



A-822-806
Investigation
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DATE: September 5, 2017

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
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation of Carbon and Alloy Steel Wire
Rod from Belarus

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that carbon and alloy steel wire rod (wire rod) from Belarus 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 March 28, 2017, the Department received an antidumping duty (AD) petition covering imports of wire rod from Belarus,¹ which was filed in proper form by Gerdau Ameristeel US Inc., Nucor Corporation, Keystone Consolidated Industries, Inc., and Charter Steel (collectively, the petitioners). On April 17, 2017, we initiated this investigation.²

In the *Initiation Notice*, we stated that we intended to examine all known producers/exporters of wire rod in Belarus, which based on information provided by the petitioners in the Petition was

¹ See Petitions for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russia Federation, the Republic of South Africa, Spain, the Republic of Turkey, Ukraine, United Arab Emirates, and the United Kingdom; and Countervailing Duties on Imports from Republic of Korea and the Republic of Turkey, dated March 28, 2017 (Petition).

² See *Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, United Arab Emirates, and United Kingdom: Initiation of Less-Than-Fair Value Investigations*, 82 FR 19207 (April 26, 2017) (*Initiation Notice*).



only one company, Byelorussian Steel Works (BSW).³ However, in addition to selecting BSW as the mandatory respondent in this investigation, we also invited any other exporters/producers of wire rod from Belarus to submit a response to the Department's quantity and value questionnaire (Q&V).⁴

Also in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of wire rod to be reported in response to the Department's AD questionnaire.⁵

On May 9, 2017, we issued the AD questionnaire to BSW.⁶ On May 10, 2017, we received timely comments on the physical characteristics of the merchandise under consideration to be used for reporting purposes from the petitioners and various other interested parties in the companion wire rod investigations involving Italy, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, the Republic of Turkey, Ukraine, the United Arab Emirates, and the United Kingdom.⁷

On May 12, 2017, we received a Q&V response from BSW.⁸ We received no other Q&V responses from any other exporter/producer of wire rod in Belarus. Also on May 12, 2017, 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 wire rod from Belarus.⁹

On May 18, 2017, we issued a letter to interested parties that included the product characteristics for this and the companion AD investigations. This letter also set the deadline for BSW to respond to sections C and D of the AD questionnaire as no later than June 15, 2017.¹⁰

In June 2017, BSW submitted a timely response to section A of the AD questionnaire, *i.e.*, the section relating to general information, as well as a timely response to the Department's supplemental section A questionnaire.¹¹ However, BSW failed to respond to sections C and D of

³ *Id.* at 19212.

⁴ *Id.*

⁵ *Id.* at 19207-08.

⁶ See Department Letter, "Request for Information: Antidumping Duty Investigation," dated May 9, 2017 (AD Questionnaire).

⁷ See Letter from the petitioners re: Comments on the Department's Proposed Product Comparison Hierarchy, dated May 10, 2017; Letter from POSCO re: Comments on Product Characteristics and Model Match Methodology, dated May 10, 2017 (POSCO's Product Characteristics Comments); Letter from the petitioners, re: Petitioners' Rebuttal Comments in Response to POSCO's May 10, 2017 Letter, dated May 15, 2017; Letter from British Steel Limited (British Steel) re: British Steel's Rebuttal Comments on Product Characteristics, dated May 15, 2017; Letter from Global Steel Wire S.A., CELSA Atlantic SA, and Compania Espanola de Laminacion re: Rebuttal Comments Regarding Product-Matching Characteristics, dated May 15, 2017; *see also* Memorandum, "Clarification and Correction of Information in POSCO Brochure," dated May 18, 2017.

⁸ See BSW's Q&V Response dated May 12, 2017.

⁹ See *Carbon and Certain Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom; Determinations*, 82 FR 22846 (May 18, 2017) (ITC Preliminary Determination).

¹⁰ See Department Letter, re: Product Characteristics for the Antidumping Duty Investigation of Carbon and Alloy Steel Wire Rod from Belarus, dated May 18, 2017 (Product Characteristics Letter).

¹¹ See BSW's June 1, 2017 Section A Questionnaire Response (BSW June 1, 2017 AQR); BSW's June 13, 2017

the AD questionnaire, *i.e.*, the sections relating to U.S. sales and factors of production, respectively.

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

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2016, to December 31, 2016. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was March 2017.¹²

IV. SCOPE COMMENTS

In accordance with the *Preamble* to the Department's regulations,¹³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, *i.e.*, scope.¹⁴ Certain interested parties from the companion wire rod investigations commented on the scope of the wire rod investigations, as published in the *Initiation Notice*. For a summary of the product coverage 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.¹⁵ We have evaluated the scope comments filed by the interested parties, and we are not preliminarily modifying the scope language as it appeared in the *Initiation Notice*.¹⁶ In the Preliminary Scope Decision Memorandum, we set a separate briefing schedule on scope issues for interested parties, and we will issue a final scope decision on the records of the wire rod investigations after considering any comments submitted in scope case and rebuttal briefs.

V. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy (NME) Country

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the Department. Upon the dissolution of the Union of Soviet Socialist Republics (Soviet Union) in December 1991, each of the newly independent states, including Belarus, retained the NME status of the former Soviet Union.¹⁷ Since that time, we have continued to treat Belarus as a NME country.¹⁸ Belarus did not request

Supplemental Section A Questionnaire Response (BSW's June 1, 2017 SAQR).

¹² See 19 CFR 351.204(b)(1); *see also Initiation Notice*, 82 FR at 19207.

¹³ See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹⁴ See *Initiation Notice*, 82 FR at 19207-08.

¹⁵ For further discussion of these comments, *see* Memorandum, "Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, the United Arab Emirates, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations," dated August 7, 2017 (Preliminary Scope Decision Memorandum).

¹⁶ *Id.*

¹⁷ See *Preliminary Determination of Sales at Less Than Fair Value: Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan*, 57 FR 23380 (June 3, 1992)).

¹⁸ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions From Belarus*, 67 FR 62015, 62016 (October 3, 2002), unchanged in *Notice of Final Determination of*

a change in its NME status and no other party to this proceeding contested NME treatment for Belarus. Therefore, we continue to treat Belarus as an NME country for the purposes of this preliminary determination.

B. Separate Rates

In proceedings involving NME countries, the Department maintains a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate.¹⁹

In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.²⁰ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,²¹ as further developed by *Silicon Carbide*.²² However, if the Department determines that a company is wholly foreign-owned, then a separate-rate analysis is not necessary to determine whether it is independent from government control, and thus eligible for a separate rate.²³

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from the PRC AD proceeding, and its determinations therein.²⁴ In

Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from Belarus, 68 FR 9055, 9056 (February 27, 2003); *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Concrete Reinforcing Bars from Belarus*, 66 FR 8329, 8330 (January 30, 2001), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Belarus*, 66 FR 33528 (June 22, 2001), and accompanying Issues and Decision Memorandum (IDM) at Comments 1-3 (treating Belarus as an NME country).

¹⁹ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006).

²⁰ See *Initiation Notice*, 82 FR at 19212.

²¹ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

²² See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

²³ See, e.g., *Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014) (*Wire Rod PRC Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM) at "Discussion of the Methodology: Separate Rates," unchanged in *Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014) (*Wire Rod PRC Final Determination*).

²⁴ See *Final Results of Redetermination pursuant to Advanced Technology & Materials Co. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology*), available at <http://enforcement.trade.gov/remands/12-147.pdf>, *aff'd* *Advanced Technology & Materials Co. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* *Advanced Technology & Materials Co. v. United States*, 581 Fed. App'x 900 (Fed. Cir. 2014) (*Advanced Technology II*); see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying

particular, in litigation involving the diamond sawblades from the PRC proceeding, the U.S. Court of International Trade (CIT) found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.²⁵ Following the Court's reasoning, as affirmed by the Court of Appeals for the Federal Circuit (CAFC), in recent proceedings, we have concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the respondent is not eligible for a separate rate.²⁶ Otherwise, we will analyze the impact of government ownership within the context of the *de facto* criteria as established above. This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with our normal separate rate practice, any ability to control, or possess an interest in controlling, the operations of the company (including the selection of board members, management, and the profit distribution of the company) by a government entity is subject to the Department's rebuttable presumption that all companies within the NME country are subject to government control.

C. Companies Not Receiving a Separate Rate

The Department has not granted a separate rate to the only respondent in this proceeding, BSW. In its response to section A of the Department's questionnaire, BSW stated that it is wholly owned by the Government of Belarus.²⁷ As noted above, where a government entity holds a majority equity ownership in a respondent exporter, this interest in and of itself means that the respondent is not eligible for a separate rate.²⁸ Accordingly, we find that the Government of Belarus has *de facto* control over BSW, and we preliminarily determine that BSW is not eligible for a separate rate.

Preliminary Decision Memorandum (PDM) at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying IDM at Comment 1.

²⁵ See, e.g., *Advanced Technology*, 885 F. Supp. 2d at 1349 ("The court remains concerned that {the Department} has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *id.* at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor *de jure* 'separation' that {the Department} concludes.") (footnotes omitted); *id.* at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); *id.* at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRJ {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

²⁶ See *Truck and Bus Tires From the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances, and Postponement of Final Determination*, 81 FR 61186 (September 6, 2016) (*Truck and Bus Tires PRC Preliminary Determination*), and accompanying PDM at 13, unchanged and further discussion in *Truck and Bus Tires from the People's Republic of China: Final Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances*, 82 FR 8599 (January 27, 2017) (*Bus and Truck Tires PRC Final Determination*), and accompanying IDM at Comment 1; *Wire Rod PRC Preliminary Determination* PDM at 5-9, unchanged in *Wire Rod PRC Final Determination*, 79 FR at 68860.

²⁷ See BSW's June 1, 2017 AQR at A-8, A-13.

²⁸ See *Wire Rod PRC Preliminary Determination* PDM at 5-9, unchanged in *Wire Rod PRC Final Determination*, 79 FR at 68860.

D. The Belarus-Wide Entity

As noted above, BSW failed to respond to sections C and D of the Department's questionnaire. Because BSW is not eligible for separate rate status, the Department considers it to be part of the Belarus-wide entity. Accordingly, as explained below, we preliminarily assigned the Belarus-wide entity a margin based on adverse facts available (AFA), pursuant to section 776 of the Act.

VI. APPLICATION OF FACTS AVAILABLE AND ADVERSE INFERENCES

A. Use of Facts Available

Sections 776(a)(1) and (2) of the Act provide that, if necessary information is not available on the record, or an interested party: (1) withholds information requested by the Department; (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, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination. Section 782(c)(1) of the Act states that if an interested party, "promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner," then the Department shall consider the ability of the interested party and may modify the requirements to avoid imposing an unreasonable burden on that party. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

The Department preliminarily finds that the necessary information is not available on the record of this investigation to calculate a dumping margin for the Belarus-wide entity within the meaning of section 776(a)(1) of the Act, and that the Belarus-wide entity, which includes BSW, withheld information requested by the Department, failed to provide information by the specified deadlines, and significantly impeded this proceeding, within the meaning of section 776(a)(2)(A)-(C) of the Act, respectively. Specifically, BSW failed to respond to sections C and D of the Department's AD questionnaire, which requested information that we require to calculate a dumping margin. Moreover, because the Belarus-wide entity, including BSW, failed to provide any information about its U.S. sales or factors of production, 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 the preliminary dumping margin for the Belarus-wide entity.

B. Application of Facts Available with an Adverse Inference

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the

Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.²⁹ In applying adverse inferences, 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. In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”³⁰ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference in selecting from the facts available.³¹ It is the Department’s practice to consider, when making adverse inferences, the extent to which a party may benefit from its own lack of cooperation.³²

We preliminarily find that the Belarus-wide entity, including BSW, did not act to the best of its ability to comply with the Department’s request for information. When we issued our initial questionnaire to BSW, we set a deadline of May 31, 2017, for its response to section A of the questionnaire. In the cover letter to the questionnaire, we informed BSW that we would set the deadlines for sections C and D of the questionnaire after we finalized the product characteristics that comprise the control numbers in this investigation.³³ On May 15, 2017, we again told BSW by email that we would send the product characteristics and deadline for sections C, D, and E of the Department’s questionnaire once they were available.³⁴ On May 18, 2017, we issued a letter through ACCESS establishing the product characteristics and setting a deadline of June 15, 2017, for BSW to respond to sections C and D of the questionnaire.³⁵ BSW timely filed a response to section A of the questionnaire on June 1, 2017, and a response to a supplemental section A questionnaire on June 13, 2017, through the Department’s ACCESS filing system. However, it failed to respond to sections C and D of the questionnaire by the established June 15, 2017, deadline or to request an extension of this deadline.

BSW did not notify the Department of any difficulties in obtaining the information needed to complete its response to sections C and D of the questionnaire. Furthermore, BSW successfully

²⁹ See also 19 CFR 351.308(a); *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).

³⁰ See 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).

³¹ 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.

³² 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 PDM 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).

³³ See AD Questionnaire.

³⁴ See Memorandum, “Antidumping Duty Investigation of Carbon and Alloy Steel Wire Rod from Belarus: Communication with Byelorussian Steel Works,” dated June 21, 2017 (“For Sections C-E, we will send you the product characteristics and deadline as soon as we can.”).

³⁵ See Product Characteristics Letter.

filed its response to section A of the questionnaire, as well as a subsequently issued supplemental section A questionnaire, via ACCESS. BSW provided no information on the record of this proceeding indicating that it was unable to file its response to sections C and D of the Department's questionnaire by the established deadline. Accordingly, we preliminarily conclude that the Belarus-wide entity, including BSW, failed to cooperate to the best of its ability to comply with our request for information. Based on the above, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), we preliminarily determine to use adverse inferences when selecting from the facts available when assigning an AD margin to the Belarus-wide entity.

C. Selection and Corroboration of the AFA Rate

Section 776(b) of the Act states that the Department, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.³⁶ In selecting a rate based on AFA, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.³⁷ The Department's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition or (2) the highest calculated rate of any respondent in the investigation.³⁸

The highest dumping margin in the Petition is 280.02 percent and no rate was calculated for an individually-examined respondent.³⁹ Thus, consistent with our practice, we have selected the highest dumping margin alleged in the Petition as the AFA rate.⁴⁰

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the petition) rather than information obtained during 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.⁴¹ The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value,⁴² although under section 776(c)(2) of the Act, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.⁴³ Nonetheless, the Department is not required to

³⁶ See also 19 CFR 351.308(c).

³⁷ See SAA at 870.

³⁸ See *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 *Initiation Notice*, 82 FR at 19211; see also AD Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Belarus (April 17, 2016) (Initiation Checklist).

⁴⁰ See, e.g., *Certain Polyethylene Terephthalate Resin from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 13327 (March 14, 2016) (*PET Resin from India Final Determination*), and accompanying IDM at Comment 14.

⁴¹ See SAA at 870.

⁴² See SAA at 870; see also 19 CFR 351.308(d).

⁴³ See *Bus and Truck Tires PRC Preliminary Determination* PDM at 20, unchanged in *Bus and Truck Tires PRC*

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.⁴⁴

Because the AFA rate applied to the Belarus-wide entity is derived from the Petition and, consequently, is based upon secondary information, the Department must corroborate the rate to the extent practicable. We have determined that the Petition margins are reliable after reviewing and considering the adequacy and accuracy of the information in the Petition.⁴⁵

Specifically, we examined evidence supporting the calculations in the Petition to determine the probative value of the dumping margins alleged in it for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis, we also examined the key elements of the alleged dumping margin calculations, *i.e.*, export price (EP), constructed export price (CEP), and normal value (NV).⁴⁶ Further, we also examined information from various independent sources provided either in the Petition or, at our request, in the supplements to the Petition that corroborate key elements of the EP, CEP, and NV calculations used in the Petition to derive the dumping margins alleged in the Petition.⁴⁷

Based on our examination of the information on the record, as discussed in detail in the Initiation Checklist, we considered, at the time of initiation, the petitioners’ EP, CEP, and NV calculations to be reliable. Because we subsequently obtained no other information that calls into question the validity of the sources of information or the validity of the information supporting the U.S. price or NV calculations provided in the Petition, based on our examination of this information, we preliminarily determine that the dumping margins alleged in the Petition are reliable for the purposes of assigning an AFA rate to the Belarus-wide entity in this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether there are circumstances that would render a rate not relevant. In accordance with section 776(d)(3) of the Act, when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party. Because there are no participating cooperative respondents in this investigation, we relied upon the dumping margins alleged in the Petition, which is the only information regarding the steel wire rod industry reasonably at the Department’s disposal. Likewise, as we determined in *GOES from China*, in which the only mandatory respondent also received AFA, “there was no need to review any additional documentation outside of what was submitted in the petition considering such sources of information fulfill our requirements for corroboration of secondary information.”⁴⁸

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⁴⁴ See section 776(d)(3)(B) of the Act.

⁴⁵ See Initiation Checklist.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ 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 IDM at 20; see also *Nan Ya Plastics Corp. v. United States*, 810 F.3d 1333, 1349 (Fed. Cir. 2016) (stating that “the statute does not require {the Department} to corroborate corroborating data”); *KYD, Inc. v. United States*, 607 F.3d 760, 765 (Fed. Cir.

Accordingly, we preliminarily determine that the highest margin alleged in the Petition has probative value, and we have corroborated the AFA rate of 280.02 percent to the extent practicable within the meaning of section 776(c) of the Act by demonstrating that: 1) the rate was considered by the Department to be reliable in the pre-initiation stage of this investigation and no subsequent contrary information suggesting otherwise has been placed on the record; and 2) the rate is relevant to the uncooperative Belarus-wide entity, including BSW.

VII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.



Agree



Disagree

9/5/2017

X



Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

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

2010) (agreeing with the Department that price quotes and third-party affidavits used in the petition to calculate estimated margins were independent information not requiring additional corroboration and stating that “[t]he relevant inquiry focuses on the nature of the information, not on whether the source of the information was referenced in or included with the petition”).