

after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Tariff Act.

Dated: December 17, 1998.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-831]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Sheet and Strip in Coils From Taiwan

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

EFFECTIVE DATE: January 4, 1999.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy (Chang Mien), Doreen Chen (Tung Mung), Gideon Katz (YUSCO) or Michael Panfeld, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0165, (202) 482-0408, (202) 482-5255, and (202) 482-0172, respectively.

THE APPLICABLE STATUTE: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

PRELIMINARY DETERMINATION: We preliminarily determine that stainless steel sheet and strip in coils ("SSSS") from Taiwan is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

On July 13, 1998, the Department initiated antidumping duty investigations of imports of SSSS from France, Germany, Italy, Japan, Mexico, South Korea, Taiwan, and the United

Kingdom. See *Initiation of Antidumping Duty Investigations: Stainless Steel Sheet and Strip in Coils From France, Germany, Italy, Japan, Mexico, South Korea, Taiwan, and the United Kingdom*, 63 FR 37521, (July 13, 1998) ("Initiation"). Since the initiation of this investigation the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. On July 27, 1998, petitioners, Allegheny Ludlum Corporation, Armco Inc., J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corporation (formerly Lukens, Inc.), the United Steelworkers of America, AFL-CIO/CLC, the Butler Armco Independent Union, and the Zanesville Armco Independent Organization, Inc., filed comments proposing clarifications to the scope of these investigations. From July October, 1998, the Department received numerous responses from respondents aimed at clarifying the scope of the investigations. See Memorandum for Joseph A. Spetrini, Scope Issues, dated December 14, 1998.

On July 31, 1998, the Department requested information from the American Institute in Taiwan ("AIT") to identify producers/exporters of the subject merchandise. On August 2, 1998, AIT responded to the Department's request for information. On July 27 and July 28, 1998, petitioners and Yieh United Steel Corporation (YUSCO), respectively, submitted comments on our proposed model matching criteria.

On July 24, 1998, the United States International Trade Commission (ITC) notified the Department of its affirmative preliminary injury determination in this case. On August 3, 1998, the Department issued antidumping questionnaires to YUSCO, Chia Far Industrial Factory Co., Ltd. ("Chia Far"), Tang Eng Iron Works Co., Ltd. ("Tang Eng"), Tung Mung Development Co., Ltd. ("Tung Mung"), Ta Chen International ("Ta Chen"), and Chang Mien Industries, Co., Ltd. ("Chang Mien"). On September 21, 1998, the Department selected YUSCO and Tung Mung (collectively "respondents") as respondents in this investigation. On November 3, 1998, the Department amended its decision to include Chang Mien as a mandatory respondent. See "Selection of Respondents," below.

On September 8, 1998, we received the section A questionnaire response from Chang Mien. On September 21, 1998, we received sections B, C, and D of the questionnaire from Chang Mien. Petitioners filed comments on Chang

Mien's questionnaire responses on September 24, and November 12, 1998. We issued supplemental questionnaires for sections A, B, C and D to Chang Mien on November 13, 1998, and December 3, 1998, and received responses to these questionnaires on November 27, 1998 and December 10, 1998. Additionally, on December 4, 1998, petitioners submitted comments concerning adjustments that the Department should make in its preliminary determination.

On September 8, 1998, we received the section A questionnaire response from Tung Mung. On September 24, 1998, we received sections B, C, and D of the questionnaire from Tung Mung. Petitioners filed comments on Tung Mung's questionnaire responses on September 24, and October 16, 1998. We issued a supplemental questionnaire for sections A, B, C and D to Tung Mung on October 26, 1998, and received responses to this questionnaire on November 12, 1998. On November 18, 1998, we requested that Tung Mung report the date or order, which Tung Mung describes as "initial estimates," and also requested that Tung Mung ensure that all those home market sales for which "initial estimates" were finalized during the period of the investigation are included in the revised home market sales listing. On December 2, 1998, Tung Mung provided the requested information.

On September 8, 1998, we received the section A questionnaire response from YUSCO. On September 25, 1998, we received sections B and C of the questionnaire, and on September 28, 1998, we received section D of the questionnaire from YUSCO. Petitioners filed comments on YUSCO's questionnaire responses on September 25, 1998 and October 19, 1998. We issued a supplemental questionnaire for sections A, B, and C to YUSCO on October 26, 1998, and received a response to this questionnaire on November 18, 1998. We issued a supplemental questionnaire for section D on November 2, 1998 and received a response on November 16, 1998. We issued a second supplemental questionnaire for sections A, B, and C on November 25, 1998 and received a response on December 3, 1998.

On October 6, 1998, petitioners made a timely request for a thirty-day postponement of the preliminary determination pursuant to section 733(c)(1)(A) of the Act. The Department determined that these concurrent investigations are extraordinarily complicated and warranted the thirty-day postponement requested by petitioners. On October 23, 1998, we

postponed the preliminary determination until no later than December 17, 1998. See *Stainless Steel Sheet and Strip in Coils From Italy, France, Germany, Mexico, Japan, the Republic of South Korea, the United Kingdom and Taiwan; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations*, 63 FR 56909 (October 23, 1998). On October 30, 1998, petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of SSSS from Taiwan. The critical circumstances analysis for the preliminary determination is discussed in the "Critical Circumstances" section of the notice below.

Finally, on December 3, 1998, petitioners submitted comments regarding the product concordance. For specific adjustments to the product concordance information submitted by Chang Mien, see *Memorandum to the File: Analysis of Chang Mien in the Preliminary Determination of Stainless Steel Sheet and Strip in Coils from Taiwan*, December 17, 1998.

On October 14 and 15, 1998, petitioners alleged that Ta Chen is reselling subject merchandise by certain respondents in the United States at prices less than Ta Chen's cost of acquisition and related selling and movement expenses. On December 3, 1998, we initiated a middleman dumping investigation against Ta Chen. The results of that investigation will be incorporated in the final determination of this investigation.

Postponement of Final Determination

Pursuant to section 735(a)(2) of the Act, on December 9, 1998, YUSCO requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until no later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. YUSCO also requested to extend the provisional measures to not more than six months. Additionally, on December 11 and 15, 1998, Tung Mung and Chang Mien, respectively requested a postponement of the deadline for the Final Determination and an extension of provisional measures, if found that their margins are higher than *de minimis*. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) YUSCO and Tung Mung account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for a denial exists, we are granting the respondent's

request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of the Investigation

For purposes of this investigation, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Excluded from the scope of this investigation are the following: (1) sheet and strip that is not annealed or

otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this investigation. These excluded products are described below:

Flapper valve steel is excluded. It is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters also is excluded from the scope of this investigation. This stainless steel strip

in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip also is excluded from the scope of this investigation. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."¹

Certain electrical resistance alloy steel also is excluded from the scope of this investigation. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."²

Certain martensitic precipitation-hardenable stainless steel also is excluded from the scope of this investigation. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise,

by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."³

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments also are excluded from the scope of this investigation. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).⁴ This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6".⁵

Period of Investigation

The period of investigation ("POI") is April 1, 1997 through March 31, 1998.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we found that, given our resources, we would be able to investigate the Taiwanese producers/exporters with the greatest export volume, as identified above. In total, these companies (YUSCO, Tung Mung and Chang Mien) accounted for more than 85 percent of all known exports of the subject merchandise from Taiwan during the POI. For a more detailed discussion of respondent selection in this investigation, see *Respondent Selection Memorandum*, September 24, 1998.

Fair Value Comparisons

To determine whether sales of SSSS from Taiwan to the United States were made at less than fair value, we compared the export price ("EP") to the normal value ("NV"), as described in the "export price" section of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX v. United States*, 1998 WL 3626 (Fed Cir.). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the "ordinary course of trade." The

¹ "Arnokrome III" is a trademark of the Arnold Engineering Company.

² "Gilphy 36" is a trademark of Imphy, S.A.

³ "Durphynox 17" is a trademark of Imphy, S.A.

⁴ This list of uses is illustrative and provided for descriptive purposes only.

⁵ "GIN4 Mo", "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. See Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the "ordinary course of trade." Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison.

Transactions Investigated

YUSCO

For its home market sales, YUSCO reported the Government Uniform Invoice ("GUI") date as the date of sale, while for its U.S. market sales, YUSCO reported the commercial invoice date as the date of sale. YUSCO stated that the sale dates submitted for each market represented the date when the essential terms of sales, *i.e.*, price and quantity, are definitively set, and that until the invoice date, these terms were subject to change. Petitioners alleged that the questionnaire response by YUSCO does not support YUSCO's claim that price and quantity may change at any time between the order acceptance date (confirmation date) and the final invoice date. Given the relevance of petitioners' comments and the nature of marketing these types of made-to-order products, petitioners' claims have some merit. Consequently, on October 26, 1998, the Department requested that YUSCO provide additional information concerning the nature and frequency of price and quantity changes occurring between order and invoice. In addition, we requested that YUSCO report sales during the POI for which YUSCO had issued an order acceptance, in addition to those sales invoiced during the POI. Based on our analysis of the information submitted by YUSCO, we have preliminarily determined that for home market and U.S. sales, the GUI and commercial invoice dates, respectively, are the appropriate indicators of the actual date of sale because a large percentage of orders in each market were modified or canceled during the time between order and invoice dates.

YUSCO reported that it made sales of subject merchandise to several end-users during the POI, including Yieh Mau, to which YUSCO claims an

affiliation. With respect to Yieh Mau, there is no equity ownership of five percent or more between the two companies and YUSCO did not provide record evidence sufficient to demonstrate either financial or operational control of Yieh Mau. Therefore, the Department preliminarily determines that Yieh Mau is not affiliated with YUSCO. See *Proprietary Analysis Memorandum: YUSCO*. With respect to the other allegedly affiliated parties, the Department has likewise conducted an analysis of these parties' affiliation with YUSCO. Because the identities of these parties, as well as all pertinent information regarding the affiliations, is proprietary information, please refer to the *Proprietary Analysis Memorandum: YUSCO*. We note that the Department intends to examine closely all affiliation issues at verification.

Sales to affiliated customers in the home market not made at arm's-length prices were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our less than fair value ("LTFV") analysis. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993); *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Brazil*, 63 Fed. Reg. 59509 (Nov. 8, 1998). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

Tung Mung

For its home market, Tung Mung reported the date of invoice as the date of sale, while for its U.S. market sales,

Tung Mung reported the contract date as the date of sale. Tung Mung stated that the sale dates submitted for each market represented the date when the essential terms of sales, *i.e.*, price and quantity, are definitively set, and that up to the invoice date, these terms were subject to change. Petitioners alleged that the questionnaire response by Tung Mung did not support Tung Mung's claim that for home market sales, price and quantity may change at any time between the order acceptance date (confirmation date) and the final invoice date. Given the relevance of petitioners' comments and the nature of marketing these types of made-to-order products, petitioners' claims have some merit. Consequently, on October 26 and November 18, 1998, the Department requested that Tung Mung provide additional information concerning the nature and frequency of price and quantity changes occurring between the confirmation date and date of invoice. In addition, we requested that Tung Mung report sales during the POI for which Tung Mung had issued an order acceptance, in addition to those sales invoiced during the POI. Based on our analysis of the information submitted by Tung Mung, we have preliminarily determined that the sales contract date is the appropriate date of sale because the sale contract date is the date on which the terms are finalized. With respect to home market sales, we have preliminarily determined that the date of invoice is the appropriate date of sale since it is the date on which the terms are set and not changed thereafter. For a further discussion of this issue, see *Analysis Memorandum: Tung Mung*.

Chang Mien

In its original questionnaire response, Chang Mien reported that for home market transactions it was using the date of invoice as the date of sale because Chang Mien's accounting books treated date of sale in this manner. In petitioners' November 12, 1998 submission, they stated that it appeared that Chang Mien was using the wrong date of sale. Given the relevance of petitioners' comments and the nature of marketing these types of made-to-order products, petitioners' claims have some merit. Consequently, on November 13, 1998, the Department requested that Chang Mien provide additional information concerning the nature and frequency of price and quantity changes occurring between the confirmation date and date of invoice. In its November 27, 1998 supplemental response Chang Mien stated that because home market customers purchase from inventory, "there usually is no price change or

change in quantity between order confirmation date (day 0) and shipping (invoice date) (day 1-3).” See Chang Mien’s November 27, 1998 supplemental response at 8. Therefore, we preliminarily determine that the date of the order confirmation is the more appropriate sale date. Accordingly, on December 3, 1998, the Department requested that Chang Mien submit a revised home market sales listing using date of order confirmation as the sale date.

Also, in its November 27, 1998 supplemental response, Chang Mien reported that for its U.S. transactions it was using the date of sale employed in its accounting system, *i.e.*, the export declaration date for sales through August 31, 1997, and after August 31, 1997, the date of shipment. In the preamble to the regulations, the Department addressed the issue of why it was appropriate normally to use date of invoice, not date of shipment as the uniform date of sale. Specifically, the Department noted in the preamble that: (1) date of shipment is not among the possible dates of sale specified in note 8 of the AD Agreement; (2) date of shipment rarely represents the date on which the material terms of sale are established; (3) firms rarely use shipment documents as the basis for preparation of financial reports, thus making reliance on date of shipment at verification more difficult; and (4) concerns regarding possible manipulation by using date of invoice do not warrant substituting date of shipment for date of invoice.”

Antidumping Duties; Countervailing Duties: Final Rule, 62 FR 27297, 27349 (May 19, 1997). In this case, Chang Mien has reported that the terms of sale changed between the order date and the invoice date. Specifically, an analysis of all U.S. sales of subject merchandise in the POI reveals that for approximately 94 percent of the sales there was a change between the quantity ordered and the quantity shipped, and that for approximately 30 percent of the sales, the change between the quantity ordered and the quantity shipped was greater than the accepted industry tolerances. Therefore, we preliminarily determine that the invoice date is the appropriate date of sale for U.S. transactions. Accordingly, on December 3, 1998, the Department requested that Chang Mien submit a revised U.S. sales listing using date of invoice as the sale date. For a further discussion of this issue, see *Memorandum to the File: Analysis of Chang Mien in the Preliminary Determination of Stainless*

Steel Sheet and Strip in Coils from Taiwan, December 17, 1998.

Product Comparisons

In accordance with section 771(16) of the Tariff Act, we considered all products produced by respondents, covered by the description in the “Scope of Investigation” section, above, and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department’s August 3, 1998 questionnaire.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (“LOT”) as the EP or constructed export price (“CEP”) transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses (“SG&A”) and profit. For EP, the LOT is also the level of the starting price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In this investigation, none of the respondents requested a LOT

adjustment. To ensure that no such adjustment was necessary, in accordance with principles discussed above, we examined information regarding the distribution systems in both the United States and Taiwan markets, including the selling functions, classes of customer and selling expenses for each respondent.

YUSCO

YUSCO reported one LOT in the home market and one LOT in the U.S. market. YUSCO reported that it made sales in the home market through one channel of distribution, directly from the plant to distributors, end users, and further manufacturers. In the U.S. market, YUSCO reported that it made sales through one channel of distribution, directly from the plant to trading companies and distributors.

The Department examined the selling activities performed within each LOT reported. YUSCO’s selling activities in the home market were comprised of technical advice, warranty services and freight and delivery arrangements. YUSCO claimed that there were no other sales support activities. None of YUSCO’s home market selling activities differed by customer category. YUSCO’s selling activities in the U.S. market were comprised of warranty services and freight and delivery arrangements. Sales to trading companies were made on an FOB, FOR, or C&F basis and sales to distributors were made on an FOB or CIF basis. YUSCO claims that its selling activities did not differ by customer category in any other way in the U.S. market. Because there are only insignificant differences between the selling functions on sales made to home market and U.S. customers, we preliminarily conclude that there is one LOT in both the U.S. and home market and that sales to these customers constitute the same LOT in each market. Therefore a LOT adjustment for YUSCO is not appropriate. For a further discussion of the Department’s LOT analysis with respect to YUSCO, see *Memorandum to the File: Analysis of YUSCO in the Preliminary Determination of Stainless Steel Sheet and Strip in Coils from Taiwan*, December 17, 1998.

Tung Mung

Tung Mung claimed that there was only one LOT in the home market. Tung Mung reported that in the home market it made sales to distributors, service centers, and end-users through one channel of distribution. Tung Mung offered freight and delivery arrangements and warranty services to all customers in the home market. Based

on our analysis, we preliminarily determine that Tung Mung had one LOT in its home market.

In the U.S. market, Tung Mung reported that it sold at one LOT through two channels of distribution, (1) a foreign distributor and (2) domestic trading companies. In the U.S. market, Tung Mung reported only one LOT to customers. Tung Mung reported that it performed identical selling functions in the United States and in the home market. These selling functions include freight and delivery arrangements and warranty services. Therefore, we preliminarily conclude that there is one LOT in the U.S. and that sales to these customers constitute the same LOT in the comparison market and the United States. Therefore a LOT adjustment for Tung Mung is not appropriate. For a further discussion of the Department's LOT analysis with respect to Tung Mung, see *Memorandum to the File: Analysis of Tung Mung in the Preliminary Determination of Stainless Steel Sheet and Strip in Coils from Taiwan*, December 17, 1998.

Chang Mien

Chang Mien reported two LOTs in the home market and two channels of distribution. Within both channels of distribution, the merchandise is either shipped immediately to the customer or stored in Chang Mien's warehouse. In the home market, Chang Mien stated that it performed identical selling activities for both channels of distribution such as providing inventory maintenance, technical advice, warranty services, delivery arrangements, and advertising. Although the selling activities offered are identical for each of its customers, an additional selling activity is performed for those sales which are stored in inventory. However, we preliminarily determine that sales on which inventory maintenance is performed do not involve significantly greater resources than sales on which inventory maintenance is not performed and, therefore, do not constitute a separate LOT. Therefore, because Chang Mien performs identical selling activities for each claimed LOT, we preliminarily find that the two claimed LOTs constitute one LOT.

In the U.S. market, Chang Mien reported that it sold at one LOT, through one channel of distribution, and to one type of customer (trading company). For sales in the U.S. market, Chang Mien performed the following activities: packing, delivery arrangements (*i.e.*, transportation, brokerage and handling, and marine insurance), advertising, and warranty services. Based on a comparison of the selling activities

performed in the U.S. market to the selling activities in the home market, we preliminarily conclude that there is not a significant difference in the selling functions performed in both markets. We preliminarily conclude that U.S. sales are made at the same LOT as the home market. Therefore, a LOT adjustment is not appropriate. For a further discussion of the Department's LOT analysis with respect to Chang Mien, see *Memorandum to the File: Analysis of Chang Mien in the Preliminary Determination of Stainless Steel Sheet and Strip in Coils from Taiwan*, December 17, 1998.

Export Price

For all respondents, we based our calculation on EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer or exporter directly to the first unaffiliated purchaser in the United States prior to importation, and CEP methodology was not otherwise indicated. Furthermore, we calculated EP based on packed prices charged to the first unaffiliated customer in the United States.

We made company-specific adjustments as follows:

YUSCO

We made deductions from the starting price, where appropriate, for the following movement expenses, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight; international freight; marine insurance; brokerage and handling expenses; container handling fees; and certification fees. No other adjustments were claimed or allowed.

Tung Mung

We made deductions from the starting price, where appropriate, for the following movement expenses, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight; containerization expenses; brokerage and handling expenses; harbor duty fees, and bank charges. Additionally, we added to the U.S. price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act.

Chang Mien

We made deductions for foreign inland freight, brokerage and handling, ocean freight, and marine insurance, in accordance with section 772(c)(2)(A) of the Act. Additionally, we added to the U.S. price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act. For further information, see *Memorandum to the File: Analysis of Chang Mien in the Preliminary*

Determination of Stainless Steel Sheet and Strip in Coils from Taiwan, December 17, 1998.

Normal Value

After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-CV Comparison" sections of this notice.

Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared each of the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Since each of the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for all respondents. Therefore, we have based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

Cost of Production (COP) Analysis

Based on the cost allegation submitted by petitioners in the petition, the Department found reasonable grounds to believe or suspect that respondents had made sales in the home market at prices below the cost of producing the merchandise, in accordance with section 773(b)(2)(A) of the Act. As a result, the Department initiated an investigation to determine whether respondents made home market sales during the POI at prices below their respective COPs within the meaning of section 773(b) of the Act. See *Initiation*.

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A, interest expenses, and packing costs. We relied on the COP data submitted by each respondent in its cost questionnaire response.

B. Test of Home Market Prices

We compared the weighted-average COP for each respondent, adjusted where appropriate (see above), to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices less than the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities," pursuant to section 773(b)(2)(c)(i), and within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to weighted-average COPs for the POI, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of respondent's cost of materials, fabrication, SG&A, interest expenses, profit and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in Taiwan.

Price-to-Price Comparisons

We performed price-to-price comparisons where there were sales of comparable merchandise in the home

market that did not fail the cost test. There were no sales to affiliated customers in the home market for any respondent. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(c)(ii) of the Act.

YUSCO

For YUSCO's home market sales of products that were above COP, we based NV on prices to home market customers. YUSCO classified certain home market customers as affiliated, and one of these customers, Yieh Mau, reported its downstream sales in the home and U.S. markets. We have preliminarily determined that these customers were not affiliated because five percent or more ownership does not exist between YUSCO and any of these companies. Additionally, the record does not show that these customers meet any other of the "affiliated persons" criteria set forth in Section 771(33) of the Act. Therefore, we did not conduct an arm's-length test on any of YUSCO's sales.

We calculated NV based on prices to unaffiliated home market customers. We made deductions for inland freight and two post-sale price adjustments (these adjustments were originally reported as a quantity discount and sales promotion discount). In addition, we made circumstance-of-sale (COS) adjustments for differences in direct selling expenses (i.e., credit, warranty, and a document handling fee) incurred on U.S. and home market sales, where appropriate. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Tung Mung

For Tung Mung's home market sales of products that were above COP, we based NV on prices to home market customers. We made a deduction for inland freight and two post-sale price adjustments (these adjustments were originally reported as a quantity discount and other discounts) pursuant to Section 351.401(c) of the Department's Regulations. We calculated NV based on prices to unaffiliated home market customers. In addition, we made COS adjustments for differences in direct selling expenses (i.e., credit and warranty expenses), where appropriate. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Chang Mien

For Chang Mien's home market sales of products that were above the COP, we

based NV on prices to home market customers.

We calculated NV based on prices to unaffiliated home market customers. We made a deduction for inland freight. In its December 4, 1998 submission, petitioners argued that the Department should deny Chang Mien's reported home market credit expense and reclassify Chang Mien's claimed advertising expenses as indirect selling expenses. For the preliminary determination, the Department has accepted Chang Mien's home market credit expenses and continued to classify Chang Mien's advertising expenses in both the U.S. and home market as direct selling expenses. We made COS adjustments for direct selling expenses (i.e., credit, warranty, advertising, and bank charges), where appropriate. In accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Tariff Act, we based NV on CV if we were unable to find a home market match of such or similar merchandise. We made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. For these EP comparisons, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Tariff Act.

Critical Circumstances

On October 30, 1998, petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of SSSS from Taiwan. In accordance with 19 CFR 351.206(c)(2)(i), since this allegation was filed at least 20 days prior to the Department's preliminary determination, we must issue our preliminary critical circumstances determination not later than the preliminary determination.

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether 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.

To determine that there is a history of dumping of the subject merchandise, the Department normally considers evidence of an existing antidumping duty order on SSSS in the United States or elsewhere to be sufficient. Petitioners did not provide any information indicating a history of dumping of SSSS from Taiwan. Furthermore, we investigated the existence of antidumping duty orders on SSSS from Taiwan in the United States or elsewhere, and did not find any. We were also unable to find other information that would have indicated a history of dumping of SSSS from Taiwan.

In determining whether an importer knew or should have known that the exporter was selling subject merchandise at less than fair value and thereby causing material injury, the Department normally considers estimated dumping margins of 25 percent or greater for EP sales to impute knowledge of dumping and of resultant material injury. In this investigation, we have not established calculated estimated dumping margins of 25 percent or greater. Based on these facts, we determine that the first criterion for ascertaining whether critical circumstances exist is not satisfied. Therefore, we preliminarily determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to exports of SSSS from Taiwan by respondents (*see, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Collated Roofing Nails From Korea*, 62 FR 25895, 25898 (May 12, 1997)). We have not analyzed the shipment data for respondents to examine whether imports of SSSS have been massive over a relatively short period. Because we do not find that critical circumstances exist for all other respondents, we determine that critical circumstances do not exist for companies covered by the "All Others" rate. We will make a final determination concerning critical circumstances when we make our final determination in this investigation, if that final determination is affirmative.

Verification

As provided in section 782(i) of the Tariff Act, we will verify all information relied upon in making our final determination.

All Others Rate

In accordance with Section 735(c)(5) of the Act, the estimated all-others rate shall be an amount equal to the calculated estimated weight-average dumping margins established for producers individually investigated, excluding any zero and de minimis margins, and any margins determined entirely under section 776. As a result, the all-others rate is 2.94 percent.

Suspension of Liquidation

In accordance with section 733(d) of the Tariff Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Chang Mien57
Tung Mung07
YUSCO	2.94
All Others	2.94

ITC Notification

In accordance with section 733(f) of the Tariff Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of SSSS are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. A list of authorities used and an executive

summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Tariff Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c). We intend to issue our final determination in this investigation no later than 135 days after publication of this notice.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Tariff Act.

Dated: December 17, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-845]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Sheet and Strip in Coils From Japan

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

EFFECTIVE DATE: January 4, 1999.

FOR FURTHER INFORMATION CONTACT: Letitia Kress, Cindy Sonmez or Karla Whalen, Import Administration,