regulations are to 19 CFR Part 351 (April 2001).

Petitioners

The petitioners in this investigation are Co-Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. (collectively, "petitioners").

Case History

The following events have occurred since the publication of the preliminary determination in the **Federal Register**. *See Preliminary Negative Countervailing Duty Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 5967 (February 8, 2002) ("Preliminary Determination").

On February 13 and 14, 2002, the petitioners submitted further comments with respect to the responses filed by the respondents in the proceeding, the Government of Brazil ("GOB"), Companhia Siderurgica Belgo-Mineira ("Belgo Mineira"), and Gerdau S.A. ("Gerdau"). The Department issued supplemental questionnaires to the GOB, Gerdau, and Belgo Mineira on February 19, 2002, and received responses to those questionnaires on March 7, 2002.

From March 12, 2002 to March 27, 2002, we conducted a verification of the questionnaire responses submitted by the GOB, Belgo Mineira, and Gerdau.

On March 19, 2002, we published a **Federal Register** notice aligning the final determination in this proceeding with the earliest final determination in the companion antidumping duty investigations. *See Countervailing Duty Investigations of Carbon and Certain Alloy Steel Wire Rod from Brazil*,