A-485-809
Investigation
Public Document
AD/CVD IV: KH

DATE: October 6, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Common Alloy Aluminum Sheet from Romania

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I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that common alloy aluminum sheet from Romania 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 dumping margins are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

II. BACKGROUND

On March 9, 2020, Commerce received an antidumping duty (AD) petition covering imports of common alloy aluminum sheet from Romania, which was filed in proper form by the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its individual members: Aleris Rolled Products, Inc.; Arconic, Inc.; Constellium Rolled Products Ravenswood, LLC; JW Aluminum Company; Novelis Corporation; and Texarkana Aluminum, Inc. (collectively, the petitioners), domestic producers of aluminum sheet.[1] Commerce initiated this investigation on March 30, 2020.[2]

In the *Initiation Notice*, Commerce notified the public that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports

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[1] *See* Petitioners' Letter, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey – Petition for the Imposition of Antidumping and Countervailing Duties," dated March 9, 2020 (Petition).
[2] *See Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and the Republic of Turkey Initiation of Less-Than-Fair-Value Investigations*, 85 FR 19444 (April 7, 2020) (*Initiation Notice*).

under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigations," in the appendix.[3] However, the petitioners identified only two known producers and/or exporters of common alloy aluminum sheet in Romania in the Petition, Alro, S.A. and the Vimetco Group.[4] Commerce selected these two companies as the mandatory respondents in this investigation.[5] On April 14, 2020, we issued Commerce's AD questionnaire to Alro, S.A. and Vimetco Group.[6]

On April 23, 2020, the U.S. International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of common alloy aluminum sheet from Romania.[7]

In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigations, as well as on the appropriate physical characteristics of aluminum sheet to be reported in response to Commerce's AD questionnaire.[8] On April 27, 2020, we received timely-filed comments from interested parties on physical characteristics. On May 11, 2020, we received timely-filed rebuttal product characteristics comments from interested parties. On May 18, 2020, Commerce officials spoke via telephone with counsel for the petitioners regarding the petitioners' product characteristics comments and rebuttal comments.[9] On May 19, 2020, Commerce determined the product characteristics applicable to this investigation.[10]

On June 4, 2020, Commerce issued revised descriptions for certain product characteristics.[11] On June 11, 2020, the petitioners submitted comments in response to requests from Alro, SA, the Vimetco Group, and respondents in other aluminum sheet investigations to rescind the revisions made in Commerce's Revised Product Characteristics Memorandum.[12] On June 12, 2020, Commerce officials spoke via telephone with counsel for the petitioners, counsel for Alro, SA

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[3] *Id*., 85 FR at 19448.
[4] *See* Petition, Volume I at Exhibit GEN-6; *see also* Petitioners' Letter, "Common Alloy Aluminum Sheet from Romania – Petitioners' Supplement to Volume XIII Relating to Romania Antidumping Duties," dated March 18, 2020; and Petitioners' Letter, "Common Alloy Aluminum Sheet from Romania – Petitioners' Supplement to Volume XIII Relating to Romania Antidumping Duties," dated March 18, 2020 at 3.
[5] *See Initiation Notice*, 85 FR at 19448.
[6] *See* Commerce's Letter, Antidumping Duty Questionnaire, dated April 14, 2020.
[7] *See Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey*, Investigation Nos. 701–TA–639–642 and 731–TA–1475–1492 (Preliminary), 85 FR 23842 (April 29, 2020).
[8] *See Initiation Notice*, 85 FR at 19445. Commerce subsequently extended the deadlines for comments and rebuttal comments on the scope and product characteristics.
[9] *See* Memorandum, "Phone Call with Outside Counsel," dated May 19, 2020.
[10] *See* Commerce's Letter, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Product Characteristics," dated May 19, 2020.
[11] *See* Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Product Characteristics Correction," dated June 4, 2020 (Revised Product Characteristics Memorandum).
[12] *See* Petitioners' Letter, "Antidumping Investigations Concerning Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey – Petitioners' Response to Respondents' Requests to Rescind Product Characteristics Clarification and for Extensions of Time to Submit Section B – D Questionnaire Responses," dated June 11, 2020; and Alro, SA and Vimetco Group's Letter, "Common Alloy Aluminum Sheet from Romania; Notice of Difficulty and Request for Modification of Reporting Requirement," dated June 11, 2020.

and Vimetco Group, and counsel for respondents in other aluminum sheet investigations regarding Commerce's Revised Product Characteristics Memorandum.[13] On June 16, 2020, we issued the final product characteristics in this investigation.[14]

From May 4 through May 6, 2020, we received timely-filed comments concerning the scope of the investigations from interested parties. On May 21, 2020, we received timely-filed rebuttal scope comments from interested parties. On May 27, 2020, Commerce officials spoke with counsel for the petitioners via telephone regarding the petitioners' scope comments and rebuttal comments.[15] We issued the Preliminary Scope Decision Memorandum on October 6, 2020.[16]

From May through August 2020, Alro, SA and Vimetco Group[17] submitted timely responses to Commerce's questionnaire and supplemental questionnaires[18] and the petitioners submitted comments on those responses.[19] However, on September 9, 2020, Alro, SA and Vimetco Group

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[13] *See* Memorandum, "Meeting with Outside Counsel," dated June 16, 2020.

[14] *See* Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Revised Product Characteristics Guidance," dated June 16, 2020 (Final Product Characteristics Memorandum).

[15] *See* Memorandum, "Common Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Deadline for Scope Comments: Ex Parte Telephone Call with Counsel for the Aluminum Association Trade Enforcement Working Group," dated May 29, 2020.

[16] *See* Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated October 6, 2020 (Preliminary Scope Decision Memorandum).

[17] On April 8, 2020, Alro, SA and its affiliate, Vimetco Management Romania, SRL, notified Commerce that "Vimetco Group" is not a legal entity but that the name reflects a collection of companies including Alro, SA. Additionally, Alro, SA noted that its name is "Alro, SA" rather than "Alro, S.A." as stated in the *Initiation Notice*. *See, e.g.*, Alro, SA's Letter, "Common Alloy Aluminum Sheets from Romania, A-385-809; Clarification of Company Names," April 8, 2020. Given that Vimetco Group is not a legal entity but refers to a group of companies in which Alro SA is the only producer, seller, and exporter of aluminum sheet, we have assigned the dumping rate to Alro, SA.

[18] *See* Alro, SA's May 12, 2020 Section A Questionnaire Response; Vimetco Group's May 12, 2020 Section A Response; Alro, SA and Vimetco Group's June 5, 2020 Section B Questionnaire Response; Alro, SA and Vimetco Group's June 5, 2020 Section C Questionnaire Response; Alro, SA and Vimetco Group's June 8, 2020 Section D Questionnaire Response; Alro, SA and Vimetco Group's July 6, 2020 Supplemental Section A Response; Alro, SA and Vimetco Group's July 30, 2020 Supplemental Sections B and C Response; and Alro, SA and Vimetco Group's August 11, 2020 Supplemental Section D Responses.

[19] *See, e.g.*, Petitioners' Letters, "Common Alloy Aluminum Sheet from Romania − Petitioners' Comments Concerning the Section A Response of Alro SA and Vimetco," dated May 26, 2020; "Common Alloy Aluminum Sheet from Romania − Petitioners' Comments Concerning the Sections B and C Response of Alro SA and Vimetco Group," dated June 10, 2020; "Common Alloy Aluminum Sheet from Romania − Petitioners' Comments Concerning the Section D Response of Alro SA and Vimetco Group," dated June 17, 2020; "Common Alloy Aluminum Sheet from Romania − Petitioners' Comments Concerning the Supplemental Section A Response of Alro SA and Vimetco," dated July 16, 2020; "Common Alloy Aluminum Sheet from Romania − Petitioners' Comments Concerning the Supplemental Sections B and C Response of Alro SA and Vimetco Group," dated August 10, 2020; and "Common Alloy Aluminum Sheet from Romania − Petitioners' Comments Concerning the Supplemental Section D Response of Alro SA and Vimetco Group," dated August 20, 2020.

informed Commerce that they would not respond to Commerce's September 2, 2020 second section D supplemental questionnaire.[20]

On July 29, 2020, Commerce postponed the preliminary determination in this investigation by 50 days until October 6, 2020, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).[21]

On September 14, 2020, the petitioners requested that, in the event of a negative preliminary determination in this investigation, Commerce postpone its final determination in accordance with 19 CFR 351.210(b)(2)(i) and extend the provisional measures period in the antidumping duty investigation from four to not more than six months in accord with 19 CFR 351.210(e)(2).[22]

On September 15, 2020, the petitioners submitted comments for consideration in Commerce's preliminary determination.[23] On September 18, 2020, Alro, SA and the Vimetco Group rebutted the petitioners' September 15, 2020 comments.[24]

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, 2019 through December 31, 2019. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was March 2020.[25]

IV. SCOPE OF INVESTIGATION

The products covered by this investigation are common alloy aluminum sheet from Romania. For a full description of the scope of this investigation, *see* the accompanying preliminary determination *Federal Register* notice of this investigation at Appendix I.

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[20] *See, e.g.*, Alro, SA and Vimetco Group's Letter, "Common Alloy Aluminum Sheet from Romania, A-485-809; Reply of Alro, SA and the Vimetco Group Concerning the Second Supplemental Section D Questionnaire and Request for Return of Business Proprietary Submissions," dated September 9, 2020; and Commerce's Letter, "Antidumping Duty Less Than Fair Value Investigation of Common Alloy Aluminum Sheet from Romania," dated September 2, 2020.

[21] *See Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 45576 (July 29, 2020); and Petitioners' Letter, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Petitioners' Request for Postponement of Preliminary Antidumping Determinations," dated July 16, 2020.

[22] *See* Petitioners' Letter, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Petitioners' Request for Postponement of Final Antidumping Determinations," dated September 14, 2020.

[23] *See* Petitioners' Letter, "Common Alloy Aluminum Sheet from Romania – Petitioners' Analysis of Alro's Sales and Cost Data for AFA Margin Purposes for the Preliminary Determination," dated September 15, 2020.

[24] *See* Alro, SA and Vimetco Group's Letter, "Common Alloy Aluminum Sheet from Romania, A-485-809; Reply of Alro, SA and Vimetco Group to Petitioners' Adverse Facts Available Analysis," dated September 18, 2020.

[25] *See* 19 CFR 351.204(b)(1).

V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,[26] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).[27] As noted above, certain interested parties commented on the scope of this investigation, as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttals and our accompanying analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.

VI. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCES

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 the 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 in the form and manner requested 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(d) of the Act states that if Commerce "determines that a response to a request for information … does not comply with the request," it "shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews …"

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.

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[26] *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).
[27] *See Initiation Notice*, 85 FR at 19444.

Alro, SA and Vimetco Group elected not to respond to Commerce's request for information.[28] Hence, we preliminarily find Alro, SA and Vimetco Group withheld requested information and significantly impeded the proceeding. Due to their non-participation, we find that necessary information is missing from the record, and Commerce is unable to perform the necessary analysis to calculate a dumping margin. Therefore, we preliminarily find, pursuant to sections 776(a)(1) and 776(a)(2)(A) and (C) of the Act, that the use of facts available is warranted.

Use of 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.[29] In so doing, Commerce is not required to determine, or make any adjustments to, estimated dumping margins based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.[30] 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."[31] Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.[32] It is Commerce's practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.[33]

We preliminarily find that Alro, SA and the Vimetco Group have not acted to the best of their abilities to comply with Commerce's requests for information pursuant to section 776(b) of the Act because they elected not to respond to Commerce's request for information.[34] Therefore, in

[28] *See, e.g.*, Alro, SA and Vimetco Group's Letter, "Common Alloy Aluminum Sheet from Romania, A-485-809; Reply of Alro, SA and the Vimetco Group Concerning the Second Supplemental Section D Questionnaire and Request for Return of Business Proprietary Submissions," dated September 9, 2020. Sections 782(c)(1), (d) and (e) of the Act are not applicable given the lack of a response.
[29] *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).
[30] *See* section 776(b)(1)(B) of the Act.
[31] *See* SAA, H.R. Doc. 103-316, Vol. 1 (1994) at 870; and *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).
[32] *See, e.g.*, *Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1382-83 (Fed. Cir. 2003); *see also 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); and *Preamble*, 62 FR at 27340.
[33] *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 (IDM) 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).
[34] *See, e.g.*, Alro, SA and Vimetco Group's Letter, "Common Alloy Aluminum Sheet from Romania, A-485-809; Reply of Alro, SA and the Vimetco Group Concerning the Second Supplemental Section D Questionnaire and Request for Return of Business Proprietary Submissions," dated September 9, 2020.

accordance with section 776(b) of the Act and 19 CFR 351.308(a), we preliminarily determine to use of an adverse inference when selecting from among the facts otherwise available.[35]

Selection of the AFA Rate

Section 776(b)(2) of the Act states that Commerce, when employing AFA, 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.[36] 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.[37] 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 investigation.[38]

We assigned a dumping margin to Alro, SA and Vimetco Group equal to the highest non-aberrational transaction-specific dumping margin calculated using the information provided by Alro, SA and Vimetco Group.[39] It is unnecessary to corroborate this rate because we obtained it in the course of this investigation and, therefore, it is not secondary information which must be corroborated to the extent practicable according to the statute. The transaction underlying this dumping margin is neither unusual in terms of quantity nor otherwise atypical.

Although Alro, SA and Vimetco Group requested that the information they submitted be removed from the record,[40] we have retained their business proprietary information (BPI) on the record of this investigation and based their AFA rate on it. Commerce has the discretion to deny a respondent's request to withdraw information where it is necessary to preserve the fundamental integrity of the process and remedial purpose of the law.[41] If Commerce were to grant Alro, SA and Vimetco Group's request for the return of their BPI data, the only remaining dumping margin on the record of the proceeding on which to base the AFA rate would be the sole petition

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[35] *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 (PDM) 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); and *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).[26] *See also* 19 CFR 351.308(c).
[36] *See* 19 CFR 351.308(c).
[37] *See* SAA at 870.
[38] *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 IDM at Comment 3.
[39] *See, e.g., Silica Bricks and Shapes from the People's Republic of China: Preliminary Determination of Antidumping Duty Investigation and Postponement of Final Determination*, 78 FR 37203 (June 20, 2013), and accompanying PDM at Comment 3.
[40] *See, e.g.*, Alro, SA and Vimetco Group's Letter, "Common Alloy Aluminum Sheet from Romania, A-485-809; Reply of Alro, SA and the Vimetco Group Concerning the Second Supplemental Section D Questionnaire and Request for Return of Business Proprietary Submissions," dated September 9, 2020.
[41] *See Notice of Final Determination of Sales at Less Than Fair Value: Live Cattle from Canada*, 64 FR 56739, 56743 (October 21, 1999).

margin (as adjusted at initiation). Instead, as explained below, we have used that petition margin as the all-others rate.[42] Allowing Alro, SA and Vimetco Group to withdraw their information from the record of this proceeding would inappropriately allow them to benefit from their refusal to participate and would result in manipulation of Commerce's analysis and determination. As a result, we believe it is necessary to retain Alro, SA and Vimetco Group's BPI on the record of the proceeding in order to not undermine the effectiveness of an antidumping remedy if this investigation results in an antidumping duty order and to protect the integrity of this proceeding.

VII. 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 simple average of the estimated 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. As indicated above, we determined the dumping margin for all mandatory respondents (Alro, SA and Vimetco Group) entirely under section 776 of the Act. In cases where no weighted-average dumping margins other than zero, *de minimis*, or those determined entirely under section 776 of the Act have been established for individually examined entities, in accordance with section 735(c)(5)(B) of the Act, Commerce typically averages the margins alleged in the petitions and applies the results to all other entities not individually examined.[43] In the Petition, the petitioners calculated only one margin.[44] Thus, consistent with our practice and as a reasonable method under section 735(c)(5)(B) of the Act, we have preliminarily based the all-others rate applicable to entities not individually examined in this investigation on the Petition dumping margin.

[42] *See* Petitioners' Letter, "Common Alloy Aluminum Sheet from Romania – Petitioners' Second Supplement to Volume XIII Relating to Romania Antidumping Duties," dated March 23, 2020 (Petitioners' Second Supplement) at Exhibit AD-RO-S2-5.
[43] *See, e.g.*, *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 IDM at Comment 2.
[44] *See* Petitioners' Second Supplement at Exhibit AD-RO-S2-5.

VIII. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

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Agree Disagree

10/6/2020

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Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance