

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), products that have been cut from stainless steel sheet, strip or plate, 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 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Initiation of Review

Based on the information on the record and in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), we have determined that Flanschenwerk has met the statutory and regulatory requirements for the initiation of a new shipper review. Thus, we are initiating a new shipper review of the antidumping duty order on SSB from Germany (produced and exported) by Flanschenwerk. Because we are initiating this new shipper review in the month immediately following the semiannual anniversary month, this review covers the period from March 1, 2007, through August 31, 2007, in accordance with 19 CFR 351.214(g)(1)(i)(B). We intend to issue the preliminary results of this review no later than 180 days after the date on which this review is initiated, and the final results within 90 days after the date on which we issue the preliminary results. See section 751(a)(2)(B)(iv) of the Act.

On August 17, 2006, the Pension Protection Act of 2006 ("H.R. 4") was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in new shipper reviews. Therefore, the posting of a bond under section 751(a)(B)(iii) of the

Act in lieu of a cash deposit is not available in this case. Importers of SSB manufactured and exported by Flanschenwerk must continue to post cash deposits of estimated antidumping duties on each entry of subject merchandise (*i.e.*, SSB) at the current all-others rate of 15.16 percent, established in *Implementation of the Findings of the WTO Panel in US-Zeroing (EC): Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders*, 72 FR 25261, 25262 (May 4, 2007).

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act, 19 CFR 351.214(d) and 19 CFR 351.221(c)(1)(i).

Dated: October 22, 2007.

Stephen J. Claeys,
Deputy Assistant Secretary for Import Administration.

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Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1757 and (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1993, the Department published the antidumping duty order on stainless steel wire rods from India. See *Antidumping Duty Order: Certain Stainless Steel Wire Rods from India*, 58 FR 63335 (December 1, 1993). On December 29, 2006, the Department received a timely request from Sunflag for new-shipper and administrative reviews of the antidumping duty order, under section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c). On February 2, 2007, we published the initiation of the administrative review. On March 20, 2007, the Department published a notice of initiation of a new-shipper review of the antidumping duty order on stainless steel wire rods from India with respect to Sunflag. See *Stainless Steel Wire Rod From India: Notice of Initiation of Antidumping Duty New-Shipper Review*, 72 FR 13088 (March 20, 2007). On September 12, 2007, we published our intent to rescind the administrative review with respect to Sunflag because we are proceeding with the new-shipper review and because the administrative review covers entries during the same period of time as the new-shipper review. See *Stainless Steel Wire Rods from India: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind Antidumping Duty Administrative Review in Part*, 72 FR 52079 (September 12, 2007). We conducted verification of Sunflag's information from July 30, 2007, through August 2, 2007. On August 8, 2007, we extended the time limit for the preliminary results of the new-shipper review to October 19, 2007. See *Stainless Steel Wire Rods From India: Extension of Time Limit for the Preliminary Results of the Antidumping Duty New-Shipper Review*, 72 FR 44496 (August 8, 2007).

Scope of the Order

The merchandise under review is stainless steel wire rods which are hot-rolled or hot-rolled annealed and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. Wire rods are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling and are normally sold in coiled

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-808]

Stainless Steel Wire Rods From India: Preliminary Results of the Antidumping Duty New-Shipper Review

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

EFFECTIVE DATE: October 26, 2007.

SUMMARY: The Department of Commerce (the Department) is conducting a new-shipper review of the antidumping duty order on stainless steel wire rods (wire rods) from India manufactured and exported by Sunflag Iron & Steel Co., Ltd. (Sunflag). The period of review (POR) is December 1, 2005, through November 30, 2006. We preliminarily determine to apply adverse facts available to Sunflag's U.S. sales. We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

FOR FURTHER INFORMATION CONTACT: Catherine Cartsos or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade

form, and are of solid cross section. The majority of wire rods sold in the United States are round in cross-section shape, annealed, and pickled. The most common size is 5.5 millimeters in diameter.

The wire rods subject to this order are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Bona Fide Analysis

Consistent with our practice, we investigated whether the two U.S. transactions reported by Sunflag during the POR were *bona fide* sales. Among the factors we examined was the relationship between Sunflag and its reported U.S. customer. Based on our investigation, we preliminarily determine that Sunflag's sales were made on a *bona fide* basis. For our complete analysis, see memorandum from Catherine Cartsos to the File entitled "Bona Fide Nature of Sunflag Iron & Steel Co., Ltd.'s Sales in the New Shipper Review for Stainless Steel Wire Rods from India," dated October 19, 2007, on file in room B-099 of the main Department of Commerce building.

Use of Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority, (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of the administrative review. Section 782(e) of the Act states

that the Department shall not decline to consider information determined to be "deficient" under section 782(d) 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.

Moreover, section 776(b) of the Act provides that, if the Department 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, the Department may use an inference adverse to the interests of that party in selecting from among the facts otherwise available. In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103- 316, Vol. 1, at 870 (1994) (SAA), establishes that the Department may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate to the best of its ability than if it had cooperated fully." It also instructs the Department to consider, in employing adverse inferences, "the extent to which a party may benefit from its own lack of cooperation." *Id.*

We preliminarily determine that Sunflag's questionnaire response of May 11, 2007, and supplemental questionnaire responses of June 26, 2007, and July 14, 2007, cannot serve as the basis for calculating a margin for Sunflag because we are unable to depend on the accuracy and reliability of the information in those responses. In our questionnaire we describe the form and manner in which the respondent should report its sales data. Specifically, we state,

{for sales of merchandise that have been shipped to the customer and invoiced by the time this response is prepared, each "record" in the computer data file should correspond to an invoice line item (*i.e.*, each unique product included on the invoice). For sales of merchandise that have not yet been shipped and invoiced (in whole or in part) to the customer, a "record" should correspond to the unshipped portion of the sale. Each computer record submitted should contain the information requested concerning the product sold, the terms of the sale, the selling expenses incurred and other information." See *Questionnaire*,

dated March 5, 2007, at B-3 and C-2.

As discussed in detail in the October 19, 2007, Memorandum entitled "2005/2006 New-Shipper Review of Stainless Steel Wire Rods from India - Decision to Apply Adverse Facts Available and the Selection of an Appropriate Rate for the Preliminary Results of Review" (AFA Memorandum), we found at verification that Sunflag did not report its sales in the home market as instructed. We found that, for its home-market database, Sunflag reported each invoice as a single observation even in those instances where the invoice contained multiple sales of different products (*i.e.*, multiple line items). Sunflag assigned the total invoice quantity and the total invoice value as the observation quantity and value, and it reported the product characteristics of only one of the line items as the product characteristics of the observation. Sunflag used the product description of the last item on the billing document (a different document from the invoice) to report the grade, diameter, further manufacturing, and gross unit price for the observation.

Also at verification we found discrepancies with certain variables Sunflag reported in the home-market and U.S. databases. We have insufficient information on the record to correct all of the discrepancies related to these variables. Moreover, Sunflag did not report most home-market expenses (four types of discounts, inland freight, commissions, indirect selling expenses, and variable cost of manufacturing in the home market) on a per-unit basis, as we requested in our questionnaire but, instead, reported them based on the total invoice quantity. In addition, because in its home-market database Sunflag reported each invoice as a single aggregated observation even in those instances where the invoice contained multiple sales of different products, the information it reported in most of the expense fields is inaccurate. For a detailed discussion with respect to these deficiencies see AFA Memorandum and memorandum from Catherine Cartsos and Edythe Artman to File entitled "Verification of the Sales Response of Sunflag Iron & Steel Co., Ltd., in the Antidumping New-Shipper Review of Stainless Steel Wire Rod from India," dated October 19, 2007 (Verification Report). Therefore, Sunflag failed to provide information in the form and manner requested in the Department's original questionnaire. See section 776(a)(2)(B) of the Act. A further flaw in Sunflag's information concerns our finding at the verification of the discrepancy between

the reported value of sales for the window period and the value of sales in the general ledger for the same period; the general-ledger figure was higher than the value Sunflag reported as its total home-market sales. Company officials attributed part of the difference in the two values to returns but, while part of the difference was indeed due to reporting sales net of returns, the remainder of the difference was due to sales of foreign like product that Sunflag should have reported but did not. By not reporting all of its sales of foreign like product, Sunflag withheld information that the Department requested in its questionnaire and two supplemental questionnaires. In addition, the Department officials observed while conducting verification that Sunflag maintained detailed records containing all the information necessary to provide a complete and accurate questionnaire response. See section 776(a)(2)(A) of the Act.

In addition to finding that Sunflag misreported and neglected to report home-market sales, Sunflag provided additional information that could not be verified. During the verification the Department officials found that Sunflag's reported sales data contained pervasive errors and much of the data remained substantially unverified due to Sunflag's lack of preparedness. Even though Sunflag officials received our Verification Agenda, which outlined in detail the steps we would follow at verification, more than a week in advance of the verification, they were not well prepared. Therefore, we experienced constant and serious delays while at verification. Because of these delays, it was impossible to verify all of the information we had identified as subject to our examination in the Verification Agenda. See section 776(a)(2)(D) of the Act.

Sunflag significantly impeded the new-shipper review by not providing accurate and necessary information contained in its records. See section 776(a)(2)(C) of the Act. Also, the Department can decline to consider information Sunflag submitted because, as demonstrated above, sections 782(e)(2) and (3) of the Act are not met. Accordingly, pursuant to sections 776(a)(2) of the Act, the use of total facts available for Sunflag is justified.

Section 776(b) of the Act provides that, if the Department 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, the Department 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 Circumstance 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)).

Sunflag had the documents necessary to report complete and correct information in the necessary and requested manner and format. Because it did not do so, we find that Sunflag did not act to the best of its ability in reporting necessary and accurate information and presenting its data in the requested manner that would enable us to calculate a margin. Therefore, we find it appropriate to use an inference that is adverse to Sunflag's interest in selecting from among the facts otherwise available. By doing so, we ensure that Sunflag will not obtain a more favorable rate by failing to cooperate.

Section 776(b) of the Act states that an adverse inference may include reliance on information derived from the petition. See also 19 CFR 351.308(c). We have preliminarily assigned Sunflag, as facts otherwise available with an adverse inference, the petition margin rate of 48.80 percent. While this is the highest margin in the history of the proceeding, it is also the all-others rate and, therefore, the rate currently applicable to entries of merchandise from Sunflag. Any rate lower than 48.80 percent would give Sunflag a more favorable rate despite its failure to cooperate to the best of its ability.

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. See SAA at 870. 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 price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See SAA at 870. See also 19 CFR 351.308(d).

With respect to the reliability aspect of the corroboration, we will consider information reasonably at our disposal to determine whether a margin continues to be reliable and whether there are circumstances that would render data used as facts available unreliable. The 48.80 percent all-others rate from the investigation is the average of the rates applied to each original respondent in the investigation. In the investigation, the Department applied the highest rate among the margins in the petition to each respondent based upon a determination by the Department to use the best information available. See *Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods from India*, 58 FR 54110, 54111 (October 20, 1993). The U.S. price in the petition, which resulted in the 48.80 percent rate, was based on a quote to a U.S. customer which was obtained through market research. See Memorandum from the analyst to the file dated October 19, 2007, entitled "Transfer to Current Record of Petition for the Imposition of Antidumping Duties Dated December 29, 1993."

The normal value the petitioner used in the petition was based on an actual home-market price quote from an Indian producer of stainless steel wire rods. The price quote for normal value in the petition was contemporaneous with the U.S. price quote in the petition as the basis for export price.

We determined that, because the home-market and U.S. price quotation reflected commercial practices of the particular industry during the period of investigation, the information was relevant to mandatory respondents which refused to participate in the investigation. No information has been presented in the current review that calls into question the reliability of this information nor has this rate been judicially invalidated. Further, the 48.80 percent rate was most recently corroborated and applied as an adverse facts-available rate to a respondent in the 2001–2002 review of this order. See *Stainless Steel Wire Rods from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 68 FR 70765,

70771 (December 19, 2003), unchanged in *Stainless Steel Wire Rods from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 29923 (May 26, 2004). Accordingly, we preliminarily determine that the rate we used in the investigation, which we corroborated in the 2001–2002 review of this order and in this review, is a reliable rate.

To assess the relevance of the petition margin for purposes of this review, in accordance with section 776(c) of the Act we examined the key elements of the calculations of export price and normal value upon which the petitioners based their margins for the petition, to the extent practicable. See *Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 76, 84 (January 4, 1999).

In the current new-shipper review we were able to corroborate the U.S. price in the petition, which was used as the basis of the 48.80 percent rate, by comparing this price to information from a respondent in the concurrent administrative review covering the same POR, Mukand Limited (Mukand). Mukand's reported U.S. price is significantly lower than the U.S. price in the petition, thus corroborating the petition U.S. price. See Memorandum from the analyst to the file entitled, "Placement of Mukand's Home-Market and U.S. Data on the Record," dated October 19, 2007 (Mukand Data Memo).

In the current new-shipper review, in order to corroborate normal value, we looked again at information from Mukand's response for the concurrent administrative review covering the same POR. We find that the home-market prices in Mukand's March 15, 2007, questionnaire response are similar to, and in many instances much higher than, the price provided as normal value in the 1992 petition, which contributed to the all-others rate of 48.80 percent. See Mukand Data Memo.

For these reasons, the Department considers the normal value to be corroborated. Furthermore, because the 48.80 percent rate is also the all-others rate for this order, Sunflag's shipments have entered the United States at this rate such that the 48.80 percent rate is relevant to the current POR.

Finally, this is a new-shipper review; hence, as the first review of Sunflag, there are no probative alternatives specific to the company. Accordingly, by using information that was applied in the less-than-fair-value investigation

(LTFV), corroborated in the 2001–2002 review of this order, and preliminarily determined to be relevant to Sunflag 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).

Preliminary Results of Review

As a result of this review, we preliminarily determine that a dumping margin of 48.80 percent for Sunflag exists for the period December 1, 2005, through November 30, 2006.

Public Comment

We will disclose the documents resulting from our analysis to parties in this review within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. 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 in the **Federal Register**. 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 a statement of the issue, a brief summary of the argument, and 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.

We intend to issue the final results of this new-shipper review, including the results of our analysis of issues raised in the written comments, within 90 days after the date on which the preliminary results are issued.

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. Because we are relying on total adverse facts available to establish Sunflag's dumping margin, we preliminarily determine to instruct CBP to apply a dumping margin of 48.80 percent to all entries of subject merchandise during the POR that were produced or exported by Sunflag. The

Department will issue instructions to CBP 15 days after the publication of the final results of review.

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 new-shipper review, as provided by section 751(a)(1) of the Act: (1) the cash-deposit rate for Sunflag will be the rate established in the final results of this new-shipper review; (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 48.80 percent, which is the “all others” rate established in the LTFV investigation. See *Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods from India*, 58 FR 54110, 54111 (October 20, 1993). 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 duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act and 19 CFR 351.214.

Dated: October 19, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

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