December 27, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations


SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from the Russian Federation (Russia). The review covers one producer/exporter of the subject merchandise, Severstal PAO and Severstal Export (collectively, Severstal). We preliminarily find, based on the application of adverse facts available, that Severstal sold subject merchandise at less than normal value (NV) during the POR.

BACKGROUND

On October 15, 1998, the Department initiated a less-than-fair-value investigation on imports of hot-rolled steel from Russia.\(^1\) On July 12, 1999, the Department and the Ministry of Trade signed the Suspension Agreement, under section 734(l) of the Tariff Act of 1930, as amended (the Act), which suspended the antidumping duty investigation on hot-rolled steel from Russia.\(^2\) The Department subsequently made an affirmative final determination of sales at less than fair value,\(^3\) and the International Trade Commission (ITC) continued its investigation and made an affirmative determination of material injury to an industry in the United States.\(^4\)

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\(^3\) See Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, 64 FR 38626 (July 19, 1999) (Final LTFV Determination).

\(^4\) See Certain Hot-Rolled Steel Products from Brazil and Russia, 64 FR 46951 (August 27, 1999).
On October 17, 2014, the Department issued a letter stating that it had made a final decision to exercise its option under Section X.C of the Suspension Agreement to terminate the Suspension Agreement, effective in 60 days. The effective date of termination of the Suspension Agreement was December 19, 2014. On December 24, 2014, the Department published a notice of termination of the Suspension Agreement and issuance of an antidumping duty order.5

Pursuant to section 751(a)(1) of the Act, 19 CFR 351.213(b), and the notice of opportunity to request an administrative review,6 Severstal requested an administrative review of the antidumping duty order on hot-rolled steel from Russia on December 30, 2015.7 On February 9, 2016, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review of the antidumping duty order on hot-rolled steel from Russia.8

On February 24, 2016, the Department issued the antidumping duty questionnaire to Severstal.9 On March 17, 2016, Severstal filed its response to section A of the questionnaire.10 After a number of extensions,11 Severstal filed its response to section C of the questionnaire on April 18, 2016, and its responses to sections B and D of the questionnaire on April 20, 2016.12 Between June 8, 2016, and August 3, 2016, we issued multiple supplemental questionnaires to Severstal, and we received its supplemental questionnaire responses from July through September, 2016. On October 24, 2016, we rejected Severstal’s submissions of revised U.S. and home market databases.13

As discussed in detail, below, we determined that Severstal did not act to the best of its ability in responding to our requests for its home market sales information in either its response to section B of the Department’s questionnaire or its section B supplemental questionnaires. As a result,

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6 See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 80 FR 75058 (December 1, 2015).
7 See Letter from Severstal to the Department, regarding “Certain Hot-Rolled Carbon Steel Flat Products from Russia: Request for Administrative Review,” dated December 30, 2015.
8 See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 81 FR 6832 (February 9, 2016) (Initiation Notice).
9 See the Department’s antidumping duty questionnaire issued to Severstal, February 24, 2016.
10 See Letter from Severstal to the Secretary of Commerce, “Certain Hot-Rolled Carbon Steel Flat Products from Russia: Severstal’s Section A Questionnaire Response,” dated March 17, 2016 (Severstal section A response).
11 See Letter from the Department to Severstal, dated March 29, 2016; Letter from the Department to Severstal, dated April 8, 2016; Letter from the Department to Severstal, dated April 15, 2016; and Letter from the Department to Severstal, dated April 18, 2016.
12 See Letter from Severstal to the Secretary of Commerce, “Certain Hot-Rolled Carbon Steel Flat Products from Russia: Severstal's Section C Questionnaire Response,” dated April 18, 2016 (Severstal section C response).
13 See Letter from Severstal to the Secretary of Commerce, “Certain Hot-Rolled Carbon Steel Flat Products from Russia: Severstal’s Sections B and D Questionnaire Responses,” dated April 20, 2016 (Severstal sections B and D responses).
we have based Severstal’s dumping margin in these preliminary results on adverse facts available (AFA). For further discussion, see the “Application of Facts Available and Adverse Facts Available” section of this memorandum, below.

The original deadline for the preliminary results of this review was September 1, 2016. On August 17, 2016, in accordance with section 751(a)(3)(A) of the Act, the Department extended the time period for issuing the preliminary results of this review by 106 days, to December 16, 2016.\(^\text{15}\) The Department then extended the preliminary results by an additional 14 days until December 31, 2016.\(^\text{16}\)

**PERIOD OF REVIEW**

The period of review (POR) is December 19, 2014, through November 30, 2015.

**SCOPE OF THE ORDER**

The scope of this order covers “hot-rolled steel” which is certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness.

Universal mill plate (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this administrative review.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this order, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: 1) iron predominates, by weight, over each of the other contained elements; 2) the carbon content is 2 percent or less, by weight;

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and 3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.012 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including e.g., ASTM specifications A543, A387, A514, A517, and A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silica-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

<table>
<thead>
<tr>
<th>C</th>
<th>Mn</th>
<th>P</th>
<th>S</th>
<th>Si</th>
<th>Cr</th>
<th>Cu</th>
<th>Ni</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.10 -</td>
<td>0.90%</td>
<td>0.025%</td>
<td>0.005%</td>
<td>0.30 -</td>
<td>0.50 -</td>
<td>0.20 -</td>
<td>0.20%</td>
</tr>
<tr>
<td>0.14%</td>
<td>Max</td>
<td>Max</td>
<td>Max</td>
<td>0.50%</td>
<td>0.70%</td>
<td>0.40%</td>
<td></td>
</tr>
</tbody>
</table>

Width = 44.80 inches maximum; Thickness = 0.063 - 0.198 inches;

Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000- 88,000 psi.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

<table>
<thead>
<tr>
<th>C</th>
<th>Mn</th>
<th>P</th>
<th>S</th>
<th>Si</th>
<th>Cr</th>
<th>Cu</th>
<th>Ni</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.10 -</td>
<td>0.70% -</td>
<td>0.025%</td>
<td>0.006%</td>
<td>0.30 -</td>
<td>0.50 -</td>
<td>0.25%</td>
<td>0.20%</td>
</tr>
<tr>
<td>0.16%</td>
<td>0.90%</td>
<td>Max</td>
<td>Max</td>
<td>0.50%</td>
<td>0.70%</td>
<td>Max</td>
<td></td>
</tr>
</tbody>
</table>

| Mo      | 0.21%    |        |        |         |         |         |         |
|         | Max      |        |        |         |         |         |         |

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum;

Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.
- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

<table>
<thead>
<tr>
<th>C</th>
<th>Mn</th>
<th>P</th>
<th>Si</th>
<th>Cr</th>
<th>Cu</th>
<th>Ni</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.10 - 0.14%</td>
<td>1.30 - 1.80%</td>
<td>0.025% Max</td>
<td>0.005% Max</td>
<td>0.30 - 0.50%</td>
<td>0.50 - 0.70%</td>
<td>0.20 - 0.70% Max</td>
</tr>
<tr>
<td>V(wt.)</td>
<td>Cb</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0.10% Max</td>
<td>0.08% Max</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum;

Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

<table>
<thead>
<tr>
<th>C</th>
<th>Mn</th>
<th>P</th>
<th>Si</th>
<th>Cr</th>
<th>Cu</th>
<th>Ni</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.15% Max</td>
<td>1.40% Max</td>
<td>0.025% Max</td>
<td>0.010% Max</td>
<td>0.50% Max</td>
<td>1.00% Max</td>
<td>0.50% Max .20% Max</td>
</tr>
<tr>
<td>Nb</td>
<td>Ca</td>
<td>Al</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0.005% Max</td>
<td>Treated</td>
<td>0.01 - 0.07%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤ 0.148 inches and 65,000 psi minimum for thicknesses > 0.148 inches; Tensile Strength = 80,000 psi minimum.

Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm² and 640 N/mm² and an elongation percentage ≥ 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm² and 690 N/mm² and an elongation percentage ≥ 25 percent for thicknesses of 2mm and above.

Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

Grade ASTM A570-50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 inches nominal), mill edge and skin passed, with a minimum copper content of 0.20 percent.
The covered merchandise is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered include: vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.01.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the covered merchandise is dispositive.

**DISCUSSION OF THE METHODOLOGY**

For the reasons discussed below, we determine that the use of AFA is appropriate for these preliminary results with respect to the weighted-average dumping margin for Severstal.

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the antidumping and countervailing duty law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.17 The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this review.18

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17 *See* Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC.
Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the less than fair value (LTFV) investigation, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise. Further, and under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.

Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins. The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.

A. Application of Facts Available With an Adverse Inference

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

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16 See section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

17 See also 19 CFR 351.308(c).

18 See also 19 CFR 351.308(d).

19 See SAA at 870.

20 See section 776(c)(2) of the Act; TPEA, section 502(2).

21 See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

22 See section 776(d)(3) of the Act; TPEA, section 502(3)section.
Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.26

As noted above, on February 24, 2016, the Department issued the antidumping duty questionnaire to Severstal. After the Department agreed to multiple requests from Severstal for extensions of time to respond to the questionnaire, Severstal filed its section B response. Specifically, in total and beginning with the issuance of our antidumping duty questionnaire to Severstal on February 24, 2016, Severstal had a total of 56 days to respond to section B of the Department’s antidumping duty questionnaire. In its section B response, Severstal failed to include a substantial number (which accounted for a substantial volume) of sales in its home market sales database.27 Additionally, in the narrative of its section B response, Severstal indicated that it reported in its home market sales database downstream sales from its affiliate Severstal Distribution to unaffiliated customers.28 However, the home market sales database did not contain this information.29

The Department issued a section A supplemental questionnaire to Severstal on June 9, 2016.30 Severstal requested three extensions to respond to this supplemental, which the Department granted, in part, at each request.31 The Department received Severstal’s response piecemeal on June 29, 2016, July 5, 2016, and July 7, 2016. On August 3, 2016, we issued an additional supplemental questionnaire to Severstal covering sections A, B, and C.32 In this supplemental questionnaire, the Department specifically requested that Severstal reconcile the discrepancies between the reported home market sales in the Severstal section B and D responses and the quantity and value figures reported in the Severstal section A response.33 Severstal submitted multiple extension requests, each of which the Department granted in full or in part. Severstal

26 See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India, 70 FR 54023, 54025-26 (September 13, 2005), and 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).
27 The missing volume of sales is based upon a comparison between Severstal’s reported home market sales in its section B response and the reported quantity of home market sales in Severstal’s quantity and value chart in its section A response. See Severstal section A response at Exhibit A-1 and Severstal sections B and D responses at Exhibit B-1.
28 See Severstal sections B and D responses at B-6.
29 Id., at Exhibit B-1.
31 See Letter from the Department to Severstal, dated June 21, 2016; Letter from the Department to Severstal, dated June 29, 2016; and Letter from the Department to Severstal, dated July 5, 2016.
submitted responses to the section A and C portions of the questionnaire on August 31, 2016, and submitted a response to the section B portion of the questionnaire on September 6, 2016.\textsuperscript{34}

As part of its response to the section B portion of the August 3, 2016, supplemental questionnaire, Severstal submitted a new database of home market sales. That database contained numerous unsolicited changes, including revisions to all previously reported control numbers (CONNUMs) without any explanation in the narrative. Severstal also revised the CONNUM for the U.S. sale(s). In other words, Severstal not only filed unsolicited changes to its home market database, but also, with respect to its home market database, did not even bring these revisions to the attention of the Department. Rather, the Department discovered these changes itself, upon examination and analysis of the response. Furthermore, while it would be expected that if a respondent files revised sales databases that affect the cost of production (COP) database, that respondent would submit a revised cost database. Severstal, however, never provided a revised COP database. Therefore, the Department was left with the previously submitted COP database which contained the information related to the CONNUMS Severstal originally reported in its sales databases on April 20, 2016. Thus, the Department was unable to run the programs necessary to calculate the antidumping duty margin for Severstal and, due to Severstal’s attempted revisions to the home market and U.S. sales databases, we find that neither the sales nor the COP databases are reliable.

Furthermore, while the Department requested that Severstal report the downstream sales from Severstal Distribution, Severstal failed to do so. As detailed above, Severstal initially told the Department in the narrative of its section B response that it had reported in its home market sales database downstream sales from its affiliate Severstal Distribution to unaffiliated customers.\textsuperscript{35} However, the home market sales database did not contain this information.\textsuperscript{36} In its September 6, 2016, supplemental questionnaire response, Severstal claimed that it was not required to report these sales to the Department, as the aggregate sales to Severstal Distribution are less than five percent of Severstal’s total home market sales.\textsuperscript{37} However, Severstal did not explain nor provide calculation worksheets to demonstrate that its sales to Severstal Distribution were less than five percent of the total home market sales, leaving the Department unable to determine how Severstal calculated the figure. Moreover, based on our analysis of the revised quantity and value figures submitted by Severstal, sales to Severstal Distribution actually exceeded five percent of the aggregate value of sales in the home market.\textsuperscript{38}

Finally, the most recently reported total value for the home market database does not reconcile with the total value of Severstal’s home market sales filed in its most recent quantity and value chart. Not only does this again call into question the reliability of Severstal’s reported data, but,

\textsuperscript{34} See Letter from Severstal to the Secretary of Commerce, “Certain Hot-Rolled Carbon Steel Flat Products from Russia: Severstal’s Section B Supplemental Questionnaire Response,” dated September 6, 2016. This is the final proprietary version.

\textsuperscript{35} See Severstal sections B and D responses at B-6.

\textsuperscript{36} Id., at Exhibit B-1.

\textsuperscript{37} See Letter from Severstal to the Secretary of Commerce, “Certain Hot-Rolled Carbon Steel Flat Products from Russia: Severstal’s Section B Supplemental Questionnaire Response,” dated September 6, 2016, at 9.

\textsuperscript{38} Id., at Exhibit 2S-16.
as explained above, Severstal has had numerous opportunities to accurately provide the Department with this information.

As a result of the unsolicited changes to its sales databases, the Department rejected the home market sales database from the Section A, B, and C Supplemental Response on October 24, 2016. We permitted Severstal to resubmit the database without the unsolicited changes, which Severstal did.\(^{39}\) Notwithstanding the resubmission, however, the Department preliminarily determines it is unable to use the resubmitted information pursuant to section 782(e)(3) of the Act.

We find that a company, such as Severstal, which participated in the original investigation and requested this administrative review of itself, is knowledgeable of the process and understands what is required to be prepared to participate and provide complete and reliable responses in an antidumping duty administrative review. The Department provided Severstal with multiple opportunities to remedy and explain the deficiencies. In response, Severstal submitted a substantially different home market sales database with unsolicited changes and incomplete sales information for the home market. This, coupled with the fact that Severstal never submitted a revised COP database, renders both the home market sales and COP databases unreliable. As such, the Department is unable to calculate an accurate dumping margin for Severstal.

For these reasons, we preliminarily determine that Severstal failed to cooperate by not acting to the best of its ability to provide, in a timely manner, the information necessary for the Department to calculate a weighted-average dumping margin for exports of subject merchandise by Severstal to the United States for this POR. Accordingly, we preliminarily find that the application of facts available with an adverse inference, pursuant to section 776(b) of the Act, is warranted for the weighted-average dumping margin for Severstal for the preliminary results of this administrative review.

**B. Selection and Corroboration of Information Used as Facts Available**

Where the Department uses AFA because a respondent failed to cooperate by not acting to the best of its ability to timely 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.\(^{40}\) Under section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping duty order when applying an adverse inference, including the highest of such margins.\(^{41}\) The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.\(^{42}\)

\(^{39}\) See Letter from Severstal to the Secretary of Commerce, dated October 27, 2016.

\(^{40}\) See SAA at 868-870; 19 CFR 351.308(c)(1) & (2).

\(^{41}\) See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

\(^{42}\) See section 776(d)(3) of the Act; TPEA, section 502(3)section.
Further, section 776(c) of the Act requires that, to the extent practicable, the Department corroborate secondary information from independent sources that are reasonably at its disposal, except that the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.\textsuperscript{43}

As AFA, and pursuant to section 776(d) of the Act, we preliminarily assign to Severstal weighted-average dumping margins of 184.56 percent, the highest rate assigned in the \textit{Final LTFV Determination}.\textsuperscript{44}

**RECOMMENDATION**

We recommend applying the above methodology for these preliminary results.

\begin{itemize}
\item \checkmark \hspace{2cm} \square
\end{itemize}

Agree \hspace{2cm} Disagree

12/27/2016

Signed by: PAUL PIQUADO

Paul Piquado
Assistant Secretary for Enforcement and Compliance

\textsuperscript{43} See section 776(c)(2) of the Act; TPEA, section 502(2).

\textsuperscript{44} See \textit{Final LTFV Determination}. The 184.56 percent rate is derived from the investigation, which is the only segment in the 17-year history of this order in which a rate was assigned. Because we derived the AFA margin from a separate segment of this proceeding, the Department is not required to corroborate the dumping margin.