

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-401-805]

Certain Cut-to-Length Carbon Steel Plate from Sweden: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Sweden. This review covers one manufacturer/exporter of the subject merchandise to the United States and the period August 1, 1995 through July 31, 1996. SSAB failed to submit a response to our questionnaire. As a result, we have preliminarily determined to use facts otherwise available for cash deposit and appraisal purposes.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with each argument (1) A statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: May 14, 1997.

FOR FURTHER INFORMATION CONTACT: Elizabeth Patience or Steve Jacques, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3793.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:**Background**

On August 19, 1993, the Department published in the **Federal Register** (58

FR 44168) the antidumping duty order on certain cut-to-length carbon steel plate from Sweden. On August 30, 1996, Bethlehem Steel Corporation, U.S. Steel Group (a Unit of USX Corporation), Inland Steel Industries Inc., Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, Geneva Steel, and Lukens Steel Company, petitioners, requested a review for SSAB Svenskt Stål AB (SSAB). On September 3, 1996, SSAB also requested a review for its exports of subject merchandise. On September 17, 1996, in accordance with 19 C.F.R. 353.22(c), we initiated the administrative review of this order for the period August 1, 1995, through July 31, 1996 (61 FR 48882). The Department is now conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

Certain cut-to-length plate includes hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded is grade X-70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The period of review (POR) is August 1, 1995, through July 31, 1996.

Use of Facts Otherwise Available

Following the initiation of this review, the Department sent respondent a questionnaire seeking information necessary to conduct a review of any shipments that firm may have made to the United States during the POR. SSAB did not respond to the questionnaire. Because necessary information is not available on the record for the POR as a result of SSAB withholding the requested information, we must make our preliminary determination based on facts otherwise available (section 776(a) of the Act).

On October 21, 1996, the due date for section A of the Department's questionnaire, SSAB made a timely withdrawal of its request for a review of this POR. However, because petitioners had also requested an administrative review, the review is still in progress. Additionally, SSAB stated it would not be participating in the review and requested assignment, as facts available, of the first administrative review margin, 8.28 percent. SSAB also failed to respond to sections B, C and D of the questionnaire, which were due November 4, 1996.

On January 8, 1997, petitioners requested that the Department assign to SSAB as facts available, 34 percent, the highest rate from the antidumping petition. Petitioners argued that this rate was more appropriate than the average petition rate, 24.23 percent, which was also used as the best information available in the final determination of the less than fair value (LTFV) investigation. Because the LTFV rate had not induced SSAB to cooperate, petitioners argue the Department should use alternative sources of facts available rates or the respondent could be in a position to manipulate the administrative review process by refusing to cooperate when its actual margin of dumping may exceed the LTFV investigation margin. See Steel Wire Rope from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 61 FR 55964, 55967-68, (October 30, 1996) (Steel Wire Rope). See Certain Fresh Cut Flowers from Colombia: Final Results of Antidumping Duty Administrative Reviews, 61 FR 42833, 42835 (August 19, 1996). See Certain Malleable Cast Iron Pipe Fittings from Brazil: Final Results of Antidumping Duty Administrative Review, 60 FR 41876, 41878 (August 14, 1995). Accordingly, petitioners proposed that the Department use as facts available the highest rate from the petition which is a rate of 34 percent.

On January 16, 1997, respondent submitted a rebuttal to petitioners' submission. Noting that on September 4, 1996, in the second administrative review of this order, the Department had preliminarily determined to apply facts available to SSAB, and that this decision was based on SSAB's failure to reconcile its cost response to its audited financial statements, respondent argued that it is precluded from participating in future administrative reviews until the Department reconsiders the cost verification standard it applied to SSAB in the second administrative review, or until the company revises its cost accounting system to conform to the Department's thinking as to how the company should maintain its audited financial statements. Respondent asserted that its withdrawal from participation in the third review does not stem from an intentional failure to cooperate or a desire to "control the review process" or "practice injurious price discrimination to a greater degree than at the time of the LTFV investigation." Rather, respondent argued that the cost accounting system for SSOX, one of SSAB's two plants producing subject merchandise, has been rejected by the Department in a prior administrative review and that SSOX has no alternative method for reporting costs in the current review. Respondent argued that because the relevant period for the third administrative review already expired before SSAB was made aware that the SSOX cost accounting system and reported costs would be rejected, SSAB had no choice but to withdraw from participating in the third administrative review. Therefore, respondent maintains that the Department should reject the petitioners' request for a 34 percent facts available margin.

Respondent's voluntary withdrawal from this, the third administrative review, followed the Department's preliminary facts available determination in the second administrative review, but preceded the final results of that review. SSAB made no attempt in the third review to contact the Department to discuss how it should proceed in responding to section D, the cost of production section of the questionnaire, nor did it respond to any other section of the questionnaire. Thus, the Department finds that, in not responding to the questionnaire, SSAB failed to cooperate by not acting to the best of its ability to comply with a request for information from the Department. Therefore, pursuant to section 776(b) of the Act, we may, in making our determination, use an

adverse inference in selecting from the facts otherwise available. This adverse inference may include reliance on data derived from the petition, a previous determination in an investigation or review, or any other information placed on record. We agree with petitioners that the 24.23 percent margin has not induced SSAB to cooperate in this review and a higher margin is warranted. Our decision to use a rate higher than the LTFV rate is consistent with our decision in the previous segment of the proceeding in which we assigned the LTFV rate as total adverse facts available because "* * * while SSAB did not act to the best of its ability in responding to our cost information requests, it did cooperate with respect to certain aspects of this review." See *Certain Cut-to-Length Carbon Steel Plate from Sweden, Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 51898, 51900 (October 4, 1996); see, also, *Certain Cut-to-Length Carbon Steel Plate from Sweden, Final Results of Antidumping Duty Administrative Review*, 62 FR 18396, 18401 (April 15, 1997). Accordingly, in this case, because SSAB has not cooperated with any aspects of this review, we preliminarily assign to SSAB a more adverse margin of 34 percent, the highest margin from the original petition in the LTFV investigation.

Section 776(b) authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Section 776(c) provides that the Department shall, to the extent practicable, corroborate "secondary information" by reviewing independent sources reasonably at its disposal. The SAA, at 870, makes it clear that "secondary information" includes information from the petition in the less-than-fair-value (LTFV) investigation and information from a previous section 751 review of the subject merchandise. The SAA also provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. *Id.*

As noted above, the Department used an average of the petition rates as total adverse facts available in the previous segment of this proceeding. The Department explained in that review that it had corroborated the petition information. For the purposes of these preliminary results, we continue to regard the petition information as corroborated, though we intend to consider further, for purposes of the final results of review, whether or not

further corroboration, based on updated information, is both appropriate and possible.

Duty Absorption

On October 7, 1996, petitioners requested that the Department determine whether antidumping duties had been absorbed during the POR. On October 8, 1996, respondent opposed petitioners' request stating this review is ineligible for an absorption inquiry because the review was initiated three years, not two or four years, after publication of the antidumping duty order. Section 751(a)(4) of the Act provides for the Department, if requested, to determine, during an administrative review initiated two or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order, if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) was added to the Act by the URAA. The Department's interim regulations do not address this provision of the Act.

For transition orders as defined in section 751(c)(6)(C) of the Act, i.e., orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's proposed antidumping regulations provide that the Department will make a duty absorption determination, if requested, for any administrative review initiated in 1996 or 1998. See Notice of Proposed Rulemaking, 61 FR 7308, 7366 (February 27, 1996). The preamble to the proposed antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year. *Id.* at 7317. Although these proposed antidumping regulations are not yet binding upon the Department, they do constitute a public statement of how the Department expects to proceed in applying section 751(a)(4) of the amended statute. This approach assures that interested parties will have the opportunity to request a duty absorption determination on entries for which the second and fourth years following an order have already passed, prior to the time for sunset review of the order under section 751(c). Because the order on subject merchandise from Sweden has been in effect since 1993, this qualifies as a transition order. Therefore, based on the policy stated above, the Department will first consider a request for an absorption determination during a review initiated in 1996. This being a review initiated in 1996, we are making

a duty-absorption determination as part of this segment of the proceeding.

In this case, we are unable to calculate a margin based on SSAB's response and have therefore determined its dumping margin entirely on the basis of adverse facts available. We also determined, based on adverse facts available, that there are margins on all sales. Lacking other information, we find duty absorption on all sales.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin of 34 percent exists for SSAB for the period August 1, 1995 through July 31, 1996. Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

Upon completion of this administrative review, the Department will issue appraisal instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective upon publication of the final results of administrative review for all shipments of subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of this administrative review; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit

rate for all other manufacturers or exporters will be 24.23 percent, the "all others" rate established in the final notice of the LTFV investigation (58 FR 37213, July 9, 1993).

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review. This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 5, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

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BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-047]

Elemental Sulphur from Canada: Extension of Time Limit for Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit of antidumping duty administrative Review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the antidumping duty administrative review of the antidumping finding on elemental sulphur from Canada, covering the period December 1, 1994 through November 30, 1995, because it is not practicable to complete the review within the time limits mandated by the Tariff Act of 1930, as amended (the Act).
EFFECTIVE DATE: May 14, 1997.

FOR FURTHER INFORMATION CONTACT: Jean Kemp or Rick Johnson, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

Avenue, N.W., Washington D.C. 20230, Telephone (202) 482-3793.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1996, the Department published in the **Federal Register** (61 FR 3670) a notice of initiation of administrative review of the antidumping finding on elemental sulphur from Canada. The review covers the period December 1, 1994 through November 30, 1995.

It is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act (see Decision Memorandum to Robert S. LaRussa, dated May 7, 1997, "Extension of Time Limit for the 1994/95 Antidumping Duty Administrative Review of Elemental Sulphur from Canada"). Therefore, in accordance with that section, the Department is extending the time limit for the final results to July 7, 1997.

Dated: May 7, 1997.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Enforcement III.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050597B]

Shark Operations Team; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Shark Operations Team (OT) will hold a meeting on May 21-22, 1997, in Silver Spring, MD.

DATES: The meeting will begin on May 21, 1997, at 1 p.m. and will continue on May 22, 1997, from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at Armory Place, 925 Wayne Ave., Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey, telephone: (301) 713-2347, Fax (301-713-0596).

SUPPLEMENTARY INFORMATION: Potential agenda items include:

- (1) 1997 First 6-month shark fishing season.
- (2) Recent management measures.
- (3) Data collection issues.

This meeting is physically accessible to people with disabilities.