



A-533-881
Investigation
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DATE: August 20, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Less-Than-Fair-Value Investigation of Large Diameter Welded
Pipe from India

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that large diameter welded pipe (welded pipe) from India is being, or is 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 estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On January 17, 2018, Commerce received an antidumping duty (AD) petition covering imports of welded pipe from India, which was filed in proper form by American Cast Iron Pipe Company, Berg Steel Pipe Corp., Berg Spiral Pipe Corp., Dura-Bond Industries, Skyline Steel, and Stupp Corporation (collectively, the petitioners).¹ Commerce initiated this investigation on February 9, 2018.²

¹ See Petitioners’ Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties: Large Diameter Welded Pipe from Canada, Greece, India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey,” dated January 17, 2018 (the Petition).

² See *Large Diameter Welded Pipe from India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 7154 (February 20, 2018) (AD Initiation Notice).



In the *Initiation Notice*, we stated that, where appropriate, we intended to select respondents based on U.S. Customs and Border Protection (CBP) data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.³ Accordingly, on February 2, 2018, Commerce released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁴

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of welded pipe to be reported in response to Commerce's AD questionnaire.⁵ In March 2018, SeAH Steel Corporation (SeAH), a Korean producer of welded pipe, and the petitioners submitted scope comments and rebuttal comments, respectively.⁶ In the same month, Borusan, Corinth Pipeworks Pipe Industry S.A. (Corinth), a Greek producer of welded pipe, EVRAZ Inc. NA (EVRAZ), a Canadian producer of welded pipe, the petitioners, and SeAH submitted comments regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes;⁷ these same parties also submitted rebuttal comments.⁸

³ *Id.* at 7159-7160.

⁴ See Memorandum to the File, "Customs Data for Respondent Selection," dated February 2, 2018 (Customs Data).

⁵ See *Initiation Notice*, 83 FR at 7155-56.

⁶ See SeAH's Letter, "Antidumping Duty Investigation of Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey and Countervailing Duty Investigations of Large Diameter Welded Pipe from China, India, Korea, and Turkey – Scope Comments," dated March 1, 2018; and Petitioners' Letter, "Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey: Scope Rebuttal Comments," dated March 12, 2018.

⁷ See Borusan's Letter, "Certain Large Diameter Welded Pipe from Canada, Greece, India, China, Korea, and Turkey, Case Nos. A-122-863, A-484-803, A-533-881, A-570-077, A-580-897, and A-489-833: Comments on Product Characteristics and Model Matching Hierarchy," dated March 1, 2018; Corinth's Letter, "Antidumping Investigations of Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey – CPW's Comments regarding Product Characteristics for Purposes of Model Matching," dated March 1, 2018; EVRAZ's Letter, "Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey: EVRAZ's Comments on the Model Match Methodology," dated March 1, 2018; Petitioners' Letter, "Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Petitioners' Comments on Model Match Criteria," dated March 1, 2018; and SeAH's Letter, "Antidumping Duty Investigations of Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey – Comments on Product-Matching Criteria," dated March 1, 2018.

⁸ See Borusan's Letter, "Certain Large Diameter Welded Pipe from Canada, Greece, India, China, Korea, and Turkey, Case Nos. A-122-863, A-484-803, A-533-881, A-570-077, A-580-897, and A-489-833: Rebuttal Comments on Product Characteristics and Model Matching Hierarchy," dated March 12, 2018; Corinth's Letter, "Antidumping Investigations of Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey – CPW's Rebuttal Comments on Product Characteristics for Purposes of Model Matching," dated March 12, 2018; EVRAZ's Letter, "Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey: EVRAZ's Rebuttal Comments on the Model Matching Methodology," dated March 12, 2018; Petitioners' Letter, "Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Petitioners' Rebuttal Comments on Model Match Criteria," dated March 12, 2018; and SeAH's Letter, "Antidumping Duty Investigations of Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey – Comments on Product-Matching Criteria," dated March 12, 2018.

On March 6, 2018, 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 welded pipe from India.⁹

On March 23, 2018, Commerce selected Bhushan Steel (Bhushan) and Welspun Trading Limited (Welspun), the two publicly identifiable exporters and/or producers that account for the largest volume of the subject merchandise, based on the CBP data, for individual examination as mandatory respondents in this investigation.¹⁰ On March 26, 2018, Commerce issued the AD questionnaire to Bhushan and Welspun.¹¹ On April 25, 2018, Welspun responded to Section A of the AD questionnaire.¹² On May 2, 2018, Welspun officially notified Commerce of its intention to no longer respond to the AD questionnaire in this investigation.¹³ Bhushan did not respond to any sections of the questionnaire.

On May 23, 2018, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation, from an initial deadline of June 29, 2018, to August 20, 2018.¹⁴ Based on the request, and pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), on June 15, 2018, Commerce published in the *Federal Register* a postponement of the preliminary determination by 50 days until no later than August 20, 2018.¹⁵

On July 30, 2018, the petitioners filed comments for consideration regarding the preliminary determination.¹⁶

We are conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The period of investigation is January 1, 2017, through December 31, 2017. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was January 2018.¹⁷

⁹ See *Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey Determinations*, 83 FR 10748 (March 12, 2018).

¹⁰ See Memorandum, “Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from India: Respondent Selection,” dated March 23, 2018.

¹¹ See Commerce’s Letter to Bhushan, “Antidumping Duty Questionnaire” (Bhushan AD Questionnaire), and Commerce’s Letter to Welspun, “Antidumping Duty Questionnaire” (Welspun AD Questionnaire), both dated March 26, 2018.

¹² See Welspun’s April 25, 2018, Section A Questionnaire Response.

¹³ See Welspun’s Letter, “Large Diameter Welded Pipe from India – Withdrawal of Participation as a Mandatory Respondent,” dated May 2, 2018 (Welspun Notice of Non-Participation).

¹⁴ See Petitioners’ Letter, “Large Diameter Welded Pipe from Canada, Greece, India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,” dated May 23, 2018.

¹⁵ See *Large Diameter Welded Pipe from India: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 83 FR 27953 (June 15, 2018).

¹⁶ See Petitioners’ Letter, “Pre-Preliminary Determination Comments,” dated July 30, 2018.

¹⁷ See *Initiation Notice*, 83 FR at 7154.

IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,¹⁸ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage *i.e.*, scope.¹⁹ Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*. Based on its analysis of these comments, Commerce made certain preliminary revisions to the scope, which are reflected in the Appendix of the *Federal Register* notice that this preliminary decision memorandum accompanies. For a summary of the scope comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.²⁰

V. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE

As noted above, Commerce selected Bhushan and Welspun as mandatory respondents in this investigation. Bhushan received Commerce's AD questionnaire but did not submit a response. Welspun received Commerce's AD questionnaire, responded to Section A of the questionnaire, and then notified us that it intended to no longer participate in this investigation.²¹ For the reasons stated below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Bhushan and Welspun.

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 if an interested party: (1) withholds information requested by Commerce; (2) 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 782 of the Act; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, Commerce 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 Commerce 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 Commerce 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.

¹⁸ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹⁹ *See Initiation Notice*, 83 FR at 7155.

²⁰ *See Preliminary Scope Decision Memorandum*.

²¹ *See Welspun Notice of Non-Participation* at 1.

After having been selected for examination, Bhushan did not respond to our request for information or otherwise participate in this investigation. The deadline for the submission of a response to Section A of the questionnaire was April 16, 2018, and the deadline for responses to Sections B, C, D, and E of the questionnaire was May 2, 2018.²²

After having been selected for examination, Welspun submitted a response to Section A of the questionnaire. However, on May 2, 2018 Welspun officially notified Commerce that it would no longer participate in this investigation.²³

As a result, we preliminarily find that the necessary information is not available on the record of this investigation, that Bhushan and Welspun withheld information Commerce requested, that they failed to provide information by the specified deadlines, and that they significantly impeded the proceeding. Bhushan failed to provide any information in response to Commerce's questionnaire, and Welspun only provided a response to Section A of the questionnaire. Moreover, because the information provided by Welspun was so incomplete that it cannot serve as a reliable basis for reaching the applicable determination, and could not be verified, 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 a preliminary weighted-average dumping margin for Bhushan and for Welspun.

B) *Application of Facts Available with an Adverse Inference*

Section 776(b) of the Act provides that, if Commerce 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, Commerce may use an inference adverse to the interests of that party in selecting the facts otherwise available.²⁴ In doing so, Commerce 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.²⁵ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that Commerce 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."²⁶ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference in selecting from the facts available.²⁷ It is Commerce's practice to consider, in employing adverse facts available

²² See Bhushan AD Questionnaire and Welspun AD Questionnaire.

²³ See Welspun Notice of Non-Participation at 1.

²⁴ 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).

²⁵ See section 776(b)(1)(B) of the Act.

²⁶ See SAA, 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).

²⁷ 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.

(AFA), the extent to which a party may benefit from its own lack of cooperation.²⁸

We preliminarily find that Bhushan and Welspun have not acted to the best of their abilities to comply with Commerce's request for information. Bhushan and Welspun each failed to fully respond to Commerce's questionnaire. The failure of Bhushan and Welspun to participate in this investigation has precluded Commerce from performing the necessary analysis to calculate weighted-average dumping margins for them based on their own data. Accordingly, Commerce concludes that Bhushan and Welspun failed to cooperate to the best of their abilities to comply with a request for information by Commerce. Based on the above, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), Commerce preliminarily determines to use an adverse inference when selecting from among the facts otherwise available.²⁹

C) Preliminary Estimated Weighted-Average Dumping Margin Based on Adverse Facts Available

Section 776(b)(2) of the Act states that when employing an adverse inference, Commerce 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.³⁰ In selecting a rate based on AFA, Commerce 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.³¹ Commerce'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 proceeding.³²

With respect to this investigation, the only dumping margin alleged in the Petition is 50.55 percent,³³ and no rate was calculated for an individually-examined respondent. Thus, consistent with Commerce's practice, we have selected the only dumping margin alleged in the Petition as the AFA rate applicable to Bhushan and Welspun in this preliminary determination.

²⁸ 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 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).

²⁹ 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 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 Commerce applied total AFA when the respondent failed to respond to the antidumping questionnaire).

³⁰ See also 19 CFR 351.308(c).

³¹ See SAA, at 870.

³² See e.g., *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014), and accompanying Issues and Decision Memorandum at Comment 3.

³³ See Petition at Volume IV, 18.

D) *Corroboration of Secondary Information*

When using facts otherwise available, section 776(c) of the Act provides that, where Commerce 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 751 of the Act concerning the subject merchandise.³⁴ The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information to be used has probative value,³⁵ although Commerce is not required to corroborate a dumping margin applied in a separate segment of the same proceeding.³⁶ To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used, although Commerce 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.³⁷ Finally, under section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.³⁸

Because the AFA rate applied to both Bhushan and Welspun, the mandatory respondents in this investigation, is derived from the Petition and, consequently, is based upon secondary information, Commerce must corroborate the rate to the extent practicable. In this investigation, we determined that the dumping margin alleged in the Petition is reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis and for purposes of this preliminary determination.³⁹

Specifically, we examined evidence supporting the calculations in the Petition to determine the probative value of the dumping margin alleged in the Petition for use as AFA in this preliminary determination. During our pre-initiation analysis, we also examined the key elements of the calculation of the alleged dumping margin, *i.e.*, export price (EP) and normal value (NV).⁴⁰ Further, we examined information from various independent sources provided either in the Petition or, based on our request, in the supplement to the Petition that corroborates key elements of the EP and NV used in the Petition to derive the dumping margin alleged in the Petition.⁴¹

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider the petitioners’ EP and NV to be reliable. Because we obtained no other information that calls into question the validity of the sources of information or the validity of

³⁴ See SAA, at 870.

³⁵ *Id.*; see also 19 CFR 351.308(d).

³⁶ See section 776(c)(2) of the Act.

³⁷ See section 776(d)(3) of the Act.

³⁸ See section 776(d)(1)-(2) of the Act.

³⁹ See “Large Diameter Welded Pipe from India: Antidumping Duty Investigation Initiation Checklist” (Initiation Checklist).

⁴⁰ *Id.*

⁴¹ *Id.*

the information supporting the EP and NV calculations provided in the Petition, based on our examination of the aforementioned information, we preliminarily consider the EP and NV from the Petition to be reliable. Because we confirmed the accuracy and validity of the information underlying the derivation of the dumping margin alleged in the Petition by examining source documents and affidavits, as well as publicly available information, we preliminarily determine that the dumping margin alleged in the Petition is reliable for the purpose of this investigation.

In making a determination as to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal to determine whether there are circumstances that would render a rate not relevant. Because there are no participating respondents in this investigation, we relied upon the dumping margin alleged in the Petition, which is the only information regarding the welded pipe industry reasonably at Commerce's disposal. Furthermore, as noted in *GOES from China*, in which the only mandatory respondent 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."⁴²

Accordingly, Commerce preliminarily determines that the dumping margin alleged in the Petition has probative value. Commerce has corroborated the AFA rate of 50.55 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 there is no record information indicating otherwise), and 2) is relevant to the uncooperative mandatory respondents.⁴³

VI. 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 or producers individually examined, excluding all 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 or producers individually examined are zero, *de minimis*, or determined entirely under section 776 of the Act, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

⁴² 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 Commerce 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").

⁴³ See section 776(c) of the Act and 19 CFR 351.308(c) and (d); see also *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.

As indicated above, Bhushan and Welspun are mandatory respondents and their preliminary estimated weighted-average dumping margin is determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, Commerce's practice under these circumstances has been to assign, as the "all-others" rate, a simple average of the dumping margins alleged in the Petition.⁴⁴ Consequently, and consistent with its practice, Commerce is using the one dumping margin alleged in the Petition, 50.55 percent, as the "all-others" rate applicable to entities not individually examined in this investigation.⁴⁵

VII. ADJUSTMENTS TO CASH DEPOSIT RATES FOR EXPORT SUBSIDIES

In an LTFV investigation for which there is a companion CVD investigation, it is Commerce's practice to calculate the AD cash deposit rate for each respondent by adjusting the respondent's estimated weighted-average dumping margin to account for export subsidies found for that respondent in the companion CVD investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act, which states that U.S. price "shall be increased by the amount of any countervailing duty imposed on the subject merchandise ... to offset an export subsidy."⁴⁶

Bhushan and Welspun were also selected as mandatory respondents in the companion CVD investigation. While neither company responded to the CVD questionnaire and we applied AFA to both companies in the preliminary determination of the CVD investigation, we made export subsidy findings for certain programs based on information provided by the Government of India.⁴⁷ Specifically, in the CVD preliminary determination, Commerce found six Indian subsidy programs to be export contingent.⁴⁸ Accordingly, we find that an export subsidy adjustment of 33.70 percent to the estimated weighted-average dumping margin is warranted to establish the cash deposit requirements resulting from this preliminary determination.

⁴⁴ 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.

⁴⁵ 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), unchanged in *Certain Oil Country Tubular Goods from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 41978 (July 18, 2014).

⁴⁶ See *Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 38076, 38077 (July 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁷ See *Large Diameter Welded Pipe from the India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 30690 (June 29, 2018), and accompanying Preliminary Decision Memorandum (LDWP from India CVD PDM).

⁴⁸ The following subsidy programs were preliminarily found to be export contingent in the companion CVD investigation: Advance Authorization Program/Advanced License Program (ALP) (6.82 percent); Duty Drawback Program (DDP) (2.97 percent); Merchandise Export from India Scheme (MEIS) (1.48 percent); Status Certificate Program (SCP) (2.90 percent); Export Promotion of Capital Goods Scheme (EPCG) (16.63 percent); Pre-Shipment and Post-Shipment Export Financing (2.90 percent). The sum of the preliminary subsidy rates applied to these programs based on AFA is 33.70 percent. See LDWP from India CVD PDM at 13-24.

VIII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.



Agree



Disagree

8/20/2018

X



Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance