




A-122-856
Investigation
POI: 10/1/2014 – 9/30/2015
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E&C/IV: SMB

May 31, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

RE: Decision Memorandum for the Preliminary Determination of the
Antidumping Duty Investigation of Certain Iron Mechanical
Transfer Drive Components from Canada

SUMMARY

The Department of Commerce (the “Department”) preliminarily determines that certain iron mechanical transfer drive components (“iron transfer drive components”) from Canada are being, or are likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 733(b) of the Tariff Act of 1930, as amended (the “Act”). The period of investigation (“POI”) is October 1, 2014, through September 30, 2015.

BACKGROUND

On October 28, 2015, the Department received an antidumping duty (“AD”) petition concerning imports of iron transfer drive components from Canada, filed in proper form on behalf of TB Wood’s Incorporated (“TB Woods”) (“Petitioner”).¹ The Department initiated this investigation on November 17, 2015. The Department set aside a period of time for parties to raise issues regarding product coverage and invited parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.² The Department set aside a period of time for parties to raise issues regarding product characteristics and invited parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.³

¹ See the Petition for the Imposition of Antidumping Duties on Imports of Certain Iron Mechanical Transfer Drive Components from Canada, dated October 28, 2015 (the “Petition”).

² See *Certain Iron Mechanical Transfer Drive Components from Canada and the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 73716 (November 25, 2016) (“*Initiation Notice*”).

³ *Id.*, at 73717.



Due to U.S. Customs and Border Protection (“CBP”) data containing quantities in mixed units of measure for U.S. imports, we were unable to use CBP data for respondent selection.⁴ Accordingly, on November 18, 2015, the Department issued quantity and value (“Q&V”) questionnaires to those parties listed in the Petition.⁵ Using responses to the Q&V questionnaires, the Department chose Baldor Electric Company Canada (“Baldor”) as the sole mandatory respondent.⁶

On December 14, 2015, the U.S. International Trade Commission (“ITC”) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of iron transfer drive components from Canada.⁷

On December 21, 2015, the Department issued sections A through D of the AD questionnaire to Baldor, excluding those areas of the questionnaire related to product characteristics.⁸ On January 19, 2016, the Department issued the product characteristics sections of the AD questionnaire to Baldor.⁹ Baldor submitted its section A response on January 19, 2016.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the partial closure of the Federal Government due from Snowstorm “Jonas” from January 22, through January 27, 2016.¹⁰ Therefore, all deadlines in this segment of the proceeding have been extended by four days. If the new deadline falls on a non-business day, in accordance with the Department’s practice, the deadline will become the next business day.¹¹ In this case, the deadline is May 31, 2016.

On January 29, 2016, the Department requested comments from interested parties regarding the use of ranges when reporting product characteristics datum diameter and face thickness.¹² Because interested parties declined to provide range information for datum diameter and face

⁴ See Memorandum to the File, entitled “Petition for the Imposition of Antidumping Duties on Imports of Certain Iron Mechanical Transfer Drive Components from Canada: Automated Commercial System Shipment Query,” dated November 23, 2015 (“ACE Query Memo”).

⁵ See Memorandum to the File, entitled “Quantity and Value Questionnaire: Certain Iron Mechanical Transfer Drive Components from Canada,” dated November 19, 2015, identifying the companies named in the Petition (“Q&V Questionnaire Memo”).

⁶ See Memorandum from Stephen Bailey, International Trade Compliance Analyst, to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled “Antidumping Duty Investigation of Certain Iron Mechanical Transfer Drive Components from Canada: Respondent Selection,” dated December 18, 2015, (“Respondent Selection Memo”).

⁷ See *Certain Iron Mechanical Transfer Drive Components from Canada and China*, 80 FR 79095 (December 18, 2015) (“ITC Preliminary”).

⁸ See The Department’s AD Questionnaire, dated December 21, 2015.

⁹ See Memorandum to All Interested Parties re: Product Characteristics for Use in Sections B, C, and D Questionnaire Responses, dated January 19, 2016 (“Product Characteristics Memo”).

¹⁰ See Memorandum for the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, “Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm ‘Jonas’,” dated January 27, 2016.

¹¹ See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

¹² See Memorandum to All Interested Parties re: Certain Iron Mechanical Transfer Drive Components from Canada and the People’s Republic of China, dated January 29, 2016 (“Ranging Memo”).

thickness, the Department has determined not to change the current methodology for reporting actual datum diameter and actual face thickness.

Baldor submitted its sections B, C, and D responses on February 16, 2016. The Department also issued Baldor a supplemental section A questionnaire on February 16, 2016, which submitted its response on February 22, 2016.

On February 19, 2016, Petitioner made a timely request for a 50-day postponement of the preliminary determinations for this and the other concurrent AD investigation on iron transfer drive components, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).¹³ On March 2, 2016, we postponed the preliminary determinations by 50 days.¹⁴ As a result, the revised deadline for the preliminary determination of this investigation is now May 31, 2016.

The Department issued supplemental sections B and C questionnaires to Baldor on March 15, 2016, a second supplemental sections B and C questionnaire to Baldor on April 8, 2016, and a supplemental section D questionnaire to Baldor on March 31, 2016. On April 19, 2016, Baldor submitted a letter in which it informed the Department that it would not respond to the Department's Sections A, B, C, and D supplemental questionnaires ("supplemental questionnaires") and that it did not intend to submit any further responses to Department questionnaires in this investigation.¹⁵

PERIOD OF INVESTIGATION

The POI is October 1, 2014, through September 30, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was October 2015.¹⁶

POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

On May 16, 2016, pursuant to 19 CFR 351.210(b)(2)(ii), Baldor requested that the Department postpone its final determination, and requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.¹⁷

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2),

¹³ See letter from Petitioner entitled, "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Petitioner's Request to Extend the Preliminary Determinations," dated February 19, 2016.

¹⁴ See *Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 81 FR 12687 (March 10, 2016).

¹⁵ See letter from Baldor to the Department, re: Certain Iron Mechanical Transfer Drive Components from Canada – Baldor Canada's Decision Not to Respond to Department's Questionnaires, dated April 19, 2016 ("No Response Letter").

¹⁶ See 19 CFR 351.204(b)(1).

¹⁷ See letter from Baldor, entitled "Certain Iron Mechanical Transfer Drive Components from Canada – Baldor Canada's Request to Postpone Final Determination," dated May 16, 2016 ("Baldor Extension Request").

because: 1) our preliminary determination is affirmative, 2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise,¹⁸ and 3) no compelling reasons for denial exist, we are granting respondents' requests and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*. In this regard, Baldor submitted a request to extend the provisional measures,¹⁹ and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

SCOPE OF THE INVESTIGATION

The products covered by this investigation are iron mechanical transfer drive components, whether finished or unfinished (*i.e.*, blanks or castings). Subject iron mechanical transfer drive components are in the form of wheels or cylinders with a center bore hole that may have one or more grooves or teeth in their outer circumference that guide or mesh with a flat or ribbed belt or like device and are often referred to as sheaves, pulleys, flywheels, flat pulleys, idlers, conveyer pulleys, synchronous sheaves, and timing pulleys. The products covered by this investigation also include bushings, which are iron mechanical transfer drive components in the form of a cylinder and which fit into the bore holes of other mechanical transfer drive components to lock them into drive shafts by means of elements such as teeth, bolts, or screws.

Iron mechanical transfer drive components subject to this investigation are those not less than 4.00 inches (101 mm) in the maximum nominal outer diameter.

Unfinished iron mechanical transfer drive components (*i.e.*, blanks or castings) possess the approximate shape of the finished iron mechanical transfer drive component and have not yet been machined to final specification after the initial casting, forging or like operations. These machining processes may include cutting, punching, notching, boring, threading, mitering, or chamfering.

Subject merchandise includes iron mechanical transfer drive components as defined above that have been finished or machined in a third country, including but not limited to finishing/machining processes such as cutting, punching, notching, boring, threading, mitering, or chamfering, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the iron mechanical transfer drive components.

Subject iron mechanical transfer drive components are covered by the scope of the investigation regardless of width, design, or iron type (*e.g.*, gray, white, or ductile iron). Subject iron mechanical transfer drive components are covered by the scope of the investigation regardless of whether they have non-iron attachments or parts and regardless of whether they are entered with other mechanical transfer drive components or as part of a mechanical transfer drive assembly (which typically includes one or more of the iron mechanical transfer drive components identified above, and which may also include other parts such as a belt, coupling and/or shaft). When entered as a mechanical transfer drive assembly, only the iron components that meet the

¹⁸ See Respondent Selection Memo.

¹⁹ See 19 CFR 351.210(e)(2); *see also* Baldor Extension Request.

physical description of covered merchandise are covered merchandise, not the other components in the mechanical transfer drive assembly (*e.g.*, belt, coupling, shaft).

For purposes of this investigation, a covered product is of “iron” where the article has a carbon content of 1.7 percent by weight or above, regardless of the presence and amount of additional alloying elements.

Excluded from the scope are finished torsional vibration dampers (TVDs). A finished TVD is an engine component composed of three separate components: an inner ring, a rubber ring and an outer ring. The inner ring is an iron wheel or cylinder with a bore hole to fit a crank shaft which forms a seal to prevent leakage of oil from the engine. The rubber ring is a dampening medium between the inner and outer rings that effectively reduces the torsional vibration. The outer ring, which may be made of materials other than iron, may or may not have grooves in its outer circumference. To constitute a finished excluded TVD, the product must be composed of each of the three parts identified above and the three parts must be permanently affixed to one another such that both the inner ring and the outer ring are permanently affixed to the rubber ring. A finished TVD is excluded only if it meets the physical description provided above; merchandise that otherwise meets the description of the scope and does not satisfy the physical description of excluded finished TVDs above is still covered by the scope of the investigation regardless of end use or identification as a TVD.

The scope also excludes light-duty, fixed-pitch, non-synchronous sheaves (“excludable LDFPN sheaves”) with each of the following characteristics: made from grey iron designated as ASTM (North American specification) Grade 30 or lower, GB/T (Chinese specification) Grade HT200 or lower, DIN (German specification) GG 20 or lower, or EN (European specification) EN-GJL 200 or lower; having no more than two grooves; having a maximum face width of no more than 1.75 inches, where the face width is the width of the part at its outside diameter; having a maximum outside diameter of not more than 18.75 inches; and having no teeth on the outside or datum diameter. Excludable LDFPN sheaves must also either have a maximum straight bore size of 1.6875 inches with a maximum hub diameter of 2.875 inches; or else have a tapered bore measuring 1.625 inches at the large end, a maximum hub diameter of 3.50 inches, a length through tapered bore of 1.0 inches, exactly two tapped holes that are 180 degrees apart, and a 2.0- inch bolt circle on the face of the hub. Excludable LDFPN sheaves more than 6.75 inches in outside diameter must also have an arm or spoke construction.²⁰ Further, excludable LDFPN sheaves must have a groove profile as indicated in the table below:

²⁰ An arm or spoke construction is where arms or spokes (typically 3 to 6) connect the outside diameter of the sheave with the hub of the sheave. This is in contrast to a block construction (in which the material between the hub and the outside diameter is solid with a uniform thickness that is the same thickness as the hub of the sheave) or a web construction (in which the material between the hub and the outside diameter is solid but is thinner than at the hub of the sheave).

Size (belt profile)	Outside Diameter	Top Width Range of Each Groove	Maximum Height	Angle
MA/AK (A, 3L, 4L)	≤ 5.45 in.	0.484 – 0.499 in.	0.531 in.	34°
MA/AK (A, 3L, 4L)	>5.45 in. but ≤ 18.75 in.	0.499 – 0.509 in.	0.531 in.	38°
MB/BK (A, B, 4L, 5L)	≤ 7.40 in.	0.607 – 0.618 in.	0.632 in.	34°
MB/BK (A, B, 4L, 5L)	>7.40 in. but ≤ 18.75 in.	0.620 – 0.631 in.	0.635 in.	38°

In addition to the above characteristics, excludable LDFPN sheaves must also have a maximum weight (pounds-per-piece) as follows: for excludable LDFPN sheaves with one groove and an outside diameter of greater than 4.0 inches but less than or equal to 8.0 inches, the maximum weight is 4.7 pounds; for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 4.0 inches but less than or equal to 8.0 inches, the maximum weight is 8.5 pounds; for excludable LDFPN sheaves with one groove and an outside diameter of greater than 8.0 inches but less than or equal to 12.0 inches, the maximum weight is 8.5 pounds; for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 8.0 inches but less than or equal to 12.0 inches, the maximum weight is 15.0 pounds; for excludable LDFPN sheaves with one groove and an outside diameter of greater than 12.0 inches but less than or equal to 15.0 inches, the maximum weight is 13.3 pounds; for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 12.0 inches but less than or equal to 15.0 inches, the maximum weight is 17.5 pounds; for excludable LDFPN sheaves with one groove and an outside diameter of greater than 15.0 inches but less than or equal to 18.75 inches, the maximum weight is 16.5 pounds; and for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 15.0 inches but less than or equal to 18.75 inches, the maximum weight is 26.5 pounds.

The scope also excludes light-duty, variable-pitch, non-synchronous sheaves with each of the following characteristics: made from grey iron designated as ASTM (North American specification) Grade 30 or lower, GB/T (Chinese specification) Grade HT200 or lower, DIN (German specification) GG 20 or lower, or EN (European specification) EN-GJL 200 or lower; having no more than 2 grooves; having a maximum overall width of less than 2.25 inches with a single groove, or of 3.25 inches or less with two grooves; having a maximum outside diameter of not more than 7.5 inches; having a maximum bore size of 1.625 inches; having either one or two identical, internally-threaded (*i.e.*, with threads on the inside diameter), adjustable (rotating) flange(s) on an externally-threaded hub (*i.e.*, with threads on the outside diameter) that enable(s) the width (opening) of the groove to be changed; and having no teeth on the outside or datum diameter.

The scope also excludes certain IMTDC bushings. An IMTDC bushing is excluded only if it has a tapered angle of greater than or equal to 10 degrees, where the angle is measured between one outside tapered surface and the directly opposing outside tapered surface.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 8483.30.8090, 8483.50.6000, 8483.50.9040, 8483.50.9080, 8483.90.3000, 8483.90.8080. Covered merchandise may also enter under the following HTSUS subheadings: 7325.10.0080, 7325.99.1000, 7326.19.0010, 7326.19.0080, 8431.31.0040, 8431.31.0060, 8431.39.0010, 8431.39.0050, 8431.39.0070, 8431.39.0080, and 8483.50.4000. These HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

SCOPE COMMENTS

In accordance with the *Preamble* to the Department’s regulations,²¹ in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and requested that parties submit comments by December 7, 2015.²² On November 25, 2015, the Department revised the due date for scope comments and rebuttal scope comments to December 15, 2016, and December 28, 2015, respectively.²³ On December 15, 2015, the Department received timely scope comments from NOK (Wuxi) Vibration Control China Co., Ltd. (“NVCC”), Caterpillar Inc. (“Caterpillar”), and Baldor.²⁴ On December 21, 2015, the Department received timely rebuttal comments from Petitioner.²⁵ Finally, on December 28, 2015, Petitioner submitted additional scope rebuttal comments and Baldor, NVCC, and Vibracoustic North America LP (“Vibracoustic”) submitted rebuttal comments.²⁶ For a summary of the product coverage

²¹ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (“*Preamble*”).

²² See *Initiation Notice*, 80 FR at 73716 - 73717.

²³ See Memorandum to All Interested Parties, re: Certain Iron Mechanical Transfer Drive Components from Canada (Antidumping Duty (AD)) and the People’s Republic of China (Antidumping and Countervailing Duty (CVD)), dated November 25, 2015.

²⁴ See Letter from NVCC to the Secretary of Commerce, entitled “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Comments on Scope,” dated December 12, 2015 (NVCC Scope Comments”); see also Letter from Caterpillar to the Secretary of Commerce, entitled “Certain Iron Mechanical Transfer Drive Components from Canada and the People’s Republic of China: Caterpillar’s Scope Comments and Request for Confirmation of Scope Exclusion,” dated December 15, 2015 (“Caterpillar Scope Comments”); see also Letter from Baldor to the Secretary of Commerce, entitled “Certain Iron Mechanical Transfer Drive Components from Canada and the People’s Republic of China - Baldor’s Comments on Scope of Investigation,” dated December 15, 2015 (“Baldor Scope Comments”).

²⁵ See Letter from Petitioner to the Secretary of Commerce, entitled “Certain Iron Mechanical Transfer Drive Components from Canada and the People’s Republic of China: Petitioner’s Rebuttal to NVCC’s Scope Comments,” dated December 21, 2015 (Petitioner’s NVCC Comments”).

²⁶ See Letter from Petitioner to the Secretary of Commerce, entitled “Certain Iron Mechanical Transfer Drive Components from Canada and the People’s Republic of China: Petitioner’s Rebuttal to Baldor’s and Caterpillar’s Scope Comments,” dated December 28, 2015 (Petitioner’s Baldor and Caterpillar Comments”); see also Letter from Baldor to the Secretary of Commerce, entitled “Certain Iron Mechanical Transfer Drive Components from Canada and the People’s Republic of China Baldor’s Rebuttal Comments on Scope Definition,” dated December 28, 2015 (“Baldor Rebuttal Comments”); see also Letter from NVCC to the Secretary of Commerce, entitled “Certain Iron Mechanical Transfer Drive Components from the People’s Republic of China: Rebuttal to Petitioner’s Rebuttal Comments of Scope,” dated December 28, 2015 (“NVCC Rebuttal Comments”); see also Letter from Vibracoustic to the Secretary of Commerce, entitled “Certain Iron Mechanical Transfer Drive Components (IMTDC) from Canada and China: Notice of Appearance,” dated December 28, 2015 (“Vibracoustic Scope Comments”).

comments and rebuttal responses submitted to the record, and an accompanying discussion and analysis of all comments timely received, see the Department's Scope Memorandum issued concurrently with this notice.²⁷

On March 30, 2016, Petitioner filed an amendment to the scope of the investigation to exclude certain finished torsional vibration dampers ("TVD").²⁸ On April 8, 2016, the Department preliminarily excluded TVDs from the scope of the investigation.²⁹ On May 16, 2016, Petitioner filed an additional amendment to the scope to exclude certain light-duty, fixed- and variable-pitch, non-synchronous sheaves and certain bushings.³⁰ As discussed in the Scope Memorandum, the Department has preliminarily excluded certain light-duty, fixed- and variable-pitch, non-synchronous sheaves and certain bushings. For a complete description of the scope exclusion language, see the "Scope of the Investigation" section of this memorandum above; see also Appendix II of the preliminary *Federal Register* Notice as well as the Department's Scope Memorandum, both issued concurrently with this preliminary determination.

PRODUCT COMPARISONS

As explained above, interested parties submitted comments regarding product characteristics. We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining models and, when necessary, for comparing similar models, for this AD investigation. The Department identified the following eight criteria for matching U.S. sales of subject merchandise to normal value ("NV"): product type, mounting type, iron type, datum diameter, face thickness, type of grooves, type of pitch, and coating. These criteria were included in the questionnaire issued to Baldor, as well as the respondents in the companion iron transfer drive components investigation from the People Republic of China ("PRC").

In this investigation, we did not rely on the above-mentioned criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product because Baldor stopped responding to our questionnaires. (See "Application of Facts Available and use of Adverse Inferences" section below).

²⁷ See Memorandum from Abdelali Elouaradia, Director, Office IV, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated concurrently with this notice ("Scope Memorandum").

²⁸ See Letter from Petitioner to the Secretary of Commerce "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Petitioner's Amendment to the Scope," dated March 30, 2016.

²⁹ See Memorandum from Abdelali Elouaradia, Director, Office IV, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled "Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Scope Comments Regarding Exclusion of Certain Finished Torsional Vibration Dampers," dated April 8, 2016.

³⁰ See Letter from TB Woods to the Department, re: Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Petitioner's Additional Amendment to the Scope, dated May 16, 2016.

RESPONDENT SELECTION

As stated above, Baldor is the sole mandatory respondent in this investigation. As explained above, because the Department was unable to use CBP data of U.S. imports for respondent selection,³¹ on November 18, 2015, the Department issued Q&V questionnaires to those parties listed in the Petition.³²

The Department received Q&V responses from Baldor, Robust Gear Manufacturing Inc., and R.A.S. Industries Ltd., on December 1, 2015, November 23, and November 30, 2015, respectively. The Department also received Q&V responses from Avion Technologies Inc. on December 8, 2015, and Amkad Metal Components Inc. on December 15, 2015; the Department rejected both submissions as they were submitted after the Q&V deadline.³³ Based on the quantity and value questionnaires, the Department chose Baldor as the sole mandatory respondent.³⁴ As stated above, on April 19, 2016, Baldor withdrew its participation in this proceeding. Because there was inadequate time between Baldor's withdrawal and the preliminary determination to analyze responses and calculate a margin for a new respondent, we did not choose another mandatory respondent.

APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE

Section 776(a) of the Act provides that the Department shall apply "facts otherwise available" if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

As noted in the "Background" section above, on April 19, 2016, Baldor submitted a letter in which it informed the Department that it "will not be responding to the various supplemental questionnaires issued by the Department over the last several weeks{,}" and that it "does not intend to submit any further responses to questionnaires from the Department in this

³¹ See ACE Query Memo.

³² See Letter from the Department requesting Q&V data, dated November 18, 2015; *see also* Q&V Questionnaire Memo.

³³ See Letter from the Department to Avion Technologies Inc., re: Antidumping Duty Investigation of Certain Iron Mechanical Transfer Drive Components from Canada, dated December 9, 2015, and Letter from the Department to Amkad Metal Components Inc., re: Antidumping Duty Investigation of Certain Iron Mechanical Transfer Drive Components from Canada, dated December 16, 2015.

³⁴ See Respondent Selection Memo.

investigation.”³⁵ As a result, we find that Baldor has failed to participate in this investigation and to provide requested information that is necessary for the Department to calculate an antidumping duty margin for Baldor in this investigation. By only responding to certain parts of the Department’s initial and supplemental questionnaires before deciding to no longer participate in the investigation, Baldor did not provide the Department with the requisite information, such as, for example, complete fields related to products sold in the United States, and production processes data. Without this information, it is not possible for the Department to calculate an antidumping duty margin. Therefore, in reaching this preliminary determination, we find that Baldor withheld requested information, significantly impeded this proceeding, provided information which cannot be verified, and did not provide the Department with necessary information to calculate an antidumping duty margin. Pursuant to sections 776(a)(1), (2)(A), (C), and (D) of the Act, the Department preliminarily finds that the use of total facts available is appropriate.

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 CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.³⁶ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.³⁷

Section 776(b)(1)(A) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.³⁸ 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.³⁹ 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.”⁴⁰ Furthermore, “affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.”⁴¹

³⁵ See No Response Letter. In its No Response Letter, Baldor explained that it reserved the right to provide scope comments, to comment on issues relating to the possible implementation of provisional measures, and to comment on any potential antidumping duty orders that may be published.

³⁶ 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*).

³⁷ 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>.

³⁸ See *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); *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).

³⁹ See section 776(b)(1)(B) of the Act.

⁴⁰ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (“SAA”) at 870.

⁴¹ See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27340 (May 19, 1997); see also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (“*Nippon*”).

We preliminarily find that Baldor did not act to the best of its ability in this investigation, within the meaning of section 776(b)(1) of the Act, because it failed to participate in the investigation and to respond to the Department's requests for information, which significantly impeded the proceeding. The failure of Baldor to respond to the Department's questionnaire or otherwise participate in this investigation has precluded the Department from performing the necessary analysis and verification of their questionnaire responses, as required by section 782(i)(1) of the Act. Therefore, we find that an adverse inference is warranted in selecting from the facts otherwise available with respect to this company.⁴²

SELECTION OF THE AFA RATE

Section 776(b)(2) of the Act provides that the Department may use as adverse facts available ("AFA") information derived from: 1) the petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record.⁴³

The Department's practice, when selecting an AFA rate from among the possible sources of information, is to select the highest rate on the record of the proceeding and to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."⁴⁴

As a result, we have preliminarily assigned to Baldor a rate of 191.34 percent, which is the highest rate alleged in the petition, as noted in the initiation of the LTFV investigation.⁴⁵

CORROBORATION OF SECONDARY INFORMATION

When using facts otherwise available, section 776(c)(1) of the Act provides that, where the Department relies on secondary information (such as information in 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.⁴⁶ The Department's regulations provide that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value.⁴⁷ To be considered corroborated, the Department must find the secondary information is both reliable and relevant.⁴⁸

⁴² See *Nippon*, 337 F.3d at 1382-83.

⁴³ See also 19 CFR 351.308(c).

⁴⁴ See, e.g., *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (November 7, 2006).

⁴⁵ See, e.g., *Initiation Notice*, 80 FR at 73720.

⁴⁶ See also 19 CFR 351.308(d).

⁴⁷ See 19 CFR 351.308(d); see also SAA at 870.

⁴⁸ See, e.g., SAA at 870; *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).

New section 776(d)(2) of the Act provides that the Department has the discretion to apply the highest dumping margin in selecting among the facts otherwise available, and new section 776(d)(3) of the Act makes clear that 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.

We have preliminarily determined that the highest petition margin of 191.34 percent is reliable by examining evidence supporting the calculations in the petition. During our pre-initiation analysis, we examined the key elements of the export price (“EP”) and NV calculations used in the petition to derive an estimated margin. We also examined information (to the extent that such information was reasonably available) from various independent sources provided either in the petition or, on our request, in the supplements to the petition that corroborates some of the elements of the EP and NV calculations used in the petition to derive estimated margins. Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider Petitioners’ EP and NV calculations to be reliable.⁴⁹ Because we obtained no other information that would make us question the validity of the sources of information or the validity of information supporting the EP or NV calculations provided in the petition, based on our examination of the aforementioned information, we preliminarily consider the EP and NV calculations from the petition to be reliable. Because we confirmed the accuracy and validity of the information underlying the calculation of the margins in the petition by examining source documents and affidavits, as well as publicly available information, we preliminarily determine that the margins in the petition are reliable for the purposes of this investigation.

Further, we considered whether the selected margin is relevant. The Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin.⁵⁰ Therefore, we examined whether any information on the record would discredit the selected rate as reasonable facts available. No information has been placed on the record to indicate that the rates in the petition are not relevant, and, moreover, in this particular case the information contained in the petition is specific to Baldor.⁵¹ As such, we find these rates relevant to Baldor. Furthermore, as there are no participating respondents in this investigation for which we are calculating a dumping margin, we relied upon the rates found in the petition, which is the only information regarding the iron transfer drive components industry reasonably at the Department’s disposal. We were unable to find any information that would discredit the relevancy of the selected AFA rate.

⁴⁹ See “Antidumping Duty Investigation Initiation Checklist: Certain Iron Mechanical Transfer Drive Components from Canada,” dated November 17, 2015 (“Initiation Checklist”) at pages 5-11.

⁵⁰ See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest calculated margin as AFA because the margin was based on a company’s uncharacteristic business expense resulting in an unusually high margin).

⁵¹ Specifically, we note that in this particular case the offer for sales quotes contained in the petition are from Baldor-Maska (Baldor). See Volume II of the Petition, at 3 and Exhibit II-1.

Based on the above, for these preliminary results, the Department finds the highest rate derived from the petition (*i.e.*, 191.34 percent) is, therefore, corroborated to the extent practicable, pursuant to section 776(c) of the Act because 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 to the uncooperative respondent.⁵² Thus, we have assigned Baldor this rate as AFA in this investigation.

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 zero or *de minimis* margins, and any margins 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 based entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated dumping margin for all other producers or exporters.

As noted above, Baldor is the sole mandatory respondent in this proceeding, and its margin is determined entirely under section 776 of the Act. Consequently, the only available dumping margins for this preliminary determination are found in the petition. Pursuant to section 735(c)(5)(B) of the Act, the Department’s practice under these circumstances has been to calculate the “all-others” rate as a simple average of these margins.⁵³ In this investigation, a simple average of the margins established in the petition, upon which the Department initiated (*i.e.*, 9.60 percent and 191.34 percent) yields a 100.47 percent margin for entities not individually examined.⁵⁴ Consequently, and consistent with our practice, the Department assigned an “all-others” rate of 100.47 percent to entities not individually examined.

We will make our final determination no later than 75 days after the date of publication of this preliminary determination, pursuant to section 735(a)(1) of the Act.

⁵² 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.

⁵³ 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.


⁵⁴ See, *e.g.*, Initiation Checklist at 11 and Attachment V.

CONCLUSION

We recommend applying the above methodology for this preliminary determination.



Agree Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

31 MAY 2016

(Date)