

Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 135 days after the date of publication of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: July 10, 2003.

Jeffrey May,

*Acting Assistant Secretary for Grant Aldonas,
Under Secretary.*

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-837]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Wire Strand from Brazil

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

ACTION: Notice of Preliminary Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: July 17, 2003.

FOR FURTHER INFORMATION CONTACT: David Layton at (202) 482-0371, or Monica Gallardo at (202) 482-3147; AD/CVD Enforcement Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that prestressed concrete steel wire strand (PC strand) from Brazil is being sold, 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 preliminary margin assigned to Belgo Bekaert Arames, S.A. (BBA) is based on adverse facts available (AFA). The estimated margin of sales at LTFV is shown in the *Suspension of Liquidation* section of this notice.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 75 days after the date of this preliminary determination.

Case History

This investigation was initiated on February 20, 2003.¹ *See Notice of Initiation of Antidumping Duty Investigations: Prestressed Concrete Steel Wire Strand From Brazil, India, the Republic of Korea, Mexico, and Thailand*, 68 FR 9050 (February 27, 2003) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

The Department of Commerce (the Department) set aside a period for all interested parties to raise issues regarding product coverage. *See Initiation Notice*, 68 FR at 9050. No comments were received from interested parties in this investigation.

The Department issued a letter on March 7, 2003, to interested parties in all of the concurrent PC strand antidumping investigations, providing an opportunity to comment on the Department's proposed model match characteristics and its hierarchy of characteristics. The petitioners submitted comments on March 18 and March 20, 2003. The Department also received comments on model matching from respondents in the concurrent investigation involving Mexico on March 18, 2003. These comments were taken into consideration by the Department in developing the model matching characteristics and hierarchy for all of the PC strand antidumping investigations.

On March 17, 2003, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to this investigation are materially injuring an industry in the United States producing the domestic like product. *See Prestressed Concrete Steel Wire Strand From Brazil, India, Korea, Mexico, and Thailand*, 68 FR 13952 (March 21, 2003).

On April 4, 2003, the Department issued its antidumping questionnaire to

the Brazilian respondent, BBA, specifying that the response to section A would be due on April 25, 2003, and that the responses to sections B, C, and D would be due May 12, 2003². On April 28, 2003, BBA confirmed that it would not participate in the investigation. *See Memorandum from David Layton, International Trade Compliance Analyst, to the File, Re: Telephone Conversation with Counsel for Brazilian Producer Belgo Bekaert Arames S.A. Concerning Participation*, dated April 28, 2003. BBA provided no further elaboration, nor did it suggest alternatives to meet the Department's requirements pursuant to 782(c) of the Act. *Id.*

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either: (1) a sample of exporters, producers, or types of products that is statistically valid, based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

During the period of investigation (POI), only BBA was identified as a producer/exporter of subject merchandise from Brazil. In an April 1, 2003, conversation with counsel to BBA, it was confirmed that BBA is the sole producer of PC strand in Brazil and that BBA is a subsidiary of the Companhia Siderurgica Belgo-Mineira (Belgo-Mineira) which holds majority shares in BBA. *See Memorandum from David Layton, International Trade Compliance Analyst, to the File dated April 1, 2003.* Therefore, we selected BBA as the sole respondent in the investigation of PC strand from Brazil. *See Memorandum from Daniel O'Brien, Import Compliance Specialist, to Gary Taverman, Director, Office 5, RE:*

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

¹ The petitioners in this investigation are American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp.

Selection of Respondents, dated April 4, 2003.

Period of Investigation

The period of investigation (POI) is January 1, 2002, through December 31, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition (*i.e.*, January, 2003) involving imports from a market economy, and is in accordance with our regulations. See 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of this investigation, PC strand is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.

The merchandise under investigation is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Facts Available

For the reasons discussed below, we determine that the use of AFA is appropriate for the preliminary determination with respect to BBA.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the Department, fails to provide such information by the deadline or in the form or manner requested, significantly impedes a proceeding, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that if the Department determines that a response to a request for information does not comply with the Department's request, the Department shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act further states 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.

As discussed above, BBA failed to respond to the Department's request for information, thus the curative provisions of sections 782(d) and (e) of the Act are not applicable. Specifically, the information that BBA failed to report is critical for calculating preliminary dumping margins, therefore, the Department must resort to facts otherwise available to ensure that BBA does not obtain a more favorable result than it would by responding to the Department's request for information. The failure of BBA to respond significantly impedes this process because the Department cannot accurately determine a margin for this party. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, we have based BBA's margin rate on facts available.

B. Application of Adverse Inferences for Facts Available

In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. See, *e.g.*, *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). Adverse inferences are appropriate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, at 870 (1994) (SAA). Furthermore, “{a}ffirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.” See *Antidumping Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997). In this case, BBA has failed to cooperate to the best of its ability by failing to respond to the Department's antidumping questionnaire. In addition, the company did not make an effort to provide an explanation for its failure to respond, or proposed an alternate form of submitting the required data. These omissions constitute a failure on the part of this company to cooperate “to

the best of its ability to comply with a request for information” by the Department within the meaning of section 776 of the Act. Therefore, the Department has preliminarily determined that in selecting from among the facts otherwise available, an adverse inference is warranted. See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total AFA where respondent failed to respond to the antidumping questionnaires).

C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c); SAA at 829–831. In this case, because we are unable to calculate margins for the respondent in this investigation, we assign to BBA the highest margin from the proceeding, which is the highest margin alleged for Brazil in the petition. See *Initiation Notice*, 68 FR at 9052.

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR 351.308(d); see also SAA at 870.

To assess the reliability of the petition margin for the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition for both this preliminary determination and during our pre-initiation analysis. See Office of AD/CVD Enforcement Initiation Checklist, at 15 (February 20, 2003)

(Initiation Checklist). Also, as discussed below, we examined evidence supporting the calculations in the petition to determine the probative value of the margins in the petition for use as AFA for purposes of this preliminary determination. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the constructed export price (CEP) and normal value (NV) calculations on which the margin in the petition was based. See Memorandum from David Layton and Monica Gallardo, International Trade Compliance Analysts, to Gary Taverman, Director, Office 5, Re: Corroboration of Data Contained in the Petition for Assigning Facts Available Rates, dated July 10, 2003 (Corroboration Memo).

1. Corroboration of Constructed Export Price

The petitioners based CEP on prices for sales of low-relaxation PC strand from a Brazilian producer, through its U.S. affiliate, to an unaffiliated U.S. purchaser. The petitioners calculated a single average gross unit price and deducted from it estimated costs for international freight and insurance charges, U.S. inland freight charges, harbor maintenance and merchandise processing fees, imputed credit expenses, and trading company commission to arrive at an average net U.S. price. Information regarding U.S. prices including warehousing expenses, indirect selling expenses, inventory carrying expenses, and CEP profit was not reasonably available to the petitioners. Therefore, the petitioners did not deduct these items from the average gross unit price. Instead, as a conservative estimate of these expenses, the petitioners subtracted an amount for the "prevailing commission rate for PC strand sold in the United States via unaffiliated agents to foreign producers' unaffiliated U.S. customers." See Volume II-Brazil AD of the petition at 2-3. We compared the U.S. market price quotes with official U.S. import statistics and U.S. customs data, and

found the prices used by the petitioners to be reliable. For further discussion, see Corroboration Memo at 2.

2. Corroboration of Normal Value

With respect to the NV, the petitioners provided a home market price for low-relaxation PC strand that was obtained from foreign market research. See Memorandum to the File, Re: Telephone Conversation with Market Researcher Regarding the Petitions for Imposition of Antidumping: Prestressed Concrete Steel Wire Strand from Brazil (February 12, 2003). The petitioners adjusted the gross unit price for home market credit expenses and inland freight.

The Department was provided with no useful information by the respondent or other interested parties and is aware of no other independent source of information that would enable it to further corroborate the margin calculations in the petition. Specifically, we attempted to locate both home market prices through publicly available sources and U.S. producer costs upon which the CV was based, but we were unable to do so. See Corroboration Memo at 3.

The implementing regulation for section 776 of the Act, at 19 CFR 351.308(d) states, "{t}he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question." Additionally, we note that the SAA at 870 specifically states that, where "corroboration may not be practicable in a given circumstance," the Department need not "prove that the facts available are the best alternative."

Therefore, based on our efforts, described above, to corroborate information contained in the petition, and in accordance with section 776(c) of the Act, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this preliminary determination. Accordingly, in selecting AFA with respect to BBA, we have applied the

margin rate of 118.75 percent, which is the highest estimated dumping margin set forth in the notice of initiation. See *Initiation Notice*, 68 FR at 9052.

All Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than zero, *de minimis*, and facts available margins to establish that "All Others" rate. Where the data do not permit weight-averaging such rates, the SAA provides that we use other reasonable methods. See SAA at 873. Because the revised petition, contained only one price-to-price dumping margin, it is reasonable to use this dumping margin to create an "All Others" rate. Further, since BBA is the only known Brazilian producer/exporter of subject merchandise, it is reasonable to use a margin based on a comparison of its sales as the "All Others" rate. Accordingly, we have applied a margin of 118.75 percent as the "All Others" rate.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the U.S. Bureau of Customs and Border Protection (BCBP) to suspend liquidation of all entries of PC strand from Brazil that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the BCBP to require a cash deposit or the posting of a bond equal to the dumping margin as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are as follows:

Producer/Exporter	Margin (Percentage)
Belgo Bekaert Arames S.A	118.75
All Others	118.75

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination

in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of PC strand from Brazil are materially

injuring, or threaten material injury, to the U.S. industry.

Public Comment

Interested parties are invited to comment on the preliminary

determination. Interested parties may submit case briefs within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(1)(I). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 75 days after the date of publication of this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(I)(1) of the Act.

Dated: July 10, 2003.

Jeffrey May,

*Acting Assistant Secretary for Grant Aldonas,
Under Secretary.*

[FR Doc. 03-18131 Filed 7-16-03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-828]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Wire Strand From India

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

ACTION: Notice of Preliminary Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: July 17, 2003.

FOR FURTHER INFORMATION CONTACT: Tisha Loeper-Viti at (202) 482-7425, or Martin Claessens at (202) 482-5451; AD/CVD Enforcement Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that prestressed concrete steel wire strand (PC strand) from India is being sold, 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 preliminary margin assigned to Tata Iron and Steel Co. Ltd. is based on adverse facts available (AFA). The estimated margin of sales at LTFV is shown in the *Suspension of Liquidation* section of this notice.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 75 days after the date of this preliminary determination.

Case History

This investigation was initiated on February 20, 2003.¹ *See Notice of Initiation of Antidumping Duty Investigations: Prestressed Concrete Steel Wire Strand From Brazil, India, the Republic of Korea, Mexico, and Thailand*, 68 FR 9050 (February 27, 2003) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

The U.S. Department of Commerce (the Department) set aside a period for all interested parties to raise issues regarding product coverage. *See*

Initiation Notice, 68 FR at 9050. No comments were received from interested parties in this investigation.

The Department issued a letter on March 7, 2003, to interested parties in all of the concurrent PC strand antidumping investigations, providing an opportunity to comment on the Department's proposed model match characteristics and its hierarchy of characteristics. The petitioners submitted comments on March 18 and 20, 2003. The Department also received comments on model matching from respondents in the concurrent investigation involving Mexico on March 18, 2003. These comments were taken into consideration by the Department in developing the model matching characteristics and hierarchy for all of the PC strand antidumping investigations.

On March 17, 2003, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to this investigation are materially injuring an industry in the United States producing the domestic like product. *See Prestressed Concrete Steel Wire Strand From Brazil, India, Korea, Mexico, and Thailand*, 68 FR 13952 (March 21, 2003).

On April 4, 2003, the Department issued its antidumping questionnaire to Tata SSL Ltd.² The Department was subsequently informed that Tata SSL Ltd. had been retroactively amalgamated with Tata Iron and Steel Co. Ltd. (TISCO) and was now known as TISCO (Wire Division).³ We received responses to Sections A-D of the antidumping questionnaire from TISCO and issued it supplementary questionnaires where appropriate. TISCO failed to respond to the Department's second supplemental Section D questionnaire, issued on July 1, 2003, in which the Department

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

³ On May 3, 2003, the respondent notified the Department that under a "Scheme of Amalgamation," Tata SSL Ltd. and Tata Iron and Steel Co. Ltd. were united as a single company, with Tata SSL Ltd. becoming known as Tata Iron and Steel Co. Ltd. (Wire Division). This amalgamation was approved by the High Court of Judicature at Bombay on April 21, 2003 with an effective date retroactive to April 1, 2002.

¹ The petitioners in this investigation are American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp.