

*All Others Rate*

Recognizing the impracticality of examining all producers and exporters in all cases (see SAA at 873), section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, we have preliminarily assigned to all other exporters of Japanese hot-rolled steel, an "all others" margin that is the weighted average of the margins calculated for NSC, NKK and KSC.

*Verification*

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

*Critical Circumstances*

The Department notes that it will request company specific export information from NSC, NKK, and KSC, for our final determination. We invite interested parties to comment on the issue of critical circumstances, and we will consider these comments and the company specific data in making our final determination.

*Suspension of Liquidation*

In accordance with section 733(d) of the 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directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**.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 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 (percent)
Nippon Steel Corporation .....	25.14
NKK Corporation .....	30.63
Kawasaki Steel Corporation .....	67.59
All Others .....	35.06

*International Trade Commission (ITC) Notification*

In accordance with section 733(f) of the 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 hot-rolled steel 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 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). If this investigation proceeds normally, we will make our final determination no later than April 28, 1999.

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

Dated: February 12, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-351-828]

**Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil**

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

**EFFECTIVE DATE:** February 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Maureen McPhillips (Companhia Siderúrgica Nacional or "CSN"), Barbara Chaves or Samantha Denenberg (Usinas Siderúrgicas de Minas Gerais and Companhia Siderúrgica Paulista or "USIMINAS/COSIPA"), or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0193, (202) 482-0414, (202) 482-1386, and (202) 482-3833, 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 (1998).

**Preliminary Determination**

The Department preliminarily determines that hot-rolled flat-rolled carbon-quality steel products ("hot-rolled steel") from Brazil are being, or are 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.

*Period of Investigation*

The period of investigation (POI) is July 1, 1997 through June 30, 1998.

*Case History*

On October 15, 1998, the Department initiated antidumping duty

investigations of imports of hot-rolled steel from Brazil, Japan, and the Russian Federation. See Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and the Russian Federation (Initiation), 63 FR 56607, (October 22, 1998). Since the initiation of this investigation the following events have occurred:

On October 22, 1998, the Department requested comments from petitioners (Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Ispat Inland Steel, LTV Steel Company, Inc., National Steel Corporation, California Steel Industries, Gallatin Steel Company, Geneva Steel, Gulf States Steel, Inc., IPSCO Steel Inc., Steel Dynamics, Weirton Steel Corporation, the Independent Steelworkers Union, and the United Steelworkers of America) and respondents regarding the criteria to be used for model matching purposes. On October 22 and 27, 1998, petitioners and respondents (CSN, USIMINAS, COSIPA, Nippon Steel Corporation, NKK Corporation, Kawasaki Steel, Sumitomo Metal Industries, Ltd., and Kobe Steel Ltd.), submitted comments on our proposed model matching criteria.

On October 19, 1998, the Department issued Section A of the antidumping questionnaire to Companhia Aços Especiais Itabira ("ACESITA"). On October 20, 1998, the Department issued Section A of the antidumping questionnaire to CSN, USIMINAS, and COSIPA. These four companies are the only known producers of the subject merchandise from Brazil. On October 30, 1998, the Department issued Sections B-D of the antidumping questionnaire to COSIPA, USIMINAS, and CSN.

On October 27, 1998, ACESITA submitted a letter stating that it had not exported subject merchandise to the United States during the POI. Section 351.204(c)(1) allows the Department to not examine a particular exporter or producer if that exporter or producer and the petitioners agree. On November 2, 1998, having reviewed ACESITA's submission, petitioners agreed that the Department need not examine ACESITA in this proceeding. Consequently, ACESITA was not selected as a mandatory respondent in this investigation. See Respondent Selection Memorandum, (November 3, 1998). Thus, on November 3, 1998, the Department terminated the investigation of ACESITA.

The Department set aside a period for all interested parties to raise issues regarding product coverage. Throughout

the month of November, the Department received numerous filings from respondents and other interested parties proposing amendments to the scope of these investigations. On January 6 and 27, 1999, petitioners filed letters agreeing to amend the scope of these investigations to exclude those products for which Itochu International Inc., Nippon Steel Corporation, and others had requested exclusion. See Scope Memorandum to Joseph A. Spetrini, (February 12, 1999).

On November 16, 1998, the United States International Trade Commission ("ITC") notified the Department of its affirmative preliminary finding of threat of material injury in this case. Additionally, on November 25, 1998, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from Brazil (63 FR 65221).

On November 16, 1998, the Department received the Section A questionnaire responses from CSN, USIMINAS, and COSIPA. Petitioners filed comments on CSN's, USIMINAS' and COSIPA's Section A questionnaire responses on November 30, 1998 and December 1, 1998. The Department issued supplemental questionnaires for Section A to CSN, USIMINAS, and COSIPA on December 4, 1998.

On December 21, 1998, the Department received responses to Sections B, C, and D of the questionnaire from CSN, USIMINAS, and COSIPA. On December 22, 1998, the Department issued a decision memorandum collapsing USIMINAS and COSIPA for purposes of this investigation. See *the Affiliated Respondents section below*. Petitioners filed comments on CSN's and USIMINAS/COSIPA's Section B-D questionnaire responses on December 28, 1998. The Department issued supplemental questionnaires for Sections B, C and D to CSN and USIMINAS/COSIPA on January 4, 1999. The Department received responses to the Section A supplemental questionnaires on January 19, 1999 and responses to the Section B-D supplemental questionnaires on January 25, 1999. Respondents submitted additional data on February 2, 1999, February 3, 1999, and February 9, 1999.

In their petition filed on September 30, 1998, petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of hot-rolled steel from Brazil. While the Department preliminarily found critical

circumstances to exist in concurrent hot-rolled steel investigations of Japan and the Russian Federation (see 63 FR 65750, November 30, 1998), we did not issue a determination with respect to Brazil at that time. See *the Critical Circumstances section below*.

#### Scope of Investigation

For purposes of this investigation, the products covered are 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 these investigations.

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 to be included in the scope of this investigation, regardless of 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; 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 investigation unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- 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.

- Silico-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:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10—0.14% .....	0.90% Max .....	0.025% Max ....	0.005% Max ....	0.30—0.50% ....	0.50—0.70% ....	0.20—0.40% ....	0.20% Max.

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:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10—0.16% .....	0.70—0.90% ....	0.025% Max ....	0.006% Max ....	0.30—0.50% ....	0.50—0.70% ....	0.25% Max .....	0.20% Max.
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:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10—0.14% .....	1.30—1.80% ....	0.025% Max ....	0.005% Max ....	0.30—0.50% ....	0.50—0.70% ....	0.20—0.40% ....	0.20% Max.
V(wt.) .....	Cb						
0.10 Max .....	0.08% 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:

C	Mn	P	S	Si	Cr	Cu	Ni
0.15% Max .....	1.40% Max .....	0.025% Max ....	0.010% Max ....	0.50% Max .....	1.00% Max .....	0.50% Max .....	0.20% Max.
Nb .....	Ca .....	Al.					
0.005% Min .....	Treated .....	0.01—0.07%.					

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/mm<sup>2</sup> and 640 N/mm<sup>2</sup> and an elongation percentage ≥ 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm<sup>2</sup>

and 690 N/mm<sup>2</sup> 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.

The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the

United States ("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 by this investigation, including: 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 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

#### *Product Comparisons*

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the "Scope of Investigation" section above and sold in Brazil during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. The Department has relied on eleven characteristics to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: paint, quality, carbon content, strength, thickness, width, coiled or non-coiled, whether or not temper rolled, whether or not pickled, edge trim, and whether or not with patterns in relief. The Department assigned weights to each characteristic. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, the Department compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the antidumping questionnaire and reporting instructions. The Department compared prime merchandise to prime merchandise, consistent with our practice.

#### *Affiliated Respondents*

Under section 771(33)(E) of the Act, if one party owns, directly or indirectly, five percent or more of the other they are affiliated. Since USIMINAS owns 49.79% of COSIPA, the Department determined that USIMINAS and COSIPA are affiliated. See Collapsing Memorandum to Joseph A. Spetrini, (December 22, 1998).

Furthermore, it is the Department's practice to collapse affiliated producers for purposes of calculating a margin

when they have production facilities for similar or identical products that would not require substantial retooling in order to restructure manufacturing priorities and the facts demonstrate that there is significant potential for manipulation of pricing or production. In accordance with § 351.401(f) of the Antidumping Regulations, the Department concluded that both companies are fully integrated producers currently offering a similar range of products, including hot-rolled products that would not require substantial retooling to restructure manufacturing priorities. Furthermore, in light of USIMINAS's high level of ownership of COSIPA, common directors, and the fact that COSIPA is consolidated on USIMINAS's financial statements, there is a significant possibility of price or production manipulation between the two companies. For these reasons, the Department collapsed USIMINAS and COSIPA into one entity for the purpose of this investigation. See *Id.*

While it also appears that there may be links between the collapsed entity, USIMINAS/COSIPA, and CSN, there is insufficient information on the record at this time to consider all three companies to be affiliated and to collapse CSN with USIMINAS/COSIPA. Therefore, we preliminarily do not find CSN to be affiliated with USIMINAS/COSIPA and we preliminarily are not collapsing CSN with USIMINAS/COSIPA.

The Department notes that affiliation and collapsing are very complex and difficult issues. Therefore, the Department invites parties to submit information and comment on these issues to ensure that our decision is based on a complete and thorough record. The Department intends to examine these issues carefully for the final determination of this investigation. Any new information that parties wish to provide the Department must be submitted no later than March 1, 1999. All information or arguments parties provide will be fully analyzed in making our final determination.

#### *Level of Trade*

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, the Department determines Normal Value ("NV") based on sales in the comparison market at the same level of trade ("LOT") as the Export Price ("EP") or Constructed Export Price ("CEP") transaction. The NV LOT is that of the starting price of sales in the comparison market or, when NV is based on Constructed Value ("CV"), that of the sales from which the Department derives 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, the Department examines 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, the Department makes a LOT adjustment in accordance with section 773(a)(7)(A) of the Act. 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, the Department adjusts 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).

#### *CSN*

CSN sells to trading companies in the U.S. market and service centers/distributors and end-users in the home market. CSN states that it provides warranties, technical assistance, and freight arrangements equally to service centers/distributors and end-users. Thus, the selling functions provided to different classes of home market customers do not vary significantly. CSN provides the same selling functions for U.S. sales except for technical assistance. Technical assistance is only provided with respect to home market sales. However, CSN notes that this assistance is mainly provided in connection with warranty claims which are available to all customers. We find that technical assistance does not constitute a significant difference between the services provided to home market and U.S. customers. Consequently, the Department preliminarily determines that there is only one LOT in the home market and that it is at the same level as the single LOT in the U.S. market.

#### *USIMINAS/COSIPA*

In the home market, USIMINAS/COSIPA made sales to end-users,

affiliated distributors, and unaffiliated distributors. USIMINAS/COSIPA claim four channels of distribution with respect to these sales: (1) Direct sales to end users; (2) sales through affiliated distributors to end-users; (3) sales to unaffiliated distributors; and (4) sales to end-users for which an affiliated distributor was contracted to further process the merchandise for USIMINAS.

USIMINAS/COSIPA claim that there is a significant difference between prices charged to end-users and prices charged to distributors. USIMINAS/COSIPA further claim that prices charged to distributors and to end-users differ significantly from prices charged by affiliated distributors to their downstream customers.

In determining whether separate levels of trade actually existed in the home market, the Department first examined available information on the record about the company's selling functions for each channel of distribution. USIMINAS/COSIPA indicated that the selling functions performed by the affiliated distributors in the second channel of distribution (downstream sales) are much more significant than those performed by USIMINAS/COSIPA in any of the other home market channels of distribution (mill direct sales). The following are examples of selling functions provided for downstream sales but not mill direct sales: inventory maintenance, faster delivery times because of higher inventory maintenance, more flexible credit terms, special warehousing, technical services, and more extensive delivery services. Additionally, downstream sales involve much smaller volume purchases than mill direct sales. For mill direct sales, USIMINAS/COSIPA provide only limited after-sales services/warranties, freight and delivery arrangements and technical advice. Thus, we determined that the downstream sales by affiliates were made at a different LOT than other HM sales.

While the USIMINAS/COSIPA mill direct sales to end-users (whether or not further processed) and mill direct sales to unaffiliated distributors involve different channels of distribution, these sales do not involve significant differences in selling functions. As noted above, all mill direct sales involve limited after-sales services/warranties, freight and delivery arrangements and technical advice, and there are no significant differences in selling functions. Therefore, the Department does not consider these channels to represent different levels of trade. Thus, we preliminarily determine that downstream sales and mill direct sales

represent two different home market LOTs.

In the U.S. market, USIMINAS/COSIPA claim that all sales were made at one level of trade, through one channel of distribution. USIMINAS/COSIPA state that all U.S. sales were made to unaffiliated trading companies. USIMINAS/COSIPA state that these sales are made at the same level of trade as USIMINAS/COSIPA's direct home market sales to unaffiliated distributors (Home Market Channel 3). However, as noted above, the Department finds the selling functions of all home market mill direct sales to be quite similar to each other, constituting a single LOT. The Department additionally finds the selling functions for mill direct sales to be similar to U.S. sales. The only selling functions associated with U.S. sales are after-sales service/warranties and freight and delivery arrangements. As noted above, these services are also provided to home market mill direct customers. The only other selling function offered for home market mill direct sales is a limited amount of technical advice. Both home market mill direct sales and U.S. sales involve sales to large customers, including service centers/distributors that resell steel. (U.S. sales are only made to resellers.) Therefore, based on our analysis of selling functions, the Department finds U.S. sales to be at the same LOT as home market mill direct sales.

To the extent possible, we compared sales made in the U.S. to mill direct sales in the home market, which are at the same level of trade as the U.S. sales. To the extent that we were unable to match U.S. sales to identical home market sales at the same LOT, we used facts available as the basis of NV because we do not have complete data on downstream sales (*i.e.*, sales at the other home market LOT). *See the Fair Value Comparisons section below.*

#### *Date of Sale*

As stated in 19 CFR 351.401(i), the Department will use invoice date as the date of sale unless another date better reflects the date on which the exporter or producer establishes the material terms of sale. Both CSN and USIMINAS/COSIPA reported the date of the nota fiscal (*i.e.*, the date the product leaves the factory) as the home market date of sale, and the date of the commercial invoice (*i.e.*, the invoice issued on the date of shipment from the port) as the date of the U.S. sale.

CSN maintains that it uses the date of the nota fiscal for home market sales in its accounting records because this is the date on which material terms of sale are finalized. Moreover, CSN notes that

it adds estimated freight and insurance expenses to each invoice, which are not confirmed in writing until the date of the nota fiscal. For its U.S. sales, CSN reported the date of the commercial invoice, stating that it is the date on which the material terms of sale are finalized and recorded in its accounting records.

USIMINAS and COSIPA maintain that for their home market sales, the nota fiscal is the date on which the material terms of sale are first finalized. The nota fiscal is also used by both companies' accounting systems to register home market sales. In response to another inquiry, COSIPA noted that it cannot provide order confirmation data since it does not keep records of this documentation. For their U.S. sales, USIMINAS and COSIPA claim that the actual quantity produced can and does change five to 20 percent from the time of order confirmation to the nota fiscal or commercial invoice. Therefore, they do not believe that order confirmation is the appropriate date of sale. USIMINAS and COSIPA both reported the date of the commercial invoice as the date of sale. USIMINAS claims it chose to report commercial invoice (instead of nota fiscal when the terms are first finalized) because it is the date to which all U.S. sales are tied in its accounting system. COSIPA claims that it reported commercial invoice because the mill's location at a port ensures that the nota fiscal and the commercial invoice leave the mill on the same date.

Petitioners claim that the sales documentation provided by respondents indicates that the order confirmation date, not the date of the commercial invoice or nota fiscal, appears to be the date when the material terms of sale are set for a majority of the respondents' home market and U.S. sales of hot-rolled steel. Given the relevance of petitioners' comments and the nature of marketing these types of made-to-order products, the Department determined that petitioners' claims have some merit. Consequently, on December 4, 1998, and January 4, 1999, the Department requested that respondents provide additional information concerning the nature and frequency of price and quantity changes occurring between order confirmation date and invoice date. The Department also asked respondents to report the order date for all home market and U.S. sales and to ensure that the entire universe of sales with order or invoice dates within the POI were properly reported.

USIMINAS and COSIPA subsequently reported in their supplemental responses U.S. sales based both on commercial invoice (as previously

reported) and U.S. sales based on order confirmation date (as requested by the Department). USIMINAS and COSIPA stated, however, that they were unable to provide complete data based on order confirmation dates due to the limited time available to them, but that they would supply complete data as soon as practicable. COSIPA reported the order confirmation dates of the U.S. sales by manually tracing these dates, as these records are not maintained on its computer system. Because of COSIPA's location at a port, its reported nota fiscal or commercial invoice date (the names in this case are interchangeable) also serves as an ex-factory date of shipment. This is not the case for USIMINAS. For home market sales, USIMINAS reported order confirmation dates corresponding to nota fiscal dates in the POI.

In its supplemental response, CSN reported those home market and U.S. order confirmation dates that were accessible from its database. However, the data was not complete as CSN states that the order confirmation date is not reliably maintained in its database. CSN also reported the date of the nota fiscal (i.e., the ex-factory shipment date) of its U.S. sales.

For this preliminary determination, the Department is using the dates reported by respondents as the date of sale since there is insufficient information on the record at this time to determine which date of sale is most appropriate. Thus, for home market sales, the Department is using the nota fiscal date as the date of sale, and for U.S. sales, the commercial invoice date. However, in most cases, the U.S. date of sale reported by respondents is after the date of shipment of the product from the factory. Because it is the Department's practice to use shipment date as the latest date of sale, the Department is using the ex-factory shipment date as the date of sale for U.S. sales in those cases in which the commercial invoice date is later. While CSN reported its ex-factory shipment dates, USIMINAS did not provide specific ex-factory shipment dates. USIMINAS did, however, state in its Section A response that commercial invoices are normally issued within two weeks after the merchandise leaves the factory.

Section 776(a)(2) of the Act provides, that if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, as provided in section 782(i), the

Department shall, subject to subsections 782(d), use facts otherwise available in reaching the applicable determination.

Because USIMINAS did not provide specific ex-factory shipment dates, the Department resorted to facts available. As facts available, the Department is estimating USIMINAS's ex-factory shipment date by subtracting 14 days from the reported date of sale. See *USIMINAS/COSIPA Analysis Memorandum, February 12, 1999*.

The Department intends to fully examine the date of sale issue during verification and will incorporate our findings, as appropriate, in our analysis for the final determination. If the Department determines that the order confirmation date is the most appropriate date of sale, we may resort to facts available for the final determination to the extent that respondents have failed to report order confirmation date or relevant sales. Due to the complexity of this issue, the Department invites all interested parties to submit comments in accordance with the schedule set forth in this notice.

#### *Fair Value Comparisons*

To determine whether sales of hot-rolled steel from Brazil to the United States were made at less than fair value, the Department compared the EP to the NV, as described in the "Export Price" and "Normal Value" sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, the Department calculated weighted-average EPs for comparison to weighted-average NVs.

However, in the case of USIMINAS/COSIPA, the Department used facts available as the basis of NV if there were no identical matches at the same LOT. As explained in the "Transactions Reviewed" section below, the respondent did not provide useable downstream sales data. Additionally, the respondent did not provide complete cost data to enable us to calculate difference of merchandise adjustments. If there were no identical matches at the same LOT (mill direct sales), we were thus unable to determine if the best match would be to downstream sales. Nor could we calculate a difference in merchandise adjustment for comparisons to similar products. Therefore, we matched only identical product sales at the same LOT and used facts available for all other sales.

Section 776(b) of the Act provides that adverse inferences may be used when an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. See also,

*Statement of Administrative Action (SAA)* accompanying the URAA, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (1994). As adverse facts available, we used the highest calculated margin for U.S. sales that fell within the mainstream of USIMINAS/COSIPA's transactions. We selected a margin for sales that could be considered indicative of USIMINAS/COSIPA's customary selling practices and rationally related to the transactions to which the adverse facts available are being applied. In selecting the adverse margin, the Department sought a margin that is sufficiently adverse to effectuate the statutory purpose of adverse facts available, which is to induce respondents to provide the Department with complete information in a timely manner. See *Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Italy, 63 FR 40422, 40428, (July 29, 1998)*. See *USIMINAS/COSIPA Analysis Memorandum, February 12, 1999*.

#### *Transactions Reviewed*

##### CSN

On November 12, 1998, CSN submitted a letter informing the Department that its home market sales to affiliated resellers were limited to two service centers/distributors. Furthermore, CSN claimed that these sales represented less than five percent of its home market sales of hot-rolled steel. Pursuant to section 351.403(d) of the Department's regulations, on December 16, 1998, the Department informed CSN that based on the information presently on the record, we would not require CSN to report the home market sales of its related resellers. However, CSN's claims regarding these sales to affiliates will be subject to verification. See *Downstream Sales Reporting Request letter to CSN, (December 15, 1998)*.

##### USIMINAS/COSIPA

On November 25, 1998, USIMINAS/COSIPA submitted a request that they not be required to report their home market sales by affiliated resellers ("downstream sales"). USIMINAS/COSIPA claimed that these sales accounted for a small percentage of their home market sales, that the sales were made at a different level of trade from the U.S. sales, and that the merchandise was physically different from U.S. sales. USIMINAS/COSIPA identified three affiliated resellers. On December 15, 1998, the Department informed USIMINAS/COSIPA that they must report their downstream sales because they exceeded five percent of the total

quantity of USIMINAS/COSIPA's sales. See *Downstream Sales Reporting Request letter to USIMINAS/COSIPA, (December 15, 1998)*.

While USIMINAS/COSIPA provided some information regarding its downstream sales in its January 25, 1999, submission, this information was incomplete. In particular, most product characteristics were not fully reported. As a result, we were unable to determine whether these sales matched to U.S. sales. We have requested respondent to provide complete information with respect to its downstream sales, but we will not receive this additional information in time for this preliminary determination. Therefore, we are not using submitted downstream sales data for this preliminary determination. See the *Fair Value Comparisons* section above.

#### *Export Price*

The Department based its calculations 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. Furthermore, the Department calculated EP based on packed prices charged to the first unaffiliated customer in the United States.

The Department made company-specific adjustments as follows.

#### *CSN*

The Department made deductions from the starting price, where appropriate, for inland freight, and brokerage and handling incurred by CSN on its U.S. sales, in accordance with section 772(c)(2)(A) of the Act. The Department added an amount to the USP for the duty paid on imported coke, for which CSN received a duty drawback upon exportation of the merchandise. U.S. foreign inland freight was not reported for certain sales. As adverse facts available for these sales, we used the highest reported inland freight on any U.S. sale. No other adjustments were claimed or allowed.

#### *USIMINAS/COSIPA*

The Department 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, and foreign brokerage and handling expenses. No other adjustments were claimed or allowed.

#### *Normal Value*

After testing home market viability and whether home market sales were at below-cost prices, the Department 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), the Department compared each of the respondents' 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)(C) of the Act. Since each of the respondents' 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, the Department determined that the home market was viable for all respondents. Therefore, the Department has based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

#### *Arm's Length Test*

Sales to affiliated customers in the home market not made at arm's length prices (if any) were excluded from our analysis because the Department 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, the Department compared, on a model-specific basis, the 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 unaffiliated parties, the Department 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, the Department was unable to determine that these sales were made at arm's length prices and, therefore, excluded them from our LTFV analysis. See Notice of 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). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, the Department made a comparison to the next most similar product.

#### *Cost of Production (COP) Analysis*

Based on the cost allegation submitted by petitioners in the original 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)(i) 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 Notice, 63 FR 56607, (October 22, 1998).

The Department conducted the COP analysis described below.

#### **A. Calculation of COP**

In accordance with section 773(b)(3) of the Act, the Department calculated COP for hot-rolled steel 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. The Department relied on the COP data submitted by each respondent in its cost questionnaire response, except, as discussed below, in specific instances where the submitted costs were not appropriately quantified or valued.

#### *CSN*

The Department relied on CSN's COP and CV data submitted on January 25, 1999, except in the following instances: (1) we revised the general and administrative expense rate to include amortization of goodwill; (2) we recalculated CSN's financial expense rate to correct a mathematical error in its computation; and (3) we adjusted CSN's total cost of manufacture by a factor which restates electricity purchases from an affiliated party to the supplier's cost of production rather than the transfer price. See Cost Calculation Memorandum, February 12, 1999. Additionally, CSN failed to report costs for certain products. See the Price-to-Price Comparisons section below.

#### *USIMINAS/COSIPA*

The Department relied on USIMINAS/COSIPA's COP and CV data submitted on February 2 and 3, 1999 except in the following instances: (1) we revised financial expense based on the consolidated expense of the companies; and (2) we revised their submitted

SG&A expenses to include severance payments and profit sharing and to exclude net miscellaneous sales, dividend income and gains on investments, as well as several other smaller items. *See Cost Calculation Memorandum, February 12, 1999.* Because USIMINAS/COSIPA submitted multiple costs for many product control numbers ("CONNUMs") and did not provide separate production quantities, we were unable to weight average the multiple costs. Therefore, as facts available, we used the highest of the reported COPs or CVs for each CONNUM. *See Preliminary Results of Antidumping Duty Administrative Review: Extruded Rubber Thread from Malaysia, 63 FR 60295, 60297, (November 9, 1998).* *See Cost Calculation Memorandum, February 12, 1999.* Additionally, USIMINAS/COSIPA failed to report costs for certain products. *See the Price-to-Price Comparisons section below.*

#### **B. Test of Home Market Prices**

The Department compared the weighted-average COP for each respondent, adjusted where appropriate (*see above*), to home market sales prices 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, the Department 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. On a product-specific basis, the Department compared the COP to home market prices, less any applicable movement charges, taxes, billing adjustment, and discounts and rebates.

#### **C. Results of the COP Test**

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's sales of a given product were at prices less than the COP, the Department 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, the Department determined such sales to have been made in "substantial quantities," in accordance with 773(b)(2)(C)(i), within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, because the Department compared prices to weighted-average COPs for the POI, the Department 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, the Department disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, the Department disregarded all sales of that product.

#### *Price-to-Price Comparisons*

The Department performed price-to-price comparisons where there were sales of comparable merchandise in the home market that did not fail the cost test. The Department made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C) of the Act. (As noted above, we only compared identical sales for USIMINAS/COSIPA. Thus, adjustments for physical differences in merchandise were not made.) In accordance with Section 773(a)(6), the Department deducted home market packing costs and added U.S. packing costs.

#### *Brazilian Taxes*

Consistent with past practice, the Department adjusted NV for the full amount of IPI and ICMS taxes collected on the subject merchandise because these are VAT taxes that have a basis for deduction according to Section 773(a)(6)(B)(iii) of the Act. The Department did not deduct the Brazilian PIS and COFINS taxes as suggested by respondents in calculating NV. Since these taxes are levied on total revenues, the taxes are not imposed directly on the product or its components. Accordingly, there is no basis to deduct them in the calculation of NV under Section 773(a)(6)(B)(iii) of the Act. *See Final Results of Antidumping Duty Administrative Review: Certain Cut-To-Length Carbon Steel Plate from Brazil, 63 FR 12744, 12746 (March 16, 1998).*

In addition, respondents argue that the IPI and ICMS tax credits received on inputs used to manufacture export products should be deducted from the home market NV. The Department disagrees. Since these tax credits partially offset respondents' liability for taxes collected on sales, such a deduction would double count for taxes for which we have already made an adjustment. Therefore, the Department did not make a further tax deduction in determining NV.

#### *CSN*

CSN did not provide COP data for all home market CONNUMs. Section 776(a)(2) of the Act provides, that if an interested party: (A) withholds information that has been requested by

the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, as provided in section 782(i), the Department shall, subject to subsection 782(d), use facts otherwise available in reaching the applicable determination.

Section 776(b) of the Act provides that adverse inferences may be used when an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also, Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (1994).* In the instant case, because CSN failed to provide COP data for all home market CONNUMs, the Department applied adverse facts available in determining the margin for all U.S. sales matching to home market sales for which COP data was not provided. We also applied adverse facts available in determining the margin for all U.S. sales matches for which information to calculate difference in merchandise adjustments was not provided. As adverse facts available, we used the highest margin calculated for any individual product (i.e., CONNUM). The highest margin was based on sales that fell within the mainstream of CSN's transactions. We considered these sales indicative of CSN's customary selling practices and rationally related to the transaction to which the adverse facts available are being applied. In selecting the adverse margin, the Department sought a margin that is sufficiently adverse to effectuate the statutory purpose of adverse facts available, which is to induce respondents to provide the Department with complete information in a timely manner.

For CSN, the Department based NV on prices of home market sales that passed the cost test. The Department made deductions for foreign inland freight and taxes. The Department notes that the deduction for inland freight should be net of VAT taxes. While we have requested this information, we did not receive it in time for this preliminary determination. Consequently, as facts available, the Department has estimated an amount for VAT taxes paid on inland freight, and deducted this from the reported amounts. In addition, the Department made circumstance-of-sale (COS) adjustments for differences in credit, warranty expenses, and bank charges, where appropriate. On a few sales CSN incurred a bank fee that was charged upon the customer's payment.

CSN adjusted its accounts receivable accordingly, and the Department included this adjustment in its calculations. For U.S. sales by CSN, the Department recalculated credit to take into account the difference between ex-factory and ex-port date of shipment. See CSN Analysis Memorandum, February 12, 1999. For home market sales, the Department recalculated home market credit and used a price net of VAT taxes for the basis of the recalculation. See Final Determination of Antidumping Administrative Review: Certain Cut-To-Length Carbon Steel Plate from Brazil, 62 FR 18486, 18487 (April 15, 1997). The Department recalculated both home market and U.S. credit expenses for those sales with missing payment dates. As facts available, the Department used the date of the respondent's supplemental submission of January 25, 1999, as the date of payment for sales missing payment dates. Because it is CSN's standard practice to charge late payment fees, we imputed home market interest revenue for sales with unreported payment dates. Where appropriate, we adjusted the home market starting price for billing adjustments. The Department also made adjustments for home market inventory carrying costs and indirect selling expenses to offset the U.S. commissions.

#### *USIMINAS/COSIPA*

On February 9, 1999, the respondent indicated that there were clerical errors in one of its sales databases previously submitted to the Department and submitted replacement data. Because these errors were clerical in nature and did not change the universe of sales reported, we used the revised data for this preliminary determination.

For USIMINAS/COSIPA, the Department based NV on prices of home market sales that passed the cost test. The Department made deductions for billing adjustments and discounts. The Department made deductions, where appropriate, for inland freight, inland insurance and warehousing. See USIMINAS/COSIPA Analysis Memorandum, February 12, 1999. The Department notes that the deduction for inland freight should be net of VAT taxes. However, while we have requested this information, we did not receive it in time for this preliminary determination. Consequently, as facts available, the Department has estimated an amount for VAT taxes paid on inland freight, and deducted this from the reported amounts. We made COS adjustments for imputed credit expense and warranties. Since USIMINAS/COSIPA did not properly calculate

home market interest, the Department recalculated home market credit using a published Brazilian prime rate. See USIMINAS/COSIPA Analysis Memorandum, February 12, 1999. For U.S. sales by USIMINAS/COSIPA, the Department recalculated credit to take into account the difference between ex-factory and ex-port date of shipment. As facts available, the Department used the date of the respondents' supplemental submission of January 25, 1999, as the date of payment for sales missing payment dates. See USIMINAS/COSIPA Analysis Memorandum, February 12, 1999. For home market sales, the Department recalculated home market credit and used a price net of VAT taxes for the basis of the recalculation. See Final Determination of Antidumping Administrative Review: Certain Cut-To-Length Carbon Steel Plate from Brazil, 62 FR 18486, 18487 (April 15, 1997). Because it is the standard practice for the respondents to charge late payment fees, the Department imputed interest revenue for sales with unreported payment dates.

USIMINAS/COSIPA did not provide COP data for all home market CONNUMS. In the instant case, the Department determined that USIMINAS/COSIPA's failure to provide COP data for all home market CONNUMS satisfies the requirements of section 776(a)(2)(A), (B), and (C) of the Act. Therefore, for all U.S. sales matching to home market sales for which COP data was not provided, the Department applied adverse facts available equal to the highest calculated margin. The highest margin was based on sales that fell within the mainstream of USIMINAS/COSIPA's transactions. We considered these sales indicative of their customary selling practices and rationally related to the transaction to which the adverse facts available are being applied. In selecting the adverse margin, the Department sought a margin that is sufficiently adverse to effectuate the statutory purpose of adverse facts available, which is to induce respondents to provide the Department with complete information in a timely manner.

#### *Currency Conversion*

The Department 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 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 hot-rolled steel from Brazil. In accordance with 19 CFR 351.206(c)(2)(i), since this allegation was filed at least 20 days prior to the preliminary determination, the Department must issue its preliminary critical circumstances determination no 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.

#### 1. History of Dumping or Importer Knowledge of Dumping

To determine whether there is a history of dumping of the subject merchandise, the Department normally considers evidence of an existing antidumping duty order in the United States or elsewhere to be sufficient. The Department found that there is an antidumping duty order on hot-rolled steel from Brazil in Mexico, and therefore determined that there is a history of dumping and material injury by reason of dumped imports of the subject merchandise.

#### 2. Massive Imports

Since the first prong of the critical circumstances test has been met, the Department must examine whether there have been massive imports over a relatively short period of time. To determine whether imports were massive over a relatively short time period, the Department typically compares the import volume of the subject merchandise for the three months immediately preceding and following the filing of the petition. See 19 CFR 351.206(i). Pursuant to 19 CFR 351.206(h)(2), the Department will consider an increase of 15 percent or more in the imports of the subject merchandise over the relevant period to be massive. According to official U.S. Customs Bureau statistics for the first two months of the comparison period (October and November) and according to preliminary Customs Bureau statistics

for the third month (December), there was less than a 15 percent increase in imports from the level of the preceding three months. Therefore, there have not been massive imports over the examined period, and the Department preliminarily does not find that critical circumstances exist for CSN or USIMINAS/COSIPA. See CSN and USIMINAS/COSIPA Analysis Memorandums, February 12, 1999. The Department notes that it has requested company specific shipment information from CSN, USIMINAS, and COSIPA but that we have not received it in time for this preliminary determination. We invite interested parties to comment on the issue of critical circumstances, and we will consider these comments and the company specific data in making our final determination.

**Verification**

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

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, the Department is 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**. The Department 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
CSN .....	50.66
USIMINAS/COSIPA .....	71.02
All Others .....	58.76

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, the Department has 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 hot-rolled steel 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 Act, the Department 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). If this investigation proceeds normally, we will make our final determination no later than April 28, 1999.

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

Dated: February 12, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-4197 Filed 2-18-99; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-570-851]

**Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms From the People's Republic of China**

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

**EFFECTIVE DATE:** February 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-4929, 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 of Commerce ("Department") regulations are to the regulations at 19 CFR Part 351 (1998).

**Amendment to the Final Determination**

On December 18, 1998, the Department made its final determination that certain preserved mushrooms from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, December 31, 1998 ("Final Determination"). We disclosed our calculations for the final determination to all interested parties on December 21 and 22, 1998.

On January 8, 1999, we received a submission from the respondent exporters in the investigation, China Processed Food Import & Export Company ("China Processed") and its affiliate Xiamen Jiahua Import & Export Trading Company, Ltd. ("Xiamen Jiahua"), Shenzhen Cofry Cereals, Oils, & Foodstuffs Company, Ltd. ("Shenzhen Cofry"), and Tak Fat Trading Corporation Co. ("Tak Fat"), alleging ministerial errors pertaining to the margin calculations in the Department's final determination. On the same date, we received a submission from the