Dated: March 19, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–5713 Filed 3–27–07; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A–469–805

Stainless Steel Bar from Spain: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to a request from an interested party, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel bar (SSB) from Spain. The review covers one manufacturer/exporter, Sidenor Industrial SL (Sidenor). The period of review is March 1, 2005, through February 28, 2006.

We have preliminarily determined that Sidenor has made sales below normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: March 28, 2007

FOR FURTHER INFORMATION: Dmitry Vladamirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0665 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1995, the Department published in the **Federal Register** the antidumping duty order on SSB from Spain. *See Amended Final Determination and Antidumping Duty Order: Stainless Steel Bar From Spain*, 60 FR 11656 (March 2, 1995) (SSB Order). On March 2, 2006, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on SSB from Spain. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 10642 (March 2, 2006). On March 29, 2006, Sidenor requested that the Department conduct a review of its U.S. sales made during the period of review. On April 28, 2006, in accordance with 19 CFR 351.213(b), we published a notice of initiation of administrative review of this order. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 25145 (April 28, 2006). On December 1, 2006, we published a notice announcing the extension of the due date for the completion of these preliminary results of review from December 1, 2006, to February 13, 2007. See *Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 69550 (December 1, 2006) (*Extension Notice*).[1] On February 6, 2007, we published a notice announcing a second extension of the due date for the completion of these preliminary results of review from February 13, 2007, to March 22, 2007. See *Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 5419 (February 6, 2007).

The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by this order is SSB. SSB means articles of stainless steel in straight lengths that have been either hot–rolled, forged, turned, cold–drawn, cold–rolled or otherwise cold–finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold–finished SSBs that are turned or ground in straight lengths, whether produced from hot–rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi–finished products, cut length flat–rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold–formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat–rolled products), and angles, shapes and sections.

The SSB subject to this order is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Use of Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act further states that 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.

The cost–of-production (COP) questionnaire responses submitted by

[1] In the *Extension Notice* we stated inadvertently that we were extending the time period for issuing the preliminary results of this review to February 13, 2006. On December 15, 2006, we published a correction notice announcing the extension of the due date for the completion of these preliminary results of review to February 13, 2007. See *Correction to Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 75503 (December 15, 2006).

Sidenor are incomplete and cannot be used to calculate an accurate dumping margin for Sidenor. The original antidumping questionnaire was issued on July 31, 2006. Since the issuance of the initial questionnaire to Sidenor, we have granted numerous extensions up to and including the submission of the third supplemental questionnaire response, which we received on January 24, 2007. Over a six-month period, we carefully and repeatedly identified numerous deficiencies and errors for which we needed more complete information in order to understand the reported information. Throughout this process, Sidenor demonstrated a consistent pattern of non–responsiveness, providing confusing, incomplete, and inconsistent information. As a result of these serious deficiencies, we are unable to determine adequately whether the COP information in its responses reflects reasonably and accurately the costs incurred by Sidenor to produce the merchandise under consideration. Without this information, we cannot calculate an accurate dumping margin for this company.

In accordance with section 776 of the Act, the Department preliminarily determines that the use of total adverse facts available (AFA) is warranted with respect to Sidenor. As discussed in the Memorandum from Mark Todd to Neal Halper, entitled ''Use of Adverse Facts Available for the Preliminary Determination,'' dated March 22, 2007 (AFA Memo), Sidenor did not provide the following information which we requested: (1) a consistent explanation for its product–cost calculation methodology that demonstrates the link between its reported costs and its normal books and records; (2) various reconciliation schedules (*i.e.*, quantity reconciliation, direct material cost reconciliation, and conversion cost reconciliation); and (3) requested supporting cost documentation from its normal books and records (*i.e.*, job cost sheets and cost of sales information). Without this information, the Department is unable to determine whether Sidenor accounted for all of its production costs relating to the merchandise under consideration. Thus, the Department is unable to rely on Sidenor's submitted costs. Because Sidenor has not provided the necessary information on the record, the use of facts available for the preliminary results of review is warranted pursuant to section 776(a)(1) of the Act. Furthermore, because Sidenor has withheld requested information, failed to provide such information in the form and manner required, impeded this review, and reported information that could not be verified, the use of facts available for the preliminary results is warranted pursuant to sections 776(a)(2)(A), (B), (C), and (D) of the Act. For further discussion, please refer to the AFA Memo.

Section 776(b) of the Act provides that, if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority, in reaching the applicable determination under this title, the administering authority may use an inference adverse to the interests of that party in selecting from among the facts otherwise available. See, *e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Prestressed Concrete Steel Wire Strand From Mexico*, 68 FR 42378 (July 17, 2003), unchanged in the final determination (see *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Mexico*, 68 FR 68350 (December 8, 2003)).

Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H. Doc. No. 103–316, at 870 (1994) (SAA). Furthermore, ''affirmative evidence of bad faith, or willfulness, on the part of a respondent is not required before the Department may make an adverse inference.'' See *Antidumping Duties, Countervailing Duties, Final Rule*, 62 FR 27296 (May 19, 1997).

Despite repeated requests for information concerning Sidenor's reported costs, including extensions of time granted to submit the necessary information, the company did not provide adequate cost data we could use in our calculations.[2] Sidenor submitted a series of supplemental questionnaire responses that were inadequate and lacked certain critical elements that address our evaluation of the accuracy and reliability of the reported cost information. Additionally, Sidenor failed to submit various reconciliation schedules and explanations that we requested in our supplemental questionnaires. Therefore, we find that Sidenor has failed to cooperate to the best of its ability because it continued to be non–responsive despite our repeated requests to provide critical information regarding Sidenor's reported costs. Consequently, the Department has preliminarily determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. See section 776(b) of the Act; see also Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan, 65 FR 42985, 42986 (July 12, 2000), where the Department applied total AFA because the respondents failed to respond to the antidumping questionnaire; see also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006), unchanged in the final determination (see *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012, 45013 (August 8, 2006), where the Department applied total AFA because the respondent had failed to address the various deficiencies identified several times by the Department).

As total AFA, we have applied the highest rate determined by the Department in the less–than–fair–value investigation, which is 62.85 percent. See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Spain*, 59 FR 66931 (December 28, 1994) (*Final LTFV*). In the LTFV investigation we applied this rate to Acenor S.A.

''In cases in which the respondent fails to provide Commerce with the most recent pricing data, it is within Commerce's discretion to presume that the highest prior margin reflects the current margins.'' See *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F.3d 1330, 1339 (Fed. Cir. 2002) (citing *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990)). Further, as stated in *Shanghai Taoen Int'l Trading Co. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (citing *D&L Supply Co. v. United States*, 113 F.3d 1220,1223 (Fed. Cir. 1997)), ''the purposes of using the highest prior antidumping duty rate are to offer assurance that the exporter will not benefit from refusing to provide information, and to produce an antidumping duty rate that bears some

[2] Because some of the information regarding Sidenor's costs is business proprietary, see the AFA Memo for further discussion.

relationship to past practices in the industry in question.''

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information from independent sources that are reasonably at its disposal. Secondary information is defined as ''information 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 SAA at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *Id*. Information from a prior segment of this proceeding, such as that used here, constitutes secondary information. See SAA at 870.

To corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. See SAA at 869. The SAA also states that independent sources used to corroborate such evidence may include, for example, published prices lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR 351.308(d) and SAA at 870.

With respect to the reliability aspect of corroboration, the Department found the rate of 62.85 percent to be reliable in the investigation. See *LTFV*, 59 FR 66931. There, the Department assigned to Acenor S.A. the highest margin among the margins alleged in the petition, as recalculated by the Department. Because the information was supported by source documents, we preliminary determine that the information is still reliable.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as ''best information available'' (the predecessor to ''facts available'') because the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin. Similarly, the Department does not apply a margin that has been discredited. See *D&L Supply Co. v. United States*, 113 F.3d 1220, 1224 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances is present here, and there is no evidence indicating that the margin used as facts available in this review is not appropriate. Further, in accordance with *F. LII De Cecco Di Filippo Fara S. Martino S.p.A v. United States*, 216 F. 3d. 1027, 1030 (Fed. Cir. June 16, 2000), we must also examine whether information on the record would support the selected rates as reasonable facts available. In the investigation, we determined that the calculation of 62.85 percent reflects commercial practices of the particular industry during the period of investigation and, as such, was relevant to mandatory respondents that failed to participate in the investigation. Because no information has been presented in the current review that calls into question the relevance of this information, we preliminarily determine that the adverse facts–available rate we corroborated in the investigation is relevant to Sidenor in this administrative review of the order.

Similar to our position in *Notice of Preliminary Results of Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags from Thailand*, 71 FR 53405 (September 11, 2006), because this is the first review of Sidenor (and because Acenor S.A. failed to participate in the investigation), there are no probative alternatives. Accordingly, by using information that was corroborated in the investigation and preliminarily determined to be relevant to Sidenor in this review, we have corroborated the adverse facts–available rate ''to the extent practicable.'' See section 776(c) of the Act, 19 CFR 351.308(d), and *NSK Ltd. v. United States*, 347 F. Supp. 2d 1312, 1336 (CIT 2004) (stating, ''pursuant to the 'to the extent practicable' language the corroboration requirement itself is not mandatory when not feasible'').

Preliminary Results of Review

As a result of this review, we preliminarily determine a dumping margin of 62.85 percent for Sidenor, based on adverse facts available, exists for the period March 1, 2005, through February 28, 2006.

Public Comment

Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. See 19 CFR 351.310(c). If a hearing is requested, the Department will notify interested parties of the hearing schedule. Interested parties are invited to comment on the preliminary results of this review. The Department will consider case briefs filed by interested parties within 30 days after the date of publication of this notice. Also, interested parties may file rebuttal briefs, limited to issues raised in the case briefs. The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities cited. Further, we request that parties submitting written comments provide the Department with a diskette containing an electronic copy of the public version of such comments.

The Department intends to issue the final results of this administrative review, including the results of its analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Because we are relying on total adverse facts available to establish Sidenor's dumping margin, we preliminarily determine to instruct CBP to apply a dumping margin of 62.85 percent to all entries of subject merchandise during the period of review which were produced and/or exported by Sidenor. Within 15 days of publication of the final results of review, the Department will issue instructions to CBP.

Cash–Deposit Requirements

The following cash–deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash–deposit rate for Sidenor will be the rate established in the final results of this review (except that if the rate is *de minimis, i.e.*, less than 0.50 percent, no cash deposit will be required); (2) for previously investigated or reviewed companies not listed above, the cash–

deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation but the manufacturer is, the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) the cash–deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 25.77 percent, which is the ''all others'' rate established in the LTFV investigation. See *SSB Order*. These cash–deposit rates, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 22, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–5690 Filed 3–27–07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.032107C]

Marine Mammals; File No. 1100–1849

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Shane Moore, Moore & Moore Films, Box 2980, 1203 Melody Creek Lane, Jackson, Wyoming 83001 has been issued a permit to conduct commercial/educational photography.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Kate Swails, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On July 19, 2006 notice was published in the **Federal Register** (71 FR 40995) that a request for a commercial/educational photography permit to take killer whales (*Orcinus orca*), gray whales (*Eschrichtius robustus*), and minke whales (*Balaenoptera acutorostrata*) had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant will take 10 killer whales of the Eastern North Pacific Transient stock, 10 gray whales, and 10 minke whales annually by close approach for filming in the Gulf of Alaska and Bering Sea. The purpose of this project is to document the behavior of marine animals in the presence of the carcass of a gray or minke whale that was killed by killer whales. The applicant will fix a remotely operated video camera in an underwater housing to the sea floor approximately 15 feet from the carcass. The camera will be deployed after the killer whales have left the carcass and would be controlled from a boat approximately 100 yards away. In addition, if killer whales, gray whales, or minke whales pass near the boat, the applicant will submerge a small camera on a pole to take photographs of passing animals. This footage will be shared freely with the scientific community as it may reveal to what extent killer whales continue to feed on submerged kills, how they feed on these carcasses, and document what other animals may benefit from these carcasses as well. Filming activities will occur between April 1 and August 31 of each year. The permit will expire three years from the date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: March 23, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–5680 Filed 3–27–07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032307A]

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting of the North Pacific Fishery Management Council's Halibut Charter Stakeholder Committee.

SUMMARY: The North Pacific Fishery Management Council (Council) Halibut Charter Stakeholder Committee will meet in Anchorage, AK at the North Pacific Research Board meeting room.

DATES: The meeting will be held on April 12, 2007, from 8:30 a.m. to 4:30 p.m. and on April 13, 2007, from 8:30 a.m. to 12 noon.

ADDRESSES: The meeting will be held at the North Pacific Research Board, 1007 West 3rd Avenue, Suite 100 Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Jane DiCosimo, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The agenda will include the following: report on status of Council actions; report on status of State actions; subcommittee report on finance mechanisms to compensate reallocation from commercial to charter sectors; continued revisions to permanent solution alternatives; separating allocation from permanent solution analysis; charter halibut bycatch mortality estimates; new proposals; other business.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.