



A-351-847

A-791-822

A-489-828

Investigations

Public Document

E&C/I: MK/JEH/SSP

September 15, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determinations in the Less-Than-Fair-Value Investigations of Certain Carbon and Alloy Steel Cut-to-Length Plate from Brazil, South Africa, and the Republic of Turkey

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that imports of certain carbon and alloy steel cut-to-length plate (CTL plate) from Brazil, South Africa, and the Republic of Turkey (Turkey) are being, or are likely to be, sold in the United States at less-than-fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The preliminary estimated weighted-average dumping margins are shown in the “Preliminary Determinations” section of the accompanying *Federal Register* notice.¹

II. BACKGROUND

On April 8, 2016, the Department received antidumping duty (AD) petitions covering imports of CTL plate from Brazil, South Africa, and Turkey, which were filed in proper form by ArcelorMittal USA LLC, Nucor Corporation, and SSAB Enterprises, LLC (collectively, the petitioners).² The Department initiated these investigations on April 28, 2016.³

¹ Various documents are referenced in this preliminary decision memorandum. Documents pertaining only to one of the investigations covered by this preliminary decision memorandum are only on the record of that respective investigation.

² See Letter to the Secretary of Commerce from the petitioners, “Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, the People’s Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, South Africa, Taiwan, and Turkey – Petitions for the Imposition of Antidumping and Countervailing Duties,” (April 8, 2016) (the Petitions).

³ See *Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People’s Republic of China, South Africa, Taiwan,*

In the *Initiation Notice*, the Department notified the public that in the event the Department determined that the number of companies subject to the specific investigation is large and it cannot individually examine each company based upon the Department's resources, the Department intended to select respondents based on United States Customs and Border Protection (CBP) data for United States imports of CTL plate from each respective country during the period of investigation (POI) under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigations.⁴ On April 29, 2016, through May 5, 2016, the Department released CBP import data to interested parties in the respective investigations covering CTL plate from Brazil, South Africa, and Turkey, and also requested comments regarding respondent selection.⁵ On May 16, 2016, the Department selected for individual examination Evraz Highveld Steel and Vanadium Corp. (Evraz Highveld), the largest exporter by volume of CTL plate from South Africa during the POI.⁶ On May 19, 2016, the Department selected for individual examination Ereğli Demir ve Çelik Fabrikalari T.A.Ş. (Erdemir), the largest exporter by volume of CTL plate from Turkey during the POI.⁷ On May 26, 2016, the Department selected for individual examination Companhia Siderurgica Nacional (CSN) and Usinas Siderurgicas de Minas Gerais SA (Usiminas) the largest exporters by volume of CTL plate from Brazil during the POI.⁸

On May 18, 2016, the Department issued the AD questionnaire to Evraz Highveld for the investigation of CTL plate from South Africa via Federal Express.⁹ Between May 18, 2016, and July 2016, the Department confirmed with Federal Express that it attempted to deliver the questionnaire to Evraz Highveld at multiple addresses provided by the petitioners.¹⁰ Additionally, on July 5, 2016, the Department confirmed with Federal Express that the

and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations, 81 FR 27089 (May 5, 2016) (*Initiation Notice*).

⁴ *Id.* at 27095.

⁵ See Memorandum to the File, "Certain Carbon and Alloy Steel Cut-to-Length Plate from South Africa: Customs Data for Respondent Selection Purposes," (April 29, 2016) (with respect to the investigation covering CTL Plate from South Africa); Memorandum to the File, "Customs and Border Protection Data for Respondent Selection," (May 4, 2016) (with respect to the investigation covering CTL Plate from Turkey); and Memorandum to the File, "Release of Customs and Border Protection (CBP) Entry Data to Interested Parties for Comment," (May 5, 2016) (with respect to the investigation covering CTL Plate from Brazil).

⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, "Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from South Africa: Respondent Selection," dated May 16, 2016.

⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, "Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Turkey: Respondent Selection," dated May 19, 2016.

⁸ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, "Antidumping Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Brazil: Respondent Selection," dated May 26, 2016.

⁹ See Letter from the Department to Evraz Highveld Steel and Vanadium Corp. dated May 18, 2016.

¹⁰ See Letter from Nucor Corporation, "Certain Carbon and Alloy Steel Cut-to-Length Plate from South Africa: Address of Evraz Highveld," (June 20, 2016); Letter from SSAB Enterprises LLC, "Certain Carbon And Alloy Steel Cut-To-Length Plate From South Africa: Contact Information Relating To Evraz Highveld," (June 23, 2016); Memorandum to the File regarding, "Certain Carbon and Alloy Cut-to-Length Plate from South Africa: Market Economy Questionnaire Incomplete Delivery," (June 23, 2016).

questionnaire was delivered to Evraz Highveld on July 4, 2016.¹¹ Evraz Highveld did not respond to the questionnaire, or otherwise communicate with the Department.

On May 24, 2016, the Department issued the AD questionnaire to Erdemir.¹² On June 24, 2016, Erdemir informed the Department that it did not intend to participate in the investigation covering CTL plate from Turkey.¹³

On June 10, 2016, the Department issued the AD questionnaire to Usiminas and CSN.¹⁴ On July 14, 2016, and July 15, 2016, respectively, Usiminas and CSN informed the Department that they did not intend to participate in the investigation covering CTL plate from Brazil.¹⁵

On May 27, 2016, the United States International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of CTL plate from Brazil, South Africa, and Turkey.¹⁶

On July 26, 2016, the petitioners timely filed allegations that critical circumstances exist with respect to imports of CTL plate from Brazil and Turkey.¹⁷ On September 7, 2016, we published our preliminarily determination that critical circumstances exist with respect to imports of CTL plate exported from Brazil and Turkey.¹⁸

We are conducting these investigations in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATIONS

The POI is April 1, 2015, through March 31, 2016. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was April 2016.¹⁹

¹¹ See Memorandum to the File regarding “Placing Federal Express Documents on the Record,” dated concurrently with this notice; Memorandum to the File regarding, “Extension of Section A Deadline,” (June 6, 2016); Memorandum to the File regarding, “Extension of Sections C & D Deadline,” (June 23, 2016); Memorandum to the File regarding, “Second Extension of Section A Deadline,” (June 15, 2016).

¹² See Letter from the Department to Erdemir dated May 24, 2016.

¹³ See Letter from Erdemir, “Certain Carbon and Alloy Steel Cut-to-Length Plate from Turkey: Erdemir notification of intent not to participate,” dated June 24, 2016.

¹⁴ See Letters from the Department to CSN and Usiminas dated June 10, 2016.

¹⁵ See Letter from Usiminas, “Certain Carbon and Alloy Steel Cut-to-Length Plate from Brazil: Questionnaire Response,” dated July 14, 2016; and Letter from CSN, “Certain Carbon and Alloy Steel Cut-to-Length Plate from Brazil,” dated July 15, 2016.

¹⁶ See Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, Korea, South Africa, Taiwan, and Turkey; Determinations, 81 FR 33705 (May 27, 2016).

¹⁷ See Letter from the petitioners, “Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey: Critical Circumstances Allegations,” dated July 26, 2016.

¹⁸ See *Antidumping Duty Investigations of Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey: Preliminary Determinations of Critical Circumstances*, 81 FR 61666 (September 7, 2016) (*Carbon Alloy Steel From Brazil and Turkey*).

¹⁹ See 19 CFR 351.204(b)(1).

IV. SCOPE OF THE INVESTIGATIONS

The products covered by these investigations are CTL plate from Brazil, South Africa, and Turkey respectively. For a full description of the scope of these investigations, *see* the accompanying preliminary determination *Federal Register* notice of these investigations at Appendix I.

V. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations,²⁰ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).²¹ Certain interested parties commented on the scope of the investigations covering CTL plate from various countries as it appeared in the *Initiation Notice*, as well as additional language proposed by the Department. For a summary of the product coverage comments and rebuttal responses submitted to the record for these preliminary determinations, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.²² The Department is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to clarify the exclusion for stainless steel plate. The Department is also correcting two tariff numbers that were misidentified in the Petitions and in the *Initiation Notice*.²³

VI. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE, AND CALCULATION OF ALL-OTHERS RATE

As noted above, CSN and Usiminas were selected as mandatory respondents in the investigation of CTL plate from Brazil, Evraz Highveld was selected as the mandatory respondent in the investigation of CTL plate from South Africa, and Erdemir was selected as the mandatory respondent in the investigation of CTL plate from Turkey. These companies received the Department's market economy investigation questionnaire in the respective investigations, but did not submit responses. For the reasons stated below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determinations with respect to CSN and Usiminas, the mandatory respondents in Brazil, Evraz Highveld, the mandatory respondent in South Africa, and Erdemir, the mandatory respondent in Turkey.

A. Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or an interested party withholds information requested by the Department; fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section

²⁰ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

²¹ *See Initiation Notice*, 81 FR at 27099.

²² *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the Republic of South Africa, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated September 6, 2016 (Preliminary Scope Decision Memorandum).

²³ *Id.*

782 of the Act; significantly impedes a proceeding, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(c)(1) of the Act states that the Department shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information. Section 782(e) of the Act states further 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.

CSN and Usiminas, in the investigation covering CTL plate from Brazil, Evraz Highveld, in the investigation covering CTL plate from South Africa, and Erdemir, in the investigation covering CTL plate from Turkey, did not respond to our original questionnaire or otherwise participate in these investigations. As a result, we preliminarily find that the necessary information is not available on the records of these investigations, that CSN, Usiminas, Evraz Highveld, and Erdemir withheld information the Department requested, that they failed to provide information by the specified deadlines, and that they significantly impeded the proceedings. Moreover, because CSN, Usiminas, Evraz Highveld, and Erdemir failed to provide any information, section 782(e) of the Act is not applicable. Accordingly, pursuant to sections 776(a)(1) and 776(a)(2)(A), (B), and (C) of the Act, we are relying upon facts otherwise available to determine CSN's, Usiminas', Evraz Highveld's, and Erdemir's preliminary estimated weighted-average dumping margins.

B. Use of Adverse Inference

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and countervailing duty (CVD) law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.²⁴ The amendments to section 776 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.²⁵

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 the facts

²⁴ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

²⁵ See *Applicability Notice*, 80 FR at 46794-95. The 2015 amendments may be found at the following website address: <https://www.congress.gov/bill/114thcongress/house-bill/1295/text/pl>.

otherwise available.²⁶ In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.²⁷ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”²⁸ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.²⁹ It is the Department’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.³⁰

We preliminarily find that CSN, Usiminas, Evraz Highveld, and Erdemir have not acted to the best of their ability to comply with the Department’s request for information. Usiminas and CSN, and Erdemir informed the Department that they did not intend to participate in the investigations covering CTL plate from Brazil and Turkey, respectively. Further, they, and Evraz Highveld, failed to respond to the Department’s questionnaire. The failure of these companies to participate in the relevant investigation and respond to the Department’s questionnaires has precluded the Department from performing the necessary analysis to calculate a weighted-average antidumping duty margin for each based on their own data. Accordingly, the Department concludes that CSN, Usiminas, Evraz Highveld, and Erdemir failed to cooperate to the best of their ability to comply with a request for information by the Department. Based on the above, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), the Department preliminarily determines to use an adverse inference when selecting from among the facts otherwise available.³¹

²⁶ See 19 CFR 351.308(a); see also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002).

²⁷ See section 776(b)(1)(B) of the Act.

²⁸ See H.R. Doc. 103-316, Vol. 1 (1994) at 870; *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

²⁹ See, e.g., *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Preamble*, 62 FR at 27340.

³⁰ See, e.g., *Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum at page 4, unchanged in *Steel Threaded Rod From Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476 (March 14, 2014).

³¹ See, e.g., *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014), and accompanying Preliminary Decision Memorandum at pages 7-11, unchanged in *Non-Oriented Electrical Steel from Germany, Japan, the People’s Republic of China, and Sweden: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014); see also *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where the Department applied total adverse facts available when the respondent failed to respond to the antidumping questionnaire).

C. Preliminary Estimated Weighted-Average Dumping Margins Based on Adverse Facts Available

Section 776(b)(2) of the Act states that the Department, when employing an adverse inference, may rely upon information derived from the Petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.³² In selecting a rate based on adverse facts available (AFA), the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.³³ The Department's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the Petition, or (2) the highest calculated rate of any respondent in the investigation.³⁴

With respect to the investigation covering CTL plate from Brazil, the only dumping margin calculated for subject merchandise from Brazil in the Petitions is 74.52 percent, as recalculated for the purposes of initiation, and no rate was calculated for an individually-examined respondent;³⁵ with respect to the investigation covering CTL plate from South Africa, the highest dumping margin calculated for subject merchandise from South Africa in the Petitions is 94.14 percent and no rate was calculated for an individually-examined respondent;³⁶ and with respect to the investigation covering CTL plate from Turkey, the highest dumping margin calculated for subject merchandise from Turkey in the Petitions is 50.00 percent and no rate was calculated for an individually-examined respondent.³⁷ Thus, consistent with our practice, we have selected the only dumping margin for merchandise from Brazil alleged in the Petitions as the AFA rate applicable to CSN and Usiminas in the investigation of CTL plate from Brazil and the highest dumping margin calculated for merchandise from South Africa and Turkey, respectively, alleged in the Petitions as the AFA rate applicable to Evraz Highveld, in the investigation of CTL plate from South Africa, and Erdemir in the investigation of CTL plate from Turkey.³⁸

D. Corroboration of Secondary Information

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, 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

³² See also 19 CFR 351.308(c).

³³ See SAA at 870.

³⁴ See *Welded Stainless Pressure Pipe From Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014), accompanying Issues and Decision Memorandum (*WSPP from Thailand*).

³⁵ See *Initiation Notice*; see also AD Investigation Initiation Checklist: Certain Carbon and Alloy Steel Cut-Length Plate from Brazil (April 28, 2016).

³⁶ See *Initiation Notice*; see also AD Investigation Initiation Checklist: Certain Carbon and Alloy Steel Cut-Length Plate from South Africa (April 28, 2016).

³⁷ See *Initiation Notice*; see also AD Investigation Initiation Checklist: Certain Carbon and Alloy Steel Cut-Length Plate from Turkey (April 28, 2016).

³⁸ See *Certain Polyethylene Terephthalate Resin From India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 13327 (March 14, 2016) and accompanying Issues and Decision Memorandum at Comment 14 (*PET Resin from India Final Determination*).

751 of the Act concerning the subject merchandise.³⁹ The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value.⁴⁰ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.⁴¹ Further, under the TPEA, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.⁴²

Because the AFA rates determined for CSN and Usiminas, the mandatory respondents in the Brazil investigation, Evraz Highveld, the mandatory respondent in the South Africa investigation, and Erdemir, the mandatory respondent in the Turkey investigation are derived from the Petitions and, consequently, are based upon secondary information, the Department must corroborate the rates to the extent practicable.

For Brazil, South Africa, and Turkey, we determined that the Petition margins are reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petitions during our pre-initiation analysis and for purposes of these preliminary determinations.⁴³

We examined evidence supporting the calculations in the Petitions to determine the probative value of the dumping margins alleged in the Petitions for use as AFA for purposes of these preliminary determinations. During our pre-initiation analysis, we also examined the key elements of the export price (EP) and normal value (NV) calculations, and the alleged dumping margins.⁴⁴ During our pre-initiation analysis, we also examined information from various independent sources provided either in the Petition or, on our request, in the supplements to the Petition that corroborates key elements of the EP and NV calculations used in the Petitions to derive the dumping margins alleged in the Petitions.⁴⁵

Based on our examination of the information, as discussed in detail in the Brazil Initiation Checklist, South Africa Initiation Checklist, and Turkey Initiation Checklist, we consider the petitioners’ EP and NV calculations to be reliable. Because we obtained no other information

³⁹ See SAA, H.R. Doc. No. 316, Vol. I, 103d Cong., 2d Sess. (1994), at 870.

⁴⁰ See SAA at 870; see also 19 CFR 351.308(d).

⁴¹ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

⁴² See sections 776(d)(3)(A) and (B) of the Act.

⁴³ See “Antidumping Duty Investigation Initiation Checklist: Certain Carbon and Alloy Steel Cut-to-Length Plate from Brazil,” dated April 28, 2016 (Brazil Initiation Checklist), “Antidumping Duty Investigation Initiation Checklist: Certain Carbon and Alloy Steel Cut-to-Length Plate from South Africa,” dated April 28, 2016 (South Africa Initiation Checklist), and “Antidumping Duty Investigation Initiation Checklist: Certain Carbon and Alloy Steel Cut-to-Length Plate from Turkey,” dated April 28, 2016 (Turkey Initiation Checklist).

⁴⁴ *Id.*

⁴⁵ *Id.*

that calls into question the validity of the sources of information or the validity of the information supporting the EP and NV calculations provided in the Petitions, based on our examination of the aforementioned information, we preliminarily consider the EP and NV calculations from the Petitions to be reliable. Because we confirmed the accuracy and validity of the information underlying the derivation of the dumping margins alleged in the Petitions by examining source documents and affidavits, as well as publicly available information, we preliminarily determine that the dumping margins alleged in the Petitions are reliable for the purposes of these investigations.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether there are circumstances that would render a rate not relevant. In accordance with section 776(d)(3) of the Act, when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party. Because there are no other participating cooperative respondents in these investigations, we relied upon the dumping margins alleged in the Petitions, which is the only information regarding the CTL plate industry reasonably at the Department’s disposal. Furthermore, as noted in *GOES from China*, in which the only mandatory respondent also received AFA, “there was no need to review any additional documentation outside of what was submitted in the Petition considering such sources of information fulfill our requirements for corroboration of secondary information.”⁴⁶

Accordingly, with respect to the respondents CSN and Usiminas in the investigation of CTL plate from Brazil, the Department preliminarily determines that the only dumping margin alleged in the Petitions has probative value and has corroborated the AFA rate of 74.52 percent to the extent practicable within the meaning of section 776(c) of the Act by demonstrating that the rate: 1) was determined to be reliable in the pre-initiation stage of this investigation (and we have no information indicating otherwise); and 2) is relevant.⁴⁷

Also, with respect to Evraz Highveld in the investigation of CTL plate from South Africa, the Department preliminarily determines that the only dumping margin alleged in the Petitions has probative value and has corroborated the AFA rate of 94.14 percent to the extent practicable within the meaning of section 776(c) of the Act by demonstrating that the rate: 1) was

⁴⁶ See *Grain-Oriented Electrical Steel From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 59226 (October 1, 2014) (*GOES from China*), and accompanying Issues and Decision Memorandum at 20; see also *KYD, Inc. v. United States*, 607 F.3d 760, 765 (Fed. Cir. 2010) (agreeing with the Department that price quotes and third-party affidavits used in the petition to calculate estimated margins were independent information not requiring additional corroboration and stating that “[t]he relevant inquiry focuses on the nature of the information, not on whether the source of the information was referenced in or included with the petition”).

⁴⁷ See section 776(c) of the Act and 19 CFR 351.308(c) and (d); *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 35652, 35653 (June 24, 2008), and accompanying Issues and Decision Memorandum at Comment 1, See also, AD Investigation Initiation Checklist: Certain Carbon and Alloy Steel Cut-to-Length Plate from Brazil (April 28, 2016) (in which the Petition margin was recalculated for purposes of initiation) (Brazil Checklist).

determined to be reliable in the pre-initiation stage of this investigation (and we have no information indicating otherwise); and 2) is relevant.⁴⁸

With respect to Erdemir in the investigation of CTL plate from Turkey, the Department preliminarily determines that the highest dumping margin alleged in the Petitions has probative value and has corroborated the AFA rate of 50.00 percent to the extent practicable within the meaning of section 776(c) of the Act by demonstrating that the rate: 1) was determined to be reliable in the pre-initiation stage of this investigation (and we have no information indicating otherwise); and 2) is relevant.⁴⁹

E. All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis*, or determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

As noted above, CSN and Usiminas are the mandatory respondents in the investigation of CTL plate from Brazil, and their estimated dumping margins are determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, the Department’s practice under these circumstances has been to assign, as the “all-others” rate, a simple average of the petition rates.⁵⁰ However, because the Petitions here contained only one dumping margin pertaining to CTL plate from Brazil, there are no additional dumping margins pertaining to CTL plate from Brazil available to include in the “all-others” rate. Consequently, and consistent with its practice, the Department is using the initiation margin of 74.52 percent as the “all-others” rate applicable to entities not individually examined in the investigation of CTL plate from Brazil.⁵¹

Additionally, as stated above, Evraz Highveld is the sole mandatory respondent in the investigation of CTL plate from South Africa, and its estimated dumping margin is determined entirely under section 776 of the Act. Consistent with its practice, the Department is using the simple average of the two dumping margins pertaining to CTL plate from South Africa provided

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2 (*Sodium Nitrite from Germany Final Determination*).

⁵¹ See *Certain Oil Country Tubular Goods From Thailand: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10487 (February 25, 2014), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691 (September 10, 2014), See also, Brazil Checklist.

in the Petitions (81.29 percent and 94.14 percent), which is 87.72 percent, as the “all-others” rate applicable to entities not individually examined in the investigation of CTL plate from South Africa.⁵²

As we indicated above, Erdemir is the sole mandatory respondent in the investigation of CTL plate from Turkey, and its estimated dumping margin is determined entirely under section 776 of the Act. Consistent with its practice, the Department is using the simple average of the two dumping margins provided in the Petition (34.03 percent and 50.00 percent) which is 42.02 percent as the “all-others” rate applicable to entities not individually examined in the investigation of CTL plate from Turkey.⁵³

VII. CRITICAL CIRCUMSTANCES

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in a LTFV investigation if there is a reasonable basis to believe or suspect that: (A) 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 was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. On September 7, 2016, we published our preliminary determination that critical circumstances exist with respect to imports of CTL plate exported from Brazil and Turkey.⁵⁴

VIII. VERIFICATION

Because the mandatory respondents in these investigations did not provide the information requested by the Department, verifications will not be conducted.

⁵² See *Certain Oil Country Tubular Goods From Thailand: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10487 (February 25, 2014), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691 (September 10, 2014).

⁵³ See *Certain Oil Country Tubular Goods From Thailand: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10487 (February 25, 2014), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691 (September 10, 2014).

⁵⁴ See *Carbon Alloy Steel From Brazil and Turkey*. The petitioners did not allege critical circumstances with respect to South Africa and, therefore, the Department did not analyze whether critical circumstances exist with respect to imports of CTL plate from South Africa.

IX. CONCLUSION

We recommend applying the above methodology for these preliminary determinations.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

15 SEPTEMBER 2016
Date