can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 (B–099) of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Non-Market Economy Status

The Department has treated Moldova as a non-market-economy (NME) country in all past antidumping investigations. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Steel Reinforcing Bars from Moldova,* 66 FR 33525 (June 22, 2001). In accordance with section 771(18)(C)(i) of the Act, a country's NME status continues until the Department revokes it. MSW requested that the Department revoke Moldova's NME status. The Government of the Republic of Moldova (GORM), however, did not support the treatment of the entire country as a market economy pursuant to MSW's request. Therefore, in accordance with section 771(18) of the Act, we continue to consider the Republic of Moldova as an NME country. *See Decision Memorandum.*

Changes Since the Preliminary Determination

We have not made any adjustments to the calculation methodologies used in the *Preliminary Determination* in determining the final dumping margin in this proceeding.

Use of Facts Available

As noted above, MSW refused to participate in verification. 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 draw an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. In light of MSW's refusal to participate in verification, we determine that MSW has failed to cooperate to the best of its ability and have applied adverse facts available to MSW. For a complete discussion of our analysis, see the *Decision Memorandum* and memorandum *Determination of Facts Available for Moldova Steel Works in Carbon and Certain Alloy Steel Wire Rod from Moldova,* dated August 23, 2002.

Critical Circumstances

On February 4, 2002, the Department preliminarily determined that critical circumstances exist with respect to wire rod from Moldova. *See Memorandum to Faryar Shirzad Re: Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Moldova—Preliminary Affirmative Determination of Critical Circumstances* (February 4, 2002); *See also Carbon and Alloy Wire Rod from Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances,* 67 FR 6224 (February 11, 2002). We received no comments from MSW or the petitioners regarding our preliminary finding that critical circumstances exist for imports of wire rod from Moldova. Therefore, we have not changed our determination and continue to find that critical circumstances exist for imports of wire rod from Moldova.

Final Determination of Investigation

We determine that the following weighted-average percentage margin exists for the period January 1, 2001 through June 30, 2001:

Exporter/manufacturer	Weighted-average margin (percentage)
Moldova-wide rate	369.10

The Moldova-wide rate applies to all entries of the subject merchandise from Moldova.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of wire rod from Moldova that are entered, or withdrawn from warehouse, for consumption on or after January 10, 2002 (90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury or threatening material injury to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: August 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1. Use of Adverse Facts Available
2. Basis of Adverse Facts Available
3. Request for Revocation of NME Status
4. Market Economy Responses

[FR Doc. 02–22249 Filed 8–29–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–832]

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

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

EFFECTIVE DATE: August 30, 2002.

FOR FURTHER INFORMATION CONTACT: Christopher Smith or Victoria Schepker, at (202) 482–1442 or (202) 482–1756, respectively; Import Administration,

International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (2001).

Final Determination

We determine that carbon and certain alloy steel wire rod 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 735 of the Act. The estimated margins of sales at LTFV are shown in the Continuation of Suspension of Liquidation section of this notice.

Case History

The preliminary determination in this investigation was issued on April 2, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 18165 (April 15, 2002) (*Preliminary Determination).* Since the publication of the preliminary determination, the following events have occurred:

On April 16, 2002, Companhia Siderúrgica Belgo Mineira and its fully-owned subsidiary, Belgo-Mineira Participação Indústria e Comércio S.A. (BMP), collectively Belgo Mineira submitted a letter to the Department stating its intent to withdraw from the proceeding and requesting the return of its proprietary information. On April 25, 2002, the Department confirmed that all of Belgo Mineira's information had been withdrawn from the record and that all copies had been destroyed. The Department also sent a letter to the petitioners requesting that they return Belgo Mineira's information under the terms of the Administrative Protective Order (APO). The petitioners [1] objected to the return of Belgo Mineira's information in a letter dated April 26, 2002. Subsequently, the petitioners filed an appeal with the Court of International Trade (CIT), requesting that the Department not be allowed to require the petitioners to return Belgo Mineira's proprietary information. On May 9, 2002, the CIT ordered that the petitioners return the information to the Department, and that the Department keep the information under seal. On June 4, 2002, we received a case brief from the petitioners; on June 11, 2002, we received a rebuttal brief from Belgo Mineira. On June 24, and June 21, 2002, respectively, the parties filed revised briefs at the request of the Department.

Scope Issues

Since the *Preliminary Determination* a number of parties have filed requests asking the Department to exclude various products from the scope of the concurrent antidumping duty (Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago and Ukraine) and countervailing duty (Brazil, Canada, Germany, Trinidad and Tobago, and Turkey) investigations. On May 6, 2002, Ispat Hamburger Stahlwerke GmbH and Ispat Walzdraht Hochfeld GmbH (collectively, Ispat Germany) requested an exclusion for ''super clean valve spring wire.'' Two parties filed additional exclusion requests on June 14, 2002: Bluff City Steel asked that the Department exclude ''clean-steel precision bar,'' and Lincoln Electric Company sought the exclusion of its EW 2512 grade of metal inert gas welding wire. On June 28, 2002, the petitioners filed objections to a range of scope exclusion requests including: (i) Bluff City Steel's request for clean precision bar; (ii) Lincoln Electric Company's request for EW 2512 grade wire rod; (iii) Ispat Germany's request for ''super clean valve spring wire;'' (iv) Tokusen USA's January 22, 2002 request for 1070 grade tire cord and tire bead quality wire rod (tire cord wire rod); and (v) various parties' request for 1090 grade tire cord wire rod.

In addition, Moldova Steel Works requested the exclusion of various grades of tire cord wire rod on July 17, 2002. The Rubber Manufacturers Association (the RMA), Ispat Germany, Lincoln Electric and Bluff City filed rebuttals to the petitioners' June 28, 2002 submission on July 8, 11, 17, and 29, 2002, respectively. The RMA filed additional comments on July 30, 2002.[2]

The Department has analyzed these requests and the petitioners' objections and we find no modifications to the scope are warranted. See Memorandum from Richard Weible to Faryar Shirzad, ''Carbon and Certain Alloy Steel Wire Rod; Antidumping Duty (Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine) and Countervailing Duty (Brazil, Canada, Germany, Trinidad and Tobago, and Turkey) Investigations: Requests for Scope Exclusion'' dated August 23, 2002, which is on file in room B–099 of the main Commerce building.

Scope of Investigation

The merchandise covered by this investigation is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in

[1] The petitioners in this investigation are Co-Steel Raritan, Inc., GS Industries, Inc., Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc.

[2] On August 9, 2002, Bekaert Corporation requested an exclusion for certain high chrome/high silicon steel wire rod from the scope of these investigations. This request was filed too late to be considered for the final determinations in these investigations.

cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, August 2001).

Analysis of Comments Received

Given that there was only one issue raised in the parties' briefs, regarding the use of adverse facts available, we have addressed the issue here, and not in a separate Decision Memorandum.

Use of Facts Available

As stated above, Belgo Mineira withdrew from this proceeding and requested the return of all proprietary information submitted. Consequently, for the final determination, the Department has applied adverse facts available (AFA) by using the margin derived from the petition.

1. Application of Facts Available (FA)

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that 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.

Pursuant to section 782(e) of the Act, 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.

On April 16, 2002, Belgo Mineira notified the Department that it did not intend to participate further in the Department's investigation and requested the return of all of its data. Belgo Mineira was notified by the Department in all of our correspondence, concerning the due dates for submitting data, that failure to submit the requested information by the date specified may result in use of the FA, as required by section 776(c) of the Act and section 351.308 of the Department's regulations. *See* letters from the Department to Belgo Mineira dated November 9, 2001; December 27, 2001; and January 18, 2002.

As described above, Belgo Mineira withdrew its response to the Department's questionnaire. Because Belgo Mineira withheld information requested by the Department essential to the calculation of dumping margins, pursuant to section 776(a)(2) of the Act, we have applied FA to calculate the dumping margin.

2. Selection of AFA

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808, 53819–20 (October 16, 1997); *Notice of Final Determination of Sales at Less than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Sweden,* 67 FR 47522, 47523 (July 19, 2002).

Comment: Application of AFA

The petitioners argue that Belgo Mineira's decision to cease participating in the investigation compels the Department to make an adverse inference when determining the final dumping margin. Further, the petitioners contend that, since Belgo Mineira should not be rewarded for its decision to withdraw its information from the record of the proceeding, the Department should place Belgo Mineira's information back on the record and use the highest calculated rate as its cash deposit rate.

Under section 776(b)(4) of the Act the Department may rely on ''any other information placed on the record'' for the purposes of deriving a facts available rate. The petitioners maintain that it is appropriate, under this provision, to use the information that Belgo Mineira submitted, which the Department still retains, albeit under seal. The petitioners point out that the information submitted by Belgo Mineira is ''primary'' information, the accuracy of which has been certified by Belgo Mineira and its counsel. Therefore, the petitioners argue, the Department is not obliged to corroborate this information. Further, the petitioners contend that the Department has relied on unverified, company-specific information in selecting a margin incorporating an adverse inference for respondents which withdrew from the investigation. *See,*

e.g., Notice of Final Determination of Sales at Less Than Fair Value: Live Cattle from Canada, 64 FR 56739 (October 21, 1999) *(Live Cattle from Canada).*

While Belgo Mineira's information is currently under seal, the petitioners argue that the decision by the CIT in *Co-Steel Raritan, et al.* v. *United States,* Court No. 02–00313 (May 9, 2002) (*Co-Steel Raritan*) contemplates the use of Belgo Mineira's information in selecting a final deposit rate that incorporates an adverse inference. Specifically, the petitioners argue that the CIT's order provides that unless the Department assigns to Belgo Mineira a deposit rate that is no less favorable to the petitioners than the result it could have reached using Belgo Mineira's information, the Department will be required to remove the information from under seal and return it to the petitioners counsel to provide them with an opportunity to submit objections.

Further, the petitioners argue that in *Live Cattle from Canada,* the Department found that ''there is no statutory provision dealing with the withdrawal of business proprietary information once it has been submitted {and} the courts have recognized the inherent power of an administrative authority to protect the integrity of its proceedings.'' *See Live Cattle from Canada* at 56743.

Therefore, according to the petitioners, there is nothing in the statute or judicial precedent to preclude the Department from placing Belgo Mineira's information, which is currently under seal, back on the record of the proceeding. The petitioners maintain that, by withdrawing its information, Belgo Mineira is attempting to manipulate the proceeding and receive a lower adverse facts available rate than it would have received had it left its information on the record. Therefore, the petitioners ask that Belgo Mineira's information be put back on the record and that Belgo Mineira be given the highest margin calculated from that information.

Belgo Mineira states that its decision to cease participating in the case was a business decision based on a cost/benefit analysis, which lead to the conclusion that the cost of participating in the investigation outweighed the possible benefits of doing so, given the Department's decision to exclude a significant portion of Belgo Mineira's exports from the scope of the proceeding. Belgo Mineira acknowledges that when it withdrew, it was with the knowledge that the Department may select an adverse facts available rate in the final determination, which was higher than its calculated rate.

Further, Belgo Mineira argues that, should the Department remove its information from under seal, it would be in violation of the court order in *Co-Steel Raritan,* which directed the Department to place the information under seal and then proceed with the investigation. Belgo Mineira maintains that the CIT contemplated removing the documents from under seal only if there is a subsequent action by the petitioners before the CIT, and the CIT directs the Department to unseal the information.

In addition, Belgo Mineira points out the Department has well established practices for assigning a facts available rate to mandatory respondents who do not participate fully in the proceeding. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber From Brazil,* 64 FR 14863 (March 29, 1999) (*ESBR from Brazil*). According to Belgo Mineira, whether it opted not to participate from the beginning, or elected to withdraw in the middle, should not be relevant to the Department's final determination. Therefore, Belgo Mineira believes that the Department should follow its usual policy in assigning a facts available rate and should not be influenced by the petitioners speculation on Belgo Mineira's motives for withdrawing from the proceeding.

Finally, Belgo Mineira suggests that, if the Department does remove Belgo Mineira's information from under seal, and decides that the information is sufficiently reliable to use for the purposes of establishing a facts available rate, the Department should use all of that information, not just the highest calculated margin to establish the cash-deposit rate.

Department's Position

We agree with the petitioners that Belgo Mineira's decision to cease participating in the proceeding warrants the application of adverse facts available under section 776(b) of the Act. By ceasing to participate and withdrawing its information, Belgo Mineira failed to cooperate to the best of its ability. However, we disagree that Belgo Mineira's information should be removed from under seal and used to establish the adverse facts available rate.

As a general matter, it is reasonable for the Department to assume that Belgo Mineira possessed the records necessary for the Department to complete its investigation since it provided a nearly complete response before withdrawing it from the record. Therefore, by withdrawing the information the Department requested, Belgo Mineira failed to cooperate to the best of its ability. As Belgo Mineira failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As AFA, we have used 94.73 percent, the rate derived from the petition. *See Initiation of Antidumping Duty Investigations: Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela,* 66 FR 50164 (October 2, 2001) (Initiation Notice).

The Department has allowed withdrawing parties, who make a request, to remove their business proprietary information from the administrative record of an ongoing proceeding.[3] Thus, the Department's decision to remove Belgo Mineira's

[3] *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Sweden,* 67 FR 47522, 47523 (July 19, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Australia,* 67 FR 47509, 47510 (July 19, 2002); *Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review,* 66 FR 56272, 56273 (Nov. 7, 2001); *Preliminary Determination of Sales at Less Than Fair Value: Honey From Argentina,* 66 FR 24108, 24110–11 (May 11, 2001); *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); *Carbon Steel Wire Rope from Mexico: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review, and Determination Not To Revoke the Antidumping Order in Part,* 65 FR 18283, 18284 (April 7, 2000). *See also Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Brazil,* 59 FR 55432, 55433 Comment 1 (Nov. 9, 1994); *Final Determination of Sales At Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Italy,* 58 FR 37152, 37152–153 (July 9, 1993); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Argentina,* 58 FR 37062 (July 9, 1993); *Notice of Preliminary Determination of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Corrosion-Resistant Carbon Steel Flat Products From Japan,* 58 FR 7103, 7104, 7105 (Feb. 4, 1993); *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From France,* 58 FR 6203, 6204–6205 (January 27, 1993); *Final Determination of Sales at Less Than Fair Value: Personal Word Processors from Japan,* 56 FR 31101 (July 9, 1991)(Rate was modified using the petition and public data, pursuant to *Smith Corona Corp.* v. *United States,* 802 F. Supp. 467, 468 (Ct. Int'l Trade 1992)); *Preliminary Determination of Sales at Less Than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof From Japan,* 54 FR 31978 (Aug. 3, 1989); *Final Affirmative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Israel,* 54 FR 15509 (April 18, 1989)(Both the government of Israel and the foreign producer withdrew their responses).

business proprietary documents from the record in this administrative review was consistent with the Department's practice. We find the petitioners' reliance on *Live Cattle from Canada* to be misplaced. That case involved a unique circumstance in that the Department found that the ''All Others'' rate, which would have been applied to the majority of exports of the subject merchandise, would have been distorted by the withdrawal of information by one of the mandatory respondents. In *Live Cattle from Canada,* the Department did not state that it was changing its practice, but that the peculiarities of that case meant that the Department should not follow its normal practice. *Live Cattle from Canada,* 64 FR at 56743–44. The Department's decision in *Live Cattle from Canada* is limited to the unique set of facts underlying that determination and does not establish ''precedent'' for the agency. No such circumstance exists in this case. The only producer affected by the withdrawal of Belgo Mineira's information is Belgo Mineira itself.

Further, with regard to Belgo Mineira's information, we disagree with the petitioners' interpretation of the CIT's order. The CIT ordered that the Department was to ''safekeep this information under seal pending Commerce's issuance of the final determination.'' *See Co-Steel Raritan* at 2. The Court further ordered that the petitioners can enter their objections ''for Commerce's consideration in accordance with pertinent statutory and regulatory provisions;'' moreover, for petitioners to obtain access to the proprietary information, they should bring a separate action before the CIT. *Co-Steel Raritan* at 13–14. The Department maintains the information under seal, because the Department interprets section 777(b)(1)(A) of the Act to mean that once a respondent has withdrawn its consent for Administrative Protective Order (APO) parties and the government to review its business proprietary information, then the Department must remove it from the record and cannot disclose the information. See section 777(b)(1)(A) of the Act (''information submitted to the administering authority* * * which is designated as proprietary by the person submitting the information shall not be disclosed to any person without the consent of the person submitting the information* * *.''). The Department's interpretation is supported by the fact that participation in the administrative process by foreign governments and its commercial citizens is voluntary, and the Department lacks subpoena powers. *See Rhone Poulenc Inc.* v. *United States,* 899 F.2d 1185, 1191 (Fed. Cir. 1990). Therefore, to remain in compliance with the CIT order and the Act, the information in question may not be removed from under seal until there is a separate court order after the final determination. Furthermore, the Department is required to apply a rate that is supported by information on the record. *Smith Corona Corp.* v. *United States,* 796 F. Supp. 1532, 1537 (CIT 1992)(*Smith Corona I*); *Smith Corona Corp.* v. *United States,* 802 F. Supp. 467, 468 (CIT 1992)(*Smith Corona II*). A rate derived from Belgo Mineira's information cannot be supported because that information is no longer on the administrative record.

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (Feb. 23, 1998). The Department applies adverse facts available ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103–316, vol. 1, at 870 (1994)(SAA). The Department also considers the extent to which a party may benefit from its own lack of cooperation in selecting a rate. *See Roller Chain, Other than Bicycle, from Japan; Notice of Final Results and Partial Recision of Antidumping Duty Administrative Review*, 62 FR 60472, 60477 (Nov. 10, 1997), SAA at 870. In this case, the highest margin derived from the petition is 94.73 percent, higher than Belgo Mineira's preliminary calculated margin of 65.76 percent.

We believe that the highest margin derived from the petition is sufficiently adverse, and cannot be considered beneficial to Belgo Mineira. Consistent with long-standing Department practice, we have assigned this margin to Belgo Mineira in the final determination. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Venezuela,* 63 FR 8946, 8948 (February 23, 1998); *see also, Final Determination of Sales at Less Than Fair Value: Vector Supercomputers From Japan*, 62 FR 45623 (August 28, 1997).

3. Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. 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 concerning the subject merchandise.'' *See* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d).

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 SAA also states 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* SAA at 870.

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*see* the *Initiation Checklist*, dated September 24, 2002, (*Initiation Checklist*) on file in the CRU for a discussion of the margin calculation in the petition). In addition, in order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculation in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margins in the petition were based. After making adjustments to the elements of EP and NV (*see Initiation Checklist*), we determined that the evidence supporting the calculation in the petition was adequate and the petition margin is appropriate for use as AFA in this determination.

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. Our recent practice under these circumstances has been to assign, as the ''all others'' rate, the simple average of the margins in the petition. *See Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand*, 65 FR 5520, 5527–28 (February 4, 2000); *see also Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada (Stainless Steel Plate from Canada*), 64 FR 15457 (March 31, 1999); and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy (Stainless Steel Plate from Italy*), 64 FR 15458, 15459 (March 31, 1999). Consistent with our practice, we have assigned to all other manufacturers/exporters the simple average of the margins in the petition, which is 74.35 percent.

Critical Circumstances

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In the preliminary determination, the Department found that critical circumstances do not exist because imports had not been massive over a ''relatively short period of time,'' pursuant to 733(e)(1)(B) of the Act. *See Preliminary Determination* at 18171; *see also, Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Brazil—Preliminary Negative Determination of Critical Circumstances Memorandum* from Bernard T. Carreau to Faryar Shirzad, April 2, 2002 (*Critical Circumstances Memorandum*) on file in the CRU.

In that decision, we used Belgo Mineira's company-specific information to arrive at a negative critical circumstances preliminary determination with regard to that company, based on our determination that imports had not been massive over a relatively short period. Because Belgo Mineira withdrew its information, the company-specific shipment data were no longer on the record for this final determination. However, we were aware that the Department had requested company-specific shipment data from Belgo and the other major exporter/producer, Gerdau S.A. (Gerdau), in the companion countervailing duty investigation.[4] On August 20, 2002, we requested that Belgo Mineira and Gerdau submit their shipment data for our critical circumstances determination in this case. As in the *Preliminary Determination*, our analysis of Belgo Mineira's shipment data indicates that imports have decreased during the comparison period; therefore, we find that the criterion under section 733(e)(1)(B) of the Act has not been met, *i.e.*, there have not been massive imports of steel wire rod from Belgo Mineira over a relatively short time.[5] Because there have not been massive imports in this case, we have determined that it is unnecessary to address the other prong of the critical circumstances test. For this reason, we determine that critical circumstances do not exist for imports of steel wire rod produced by Belgo Mineira.

Regarding the ''All Others'' category, although the mandatory respondent did not have massive imports, we also considered the combined shipment data of the two largest Brazilian exporters of wire rod. Based on our respondent selection analysis, we determined that there were two significant exporters of subject merchandise during the POI, Belgo Mineira and Gerdau S.A (Gerdau). *See Respondent Selection Memorandum* to Gary Taverman from Vicki Schepker, dated November 9, 2001. Information used for the respondent selection indicates that merchandise produced by Gerdau constitutes the preponderance of merchandise in the ''All Others'' category. Therefore, we are using the combined experience of Belgo Mineira and Gerdau for our critical circumstances determination for the ''All Others'' category of producers. Our review of the combined shipment data indicates that imports have decreased during the comparison period. Accordingly, pursuant to section 733(e) of the Act and section 351.206(h) of the Department's regulations, we preliminarily find that critical circumstances do not exist for imports of steel wire rod produced by the ''All Others'' category.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of steel wire rod exported from Brazil, that are entered, or withdrawn from warehouse, for consumption on or after the date of the preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. We will adjust the deposit requirements to account for any export subsidies found in the companion countervailing duty investigation. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for Brazil:

Manufacturer/exporter	Margin (percent)
Companhia Siderúrgica Belgo Mineira and Belgo-Mineira Participação Indústria e Comércio S.A. (BMP)	94.73
All Others	74.45

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether imports of subject merchandise from Brazil are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs Service officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or

[4] We note that these data were verified in the companion countervailing duty investigation.

[5] *See Carbon and Certain Alloy Steel Wire Rod from Brazil: Analysis of Shipment Data for Critical Circumstances Determination Memorandum* from Vicki Schepker to Constance Handley, August 23, 2002, on file in the CRU.

after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: August 23, 2002.

Faryar Shizad,

Assistant Secretary for Import Administration.

[FR Doc. 02–22250 Filed 8–29–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–815]

Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Indonesia

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

EFFECTIVE DATE: August 30, 2002.

FOR FURTHER INFORMATION CONTACT: Michael Ferrier, James Balog, or Abdelali Elouaradia at (202) 482–1394, (202) 482–6349, or (202) 482–1374 respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (2001).

Final Determination

We determine that carbon and certain alloy steel wire rod from Indonesia is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on April 10, 2002. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Indonesia,* 67 FR 17374 (April 10, 2002) (Preliminary Determination). Since the publication of the Preliminary Determination the following events have occurred. On April 11, 2002, petitioners requested that the Department extend the deadline for issuance of the final determination by the full 60 days. On May 13, 2002, the Department extended the deadline for the final determination to August 23, 2002. *See Postponement of Final Antidumping Duty Determinations; Carbon and Certain Alloy Steel Wire Rod from Germany, Indonesia, and Moldova,* 67 FR 32013 (May 13, 2002).

The Department verified section A–C of Ispat Indo's responses from April 16, 2002, to April 19, 2002, at Ispat Indo's facilities in Surabaya, Indonesia and at Ispat Indo's trading company on April 23, 2002, in Dubai, United Arab Emirates. The Department also verified section D of Ispat Indo's response from May 20, 2002, to May 24, 2002, at Ispat Indo's facilities. See Memorandum to the File; ''Verification of the questionnaire responses of P.T. Ispat Indo (''Ispat Indo'') in the antidumping duty investigation of carbon and certain alloy steel wire rod from Indonesia,'' May 13, 2002 (Sales Verification Report) and Memorandum to Neal Halper, Director, Office of Accounting; ''Verification Report on the Cost of Production and Constructed Value,'' June 18, 2002 (Cost Verification Report). Public version of these and all other Departmental memoranda referred to herein are on file in the Central Records Unit, room B–099 of the main Commerce building.

Since the *Preliminary Determination* a number of parties have filed requests asking the Department to exclude various products from the scope of the concurrent antidumping duty (Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago and Ukraine) and countervailing duty (Brazil, Canada, Germany, Trinidad and Tobago, and Turkey) investigations. On May 6, 2002, Ispat Hamburger Stahlwerke GmbH and Ispat Walzdraht Hochfeld GmbH (collectively, Ispat Germany) requested an exclusion for ''super clean valve spring wire.'' Two parties filed additional exclusion requests on June 14, 2002: Bluff City Steel asked that the Department exclude ''clean-steel precision bar,'' and Lincoln Electric Company sought the exclusion of its EW 2512 grade of metal inert gas welding wire. On June 28, 2002, petitioners (Co-Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc.) filed objections to a range of scope exclusion requests including: (i) Bluff City Steel's request for clean precision bar; (ii) Lincoln Electric Company's request for EW 2512 grade wire rod; (iii) Ispat Germany's request for ''super clean valve spring wire;'' (iv) Tokusen USA's January 22, 2002 request for 1070 grade tire cord and tire bead quality wire rod (tire cord wire rod); and (v) various parties' request for 1090 grade tire cord wire rod.

In addition, Moldova Steel Works requested the exclusion of various grades of tire cord wire rod on July 17, 2002. The Rubber Manufacturers Association (the RMA), Ispat Germany, Lincoln Electric and Bluff City filed rebuttals to petitioners' June 28 submission on July 8, 11, 17, and 29, 2002, respectively. The RMA filed additional comments on July 30, 2002.[1]

The Department has analyzed these requests and the petitioners' objections and we find no modifications to the scope are warranted. See Memorandum from Richard Weible to Faryar Shirzad, ''Carbon and Certain Alloy Steel Wire Rod; Antidumping Duty (Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine) and Countervailing Duty (Brazil, Canada, Germany, Trinidad and Tobago, and Turkey) Investigations: Requests for Scope Exclusion'' dated August 23, 2002, which is on file in room B–099 of the main Commerce building.

On July 2, 2002, the Department received case briefs from Ispat Indo and petitioners. On July 12, 2002, the Department received rebuttal briefs from Ispat Indo and petitioners.

Period of Investigation

The POI is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the filing of the petition (*i.e.*, August 2001), and is in accordance with section 351.204(b)(1) of the Department's regulations.

[1] On August 9, 2002, Bekaert Corporation requested an exclusion for certain high chrome/high silicon steel wire rod from the scope of these investigations. This request was filed too late to be considered for the final determinations in these investigations.