

Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-834]

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

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

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

SUMMARY: On May 9, 2002, the Department of Commerce published its preliminary determination of sales at less than fair value and postponement of final determination of certain cold-rolled carbon steel flat products from Brazil. The period of investigation is July 1, 2000, through June 30, 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 margins are listed below in the section entitled *Final Determination Margins*.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood, 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) 482-0656 or (202) 482-3874, 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 certain cold-rolled carbon steel flat products (cold-rolled steel) from Brazil 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.

Background

The preliminary determination in this investigation was issued on April 26, 2002. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products From Brazil*, 67 FR 31200 (May 9, 2002) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

In May 2002, we conducted verification of the questionnaire responses of the respondent in this case, Usinas Siderurgicas de Minas Gerais (USIMINAS) and Companhia Siderurgica Paulista (COSIPA) (collectively "USIMINAS/COSIPA").

We gave interested parties an opportunity to comment on the preliminary determination. In July and August 2002, we received case and rebuttal briefs from the petitioners (Bethlehem Steel Corporation, National Steel Corporation, Nucor Corporation, and United States Steel Corporation) and USIMINAS/COSIPA. The Department held a public hearing on August 16, 2002, at the request of the following petitioners: Bethlehem Steel Corporation, National Steel Corporation, and United States Steel Corporation.

With respect to scope, in the preliminary LTFV determinations in this and the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. See *Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (see the June 13, 2002, memorandum regarding "Preliminary Scope Rulings in the Antidumping Investigations on 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, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea" (*Preliminary Scope Rulings*), which is on file in the Central Records Unit (CRU), room B-099 of the main Department building). We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a "correction" for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the *Scope of Investigation* section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the "Scope Appendix" attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings*, see the memorandum regarding "Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on 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, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea," dated July 10, 2002, which is on file in the CRU.

Period of Investigation

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

Affiliated Respondents

In the last cold-rolled investigation for Brazil, the Department treated USIMINAS and COSIPA as affiliated parties and collapsed these entities. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil*, 65 FR 5554, 5562 (Feb. 4, 2000). In the *Preliminary Determination*, the Department stated that it treated these companies as affiliated producers. Neither USIMINAS nor COSIPA commented on our treatment of them as affiliated producers. Therefore, we have continued to treat USIMINAS and COSIPA as a single entity and to calculate a single margin for them.

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.

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 records, production records, and original source documents provided by the respondent.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from Brazil that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of the preliminary determination in the **Federal Register**.

In the companion countervailing duty investigation we have found the existence of export subsidies with respect to USIMINAS/COSIPA. Section 772(c)(1)(C) of the Act directs the Department to increase export price or constructed export price by the amount of the countervailing duty "imposed" on the subject merchandise "to offset an export subsidy" in an administrative review. The basic economic theory underlying this provision is that in parallel antidumping and countervailing duty investigations, if the Department finds that a respondent received the benefits of an export subsidy program, it is presumed the subsidy contributed to lower-priced sales of subject merchandise in the United States market by the amount of any such export subsidy. Thus, the subsidy and dumping are presumed to be related, and the assessment of duties against both would in effect be "double-application" or imposing two duties against the same situation. Therefore, Congress, through section 772(c)(1)(C) of the Act, indicated that the Department should factor the subsidy into the antidumping calculations to prevent this "double-application" of duties.

We believe the economic theory implicit in section 772(c)(1)(C) of the Act should also generally apply to our cash deposit calculations in an investigation. The calculations underlying cash deposit rates resulting from an initial investigation are essentially equivalent to those determined in administrative reviews leading to the assessment of antidumping duties. Congress has indicated, in effect, that no dumping exists if the export subsidies calculated in a countervailing duty proceeding are equal to or greater than the calculated dumping margin. The Department believes that this is true regardless if such a result appears in an administrative review or in an investigation. Therefore, an affirmative dumping determination accompanied by customs instructions which call for the suspension of liquidation and the collection of zero cash deposit rates would be inconsistent with the logic

and intent of the law. If the Department's calculations in an investigation result in a zero cash deposit rate, then in reality, there exists no dumping upon which an affirmative determination could be based as to that particular respondent.

The Department has determined in its *Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from Brazil* (issued concurrently) that the product under investigation benefitted from export subsidies. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct the Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated below, minus the amount of the countervailing duty determined to offset an export subsidy. See, *e.g.*, *Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy*, 63 FR 49327 (September 15, 1998) and *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From India*, 67 FR 34899 (May 16, 2002). Accordingly, for cash deposit purposes we are subtracting from USIMINAS/COSIPA's cash deposit rate that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination for this respondent (*i.e.*, 3.35 percent). After the adjustment for the cash deposit rate attributed to export subsidies, the resulting cash deposit rate for USIMINAS/COSIPA will be 30.53 percent. This rate will be applied only in the event that an order in the companion countervailing duty case is issued.¹

The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This

¹ Because suspension of liquidation in the companion countervailing duty investigation is currently discontinued and will not be resumed unless and until the Department issues a countervailing duty order, the antidumping cash deposit rate is the calculated weighted-average dumping margin of 33.88 percent. If an order is issued in the companion countervailing duty investigation, suspension of liquidation in the countervailing duty investigation will resume. If an order is also issued in this antidumping duty investigation, the Department will issue antidumping duty cash deposit instructions requiring a cash deposit equal to the antidumping margin calculated for USIMINAS/COSIPA less the export subsidy rate calculated for USIMINAS/COSIPA in the companion countervailing duty investigation.

suspension-of-liquidation instruction will remain in effect until further notice.

Final Determination Margins

We determine that the following percentage weighted-average margins exist:

Manufacturer/exporter	Margin (percent)
Usinas Siderurgicas de Minas Gerais and Companhia Siderurgica Paulista.	33.88
All Others	33.88

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, USIMINAS/COSIPA.

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 45 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 735(d) and 777(i) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,
Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

1. Use of Facts Available
2. Treatment of PIS and COFINS Taxes in Normal Value
3. Treatment of PIS and COFINS Taxes in the Cost of Production
4. Arm's-Length Test
5. Calculation of the Overall Dumping Margin
6. Upward Billing Adjustments
7. Downward Billing Adjustments
8. ICMS and IPI taxes
9. Discounts
10. Home Market Inland Freight Expenses for COSIPA
11. Foreign Inland Freight Expenses for COSIPA
12. Home Market Inland Freight Expenses and Foreign Inland Freight Expenses for USIMINAS
13. Foreign Brokerage and Handling Expenses
14. Credit Expenses for USIMINAS
15. Credit Expenses for COSIPA
16. Warranties vs. Rebates for USIMINAS
17. Warranty Expenses for COSIPA
18. Technical Service Expenses
19. Use of Facts Available to Determine USIMINAS's Cost of Production
20. Inclusion of Non-POI Costs in the Cost of Production
21. Reported Scrap Credit Values
22. Depreciation of Temporarily Idled Assets
23. Amortization of Goodwill
24. Exclusion of Financial Gains and Losses on Receivables from Financial Expenses

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-791-814]

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

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

ACTION: Notice of final determination of sales at less than fair value and negative final determination of critical circumstances.

SUMMARY: We determine that certain cold-rolled carbon steel flat products from South Africa are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930,

as amended. In addition, we determine that critical circumstances do not exist for imports of cold-rolled carbon steel flat products from South Africa.

We gave interested parties an opportunity to comment on the preliminary determination. Based on our analysis of the comments received, we have made certain changes for the final determination.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Minoos Hatten, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1690.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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. In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations codified at 19 CFR part 351 (April 2002).

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Negative Preliminary Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From South Africa*, 67 FR 31243 (May 9, 2002) (*Preliminary Determination*). See also *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 *Preliminary Determination*, the following events have occurred. On May 13, 2002, and May 27, 2002, the Department conducted a U.S. sales verification and home-market sales verification, respectively, using standard verification procedures. Our verification results are outlined in the public versions of the verification reports (see U.S. sales verification report