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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-013]

Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of carbon and certain alloy steel wire rod (steel wire rod) from the People's Republic of China (PRC) as provided in section 705 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2013, through December 31, 2013. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

DATES: EFFECTIVE DATE: INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Reza Karamloo, Office II, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4007 and (202) 482-4470, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioners in this investigation are ArcelorMittal USA LLC, Charter Steel, Evraz Pueblo (formerly Evraz Rocky Mountain Steel), Gerdau Ameristeel U.S. Inc., Keystone

Consolidated Industries, Inc. and Nucor Corporation. In addition to the Government of the PRC, the mandatory respondents in this investigation are Benxi Beiying Iron & Steel Group Import & Export Corp., Benxi Beiying Iron & Steel (Group) Co. Ltd. (collectively, Benxi Steel) and Hebei Iron & Steel Co. Ltd. Tangshan Branch (Hebei Iron & Steel).

The events that have occurred since the Department published the Preliminary Determination¹ on July 8, 2014, are discussed in the Issues and Decision Memorandum, which is hereby incorporated in this notice.² This memorandum also details the changes we made since the Preliminary Determination to the subsidy rates calculated for the mandatory respondents and all other producers/exporters. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The scope of this investigation covers certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately circular cross section, less than 19.00 mm in actual solid

¹ See Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination, 79 FR 38490 (July 8, 2014) (Preliminary Determination) and accompanying Decision Memorandum (Preliminary Decision Memorandum).

² See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Carbon and Alloy Steel Wire Rod from the People's Republic of China," dated concurrently with this notice (Issues and Decision Memorandum).

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; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (i.e., products that contain by weight one or more of the following elements: 0.1 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). 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 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS also may be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum, dated concurrently with this notice. A list of the issues that parties have raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix I.

Use of Facts Otherwise Available, Including Adverse Inferences

For purposes of this final determination, we continue to rely on facts available and to draw an adverse inference, in accordance with sections 776(a) and (b) of the Act, to determine the subsidy rate for Hebei Iron & Steel, because it failed to participate in this investigation.³ On July 11, 2014, Benxi Steel notified the Department that it was withdrawing from participation in the investigation. By refusing to participate further in the investigation, Benxi Steel withheld requested information and significantly impeded this proceeding. Thus, for the final determination we are basing the countervailing duty rate for Benxi Steel on facts otherwise available pursuant to sections 776(a)(2)(A), (B), (C), and (D) of the Act. Because Benxi Steel did not cooperate to the best of its ability in this investigation, we further determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. For a full discussion of these issues, see the Issues and Decision Memorandum.

Critical Circumstances

In the Preliminary Determination, the Department concluded, in accordance with section 703(e)(1) of the Act, that critical circumstances exist with respect to imports of steel wire rod from the PRC produced and/or exported by Hebei Iron & Steel and all other producers/exporters except for Benxi Steel.⁴ For the final determination we have changed our findings with respect to Benxi Steel.⁵ Therefore, in accordance with section 705(a)(2) of the Act, we find that critical circumstances exist with respect to imports from Benxi Steel, Hebei Iron & Steel, and all other producers/exporters of steel wire rod from the PRC.

³ See Preliminary Decision Memorandum at 14-19.

⁴ See Preliminary Determination, 79 FR at 38591.

⁵ See Issues and Decision Memorandum at “VI. Critical Circumstances.”

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated separate subsidy rates for the individually-investigated producers/exporters of the subject merchandise, Benxi Steel and Hebei Iron & Steel. Section 705(c)(5)(A)(ii) of the Act provides that, if the countervailable subsidy rates established for all individually-investigated exporters and producers are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, the rates calculated for the two investigated companies are based entirely on facts available under section 776 of the Act. As there is no other information on the record, we based the all-others rate on the AFA rates calculated for Benxi Steel and Hebei Iron & Steel, consistent with our past practice.⁶ We calculated the all-others rate by averaging these two rates.

We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy Rate
Benxi Steel ⁷	193.31 percent
Hebei Iron & Steel	178.46 percent
All Others	185.89 percent

As a result of our affirmative preliminary critical circumstances determination with respect to all companies other than Benxi Steel, pursuant to section 703(e)(2) of the Act, we

⁶See Raw Flexible Magnets from the People's Republic of China: Affirmative Countervailing Duty Determination, 73 FR 39667 (July 10, 2008); Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina, 66 FR 37007, 37008 (July 16, 2001); Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India, 68 FR 68356, 68357 (December 8, 2003).

⁷ The companies comprising Benxi Steel are: Benxi Beiyang Iron & Steel Group Import & Export Corp.; Benxi Beiyang Iron & Steel (Group) Co. Ltd.; Benxi Steel Group Corporation; Beital Iron & Steel (Group) Co., Ltd.; Benxi Northern Steel Rolling Co., Ltd.; Benxi Beifang Gaosu Steel Wire Rod Co., Ltd.; Benxi Beital Gaosu Steel Wire Rod Co., Ltd.; Benxi Northern Steel Co., Ltd.; Benxi Beifang Second Rolling Co., Ltd.; Benxi Beital Ductile Iron Pipes Co., Ltd.; Benxi Iron and Steel (Group) Metallurgy Co., Ltd.; Benxi Iron and Steel (Group) Real Estate Development Co., Ltd.; Bei Tai Iron and Steel Group Imp. and Exp. (Dalian) Co., Ltd.; and Bengang Steel Plate Co., Ltd.

instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from companies other than Benxi Steel which were entered or withdrawn from warehouse, for consumption on or after April 9, 2014, the date 90 days prior to the date of the publication of the Preliminary Determination in the Federal Register. As a result of our negative preliminary critical circumstances determination with respect to Benxi Steel, we instructed CBP to suspend liquidation as of July 8, 2014, the publication date of the Preliminary Determination.

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered, or withdrawn from warehouse, on or after November 5, 2014, but to continue the suspension of liquidation of all entries from April 9, 2014 through November 4, 2014, as appropriate.

We will issue a countervailing duty order and reinstate the suspension of liquidation in accordance with our final determination and under section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury determination, and we will instruct CBP to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all

privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: November 12, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary and Issues
 - 1. Application of Adverse Facts Available (AFA) to Hebei Iron & Steel and Benxi Steel
 - 2. AFA Rates for Hebei Iron & Steel and Benxi Steel
 - 3. Calculation of the All-Others Rate
 - 4. Critical Circumstances
- II. Background
- III. Application of the Countervailing Duty Law to Imports from the PRC
- IV. Use of Facts Otherwise Available and Adverse Inferences
- V. Critical Circumstances
- VI. Analysis of Comments
- VII. Recommendation

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