DEPARTMENT OF COMMERCE

International Trade Administration

[A–455–803; A–560–811; A–823–809]

Notice of Preliminary Determinations of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Poland, Indonesia, and Ukraine

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

EFFECTIVE DATE: January 30, 2001.

FOR FURTHER INFORMATION CONTACT: Valerie Ellis at (202) 482–2336 (for Poland), Maisha Cryor at (202) 482–5831 (for Indonesia), or Keir Whitson at (202) 482–1777 (for Ukraine), AD/CVD Enforcement, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

Preliminary Determinations

We preliminarily determine that steel concrete reinforcing bars (rebar) from Poland, Indonesia, and Ukraine are being sold, 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.

Case History

These investigations were initiated on July 18, 2000.[1] *See Initiation of Antidumping Duty Investigations: Steel Concrete Reinforcing Bars from Austria, Belarus, Indonesia, Japan, Latvia, Moldova, the People's Republic of China, Poland, the Republic of Korea, the Russian Federation, Ukraine and Venezuela,* 65 FR 45754 (July 25, 2000) (*Initiation Notice*). Since the initiation of the investigations, the following events have occurred.

On August 14, 2000, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that a regional industry in the United States is materially injured or threatened with material injury by reason of imports from Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine of certain steel concrete reinforcing bars. *See Certain Steel Concrete Reinforcing Bars From Austria, Belarus, China, Indonesia, Japan, Korea, Latvia, Moldova, Poland, Russia, Ukraine, and Venezuela,* 65 FR 51329 (August 23, 2000). With respect to subject imports from Austria, Russia, and Venezuela, the ITC determined that imports from these countries during the period of investigation (POI) were negligible and, therefore, these investigations were terminated. The ITC also determined that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, by reason of subject imports from Japan. *Id.*

On August 18, 2000, the Department issued complete antidumping questionnaires to all known producers/exporters of subject merchandise in Poland and Ukraine.[2] In the case of Indonesia, the complete antidumping questionnaire was issued to PT The Master Steel Manufacturing Co.[3] (Master Steel), and partial Section A questionnaires[4] were issued to several additional Indonesian steel companies in order to gather adequate quantity and value information to make a respondent selection determination in that investigation. For a further discussion of the respondent selection process for Indonesia, *see* the Indonesia section, below.

In the petition, filed on June 28, 2000, the petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of rebar from Poland.

On August 30, 2000, the Department preliminarily determined that critical circumstances exist with respect to exports of rebar from Poland. *See Memorandum to Holly A. Kuga Re: Preliminary Affirmative Determinations of Critical Circumstances* (August 30, 2000); *see also Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From the People's Republic of China and Poland,* 65 FR 54228 (September 7, 2000).

In a letter filed on August 22, 2000, the petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of rebar from Ukraine. On November 27, 2000, the Department preliminarily determined that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of rebar from Ukraine. *See Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova,* 65 FR 70696 (November 27, 2000).

On November 9, 2000, the petitioner requested a postponement of the preliminary determinations in these investigations. On November 21, 2000, the Department published a **Federal Register** notice postponing the deadline for the preliminary determinations until January 16, 2001. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Steel Concrete Reinforcing Bars from Belarus, Indonesia, Latvia, Moldova, the People's Republic of China, Poland, the Republic of Korea and Ukraine,* 65 FR 69909 (November 21, 2000).

Period of Investigations

For Poland and Indonesia, the POI is April 1, 1999, through March 31, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* June 2000). Because Ukraine is a non-market economy, the POI for Ukraine corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition; namely, October 1, 1999 through March 31, 2000.

[1] The petitioner in these investigations is the Rebar Trade Action Coalition (RTAC), and its individual members, AmeriSteel, Auburn Steel Co., Inc., Birmingham Steel Corp., Border Steel, Inc., Marion Steel Company, Riverview Steel, and Nucor Steel and CMC Steel Group. (Auburn Steel was not a petitioner in the Indonesia case).

[2] Because the Department considers Ukraine to be a non-market economy, and because the number of producers/exporters identified in Ukraine did not appear to preclude an examination of each exporter and that exporter's suppliers, we determined to examine all exports to the United States from Ukraine in accordance with our general practice. *See Memorandum to Holly A. Kuga Re: Selection of Respondents* (August 25, 2000). In the case of Poland, a market economy, we found that only one producer in Poland exported subject merchandise to the United States during the POI. We therefore determined to examine all exports from Poland during the POI, in accordance with our general practice. *Id.*

[3] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. In NME cases, Section D requests information on factors of production. Section E requests information on further manufacturing.

[4] The partial Section A questionnaire requests information on the quantity and value of home and U.S. market sales.

Scope of Investigations

For purposes of these investigations, the product covered is all rebar sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.,* non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Facts Available

1. Application of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference, if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808, 53819–20 (October 16, 1997). Finally, section 776(b) of the Act states that an adverse inference may include reliance on information derived from the petition. *See also* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994).

Poland

In accordance with section 776(a)(2), 776(b), and 782(d) and (e) of the Act, for the reasons explained below, we preliminarily determine that the use of total adverse facts available is warranted with respect to Huta Ostrowiec S.A. and Stalexport (collectively, Stalexport).

On August 18, 2000, the Department issued an antidumping questionnaire to Stalexport. On October 6, 2000, we received a section A questionnaire response from Stalexport, and on October 10, 2000, we received the responses to sections B through D of our questionnaire. We reviewed these initial responses and found that a substantial portion of the sales in Stalexport's home market sales listing were sales to an affiliated reseller, rather than the resales to the first unaffiliated customer. This resulted not only in an incomplete and unreliable home market sales listing, but also in an inaccurate total quantity and value for Stalexport's POI sales. In order to address this and other deficiencies, we issued a supplemental section A questionnaire on October 6, 2000. The response was initially due on October 20, 2000. However, Stalexport never retrieved the supplemental questionnaire from our courier office. Therefore, we re-issued the supplemental section A questionnaire on October 25, 2000, along with supplemental section B and section C questionnaires. This gave Stalexport an additional eighteen days to complete its response to section A, *i.e.,* until November 7, 2000, and until November 13, 2000, to respond to supplemental section B and section C questionnaires. We also issued a supplemental section D questionnaire on October 27, 2000, with a response due date of November 9, 2000.

Although we provided Stalexport with additional time to complete the supplemental section A questionnaire, the company did not submit a response. Stalexport also did not respond to the section B, C or D supplementals by the respective due dates, nor did the company request that the Department grant any extension of the deadline to respond. On November 9, 2000, we phoned counsel for Stalexport to inquire as to whether the respondent was aware that the deadlines for responding to the supplemental questionnaire responses had passed. Counsel for Stalexport indicated that he was indeed aware that the deadline had passed, and offered no explanation for Stalexport's failure to meet the response deadline. *See Memorandum to the File from Charles Riggle,* dated November 13, 2000.

As described above, Stalexport failed to provide, within the applicable deadlines, its responses to the Department's supplemental questionnaires. Despite the Department's repeated attempts, pursuant to section 782(d) of the Act, to obtain, inter alia, Stalexport's unreported sales by its affiliated resellers, Stalexport failed to respond. In addition, without the supplemental questionnaire responses, we are unable to determine the extent of unreported home market sales, whether Stalexport provided the appropriate date of sale for the sales that it did report, and whether Stalexport's home market and U.S. sales are reported on an equivalent weight basis for comparison purposes. As a result, we do not have a reliable home market listing to use for comparison purposes in accordance with our general practice, nor are we able to confirm the appropriate date of sale for any of the submitted sales.

We further find that the application of section 782(e) of the Act, we are unable to use the company-specific information contained in the responses we did receive, given that the deadline for submitting the necessary information has passed, and the responses currently on the record are so incomplete that they cannot serve as a reliable basis for reaching the applicable determination. *See* sections 782(e)(1), (3) and (4) of the Act. We further note that Stalexport did not notify the Department that it would be unable to submit the requested information, nor did it provide any explanation or propose an alternate form of submitting the required data, pursuant to section 782(c)(1) of the Act. Because the information that Stalexport failed to report is critical for purposes of the preliminary dumping calculations, the Department must resort to facts otherwise available in reaching its preliminary determination, pursuant to section 776(a)(2)(A), (B) and (C).

We also find that the application of an adverse inference in this case is appropriate, pursuant to section 776(b) of the Act. As discussed above, Stalexport failed to provide the critical data pertaining to the company's affiliated party transactions and date of sale, despite the Department's clear directions in both the original and supplemental questionnaires and numerous conversations with the company's counsel. Furthermore, Stalexport made no effort to provide any explanation or propose an alternate form of submitting the required data. For these reasons, we find that Stalexport did not act to the best of its ability in responding to the Department's request for information, and that, consequently, an adverse inference is warranted under section 776(b) of the Act. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from*

Japan, 65FR42985 (July 12, 2000) (the Department applied total adverse facts available where respondent failed to respond to the antidumping questionnaires).

Indonesia

In accordance with section 776 of the Act, for the reasons explained below, we preliminarily determine that the use of total adverse facts available is warranted with respect to Indonesia. The Department issued partial section A antidumping duty questionnaires (partial A questionnaires) to the following thirteen respondents on August 18 and August 23, 2000: PT Gunung Gahapi Sakti (Sakti), PT Jakarta Kyoei Steel Works Ltd. (Jakarta Steel Group) (Kyoei), PT The Master Steel Manufacturing Co., (Master Steel), PT Hanil Jaya Metal Works (Hanil), PT Bhirma Steel (Bhirma), PT Inter World Steel Mills Indonesia (Inter World), Jakarta Steel Megah Utama (Jakarta Steel Group) (Megah Utama), PT Jakarta Steel Perdana Industri (Jakarta Steel Group) (Perdana), Krakatau Wajatama (Krakatau), PT Jakarta Cakra Tunggal (Tunggal), PT Pulogadung Steel (Pulogadung), PT Gunung Gahapi Bahara (Gahapi), and PT Gunung Garuda (Garuda). On August 18, 2000, the Department issued a partial section A questionnaire to the Association of Indonesian Steel Billet and Concrete Producers and requested that it forward the questionnaire to any other known producers/exporters of rebar. The Department established August 28, 2000, as the deadline for responding to the partial section A questionnaires.

By the August 28, 2000, deadline, the Department had received responses from the following six companies: Kyoei, Inter World, Megah Utama, Gahapi, Garuda and Master Steel. Of the six timely responding companies, Master Steel was the only company to report exports of rebar to the United States during the POI. We conducted a Customs data query and confirmed the no shipments claims made by the remaining five companies listed above.

On August 30, 2000, the Department issued a complete antidumping questionnaire to Master Steel. In addition, on August 30, 2000, the Department received a no shipment response from Tunggal.

On September 4, 2000, Pulogadung mailed a no shipment response to the Department. However, the response did not reach the appropriate Department officials until September 7, 2000. On September 11, 2000, Hanil sent a no shipment response to the Department. Therefore, as discussed below, the Department sent Pulogadung and Hanil two FA letters, the first addressing no response and the second addressing late response.

On September 6, 2000, the Department notified the following five companies that their ''no shipment'' responses were subject to verification and that, if shipments were ultimately discovered, the Department may have to rely upon facts available in making its determinations in this proceeding: Kyoei, Inter World, Megah Utama, Gahapi, and Garuda. In addition, on September 6, 2000, the Department notified the following six non-responsive companies that the Department had not received their partial section A questionnaire responses and that, as a result, the Department would have to rely upon FA in making its determinations in this proceeding: Sakti, Bhirma, Krakatau, Perdana, Hanil, and Pulogadung.

On September 13, 2000, the Department notified Tunggal, Pulogadung and Hanil, that the Department had not received their partial A responses by the August 28, 2000, deadline and that, as a result, the Department would have to rely upon FA in making its determinations in this proceeding.

In October 2000, Master Steel submitted its sections A, B, C, and D questionnaire responses. In the initial response to our antidumping questionnaire, we found that substantial information in the questionnaire remained unanswered. Master Steel failed to provide: (1) The transfer price, cost of production or market price of the major input received from its affiliate, (2) product-specific costs, (3) the quantity of each control number produced during the POI, (4) POI specific costs, (5) costs on the same weight and currency basis as home market sales, (6) worksheets showing its calculation of the general and administrative expense ratio and the financial expense ratio, (7) an explanation concerning affiliation issues, (8) accurate control numbers (CONNUMs), (9) an explanation of zero values for certain selling expenses, (10) clarification concerning the appropriateness of the reported U.S. sales date, (11) home market (HM) shipment dates, (12) accurate HM payment dates, (13) an explanation and reconciliation of HM and U.S. imputed credit expenses, (14) an explanation of missing product specifications, (15) clarification concerning U.S. inland freight, and (16) an explanation of its reported packing expenses. *See* October 23, 2000, and November 2, 2000, supplemental questionnaires.

Master Steel's failure to provide this information resulted in an incomplete and unreliable cost response and home market and U.S. sales listings, and an inaccurate total quantity and value for Master Steel's POI sales. In order to address these and other deficiencies, we issued supplemental questionnaires on October 23, and November 2, 2000, as noted above. On November 7, 2000, Master Steel submitted a timely response to the Department's October 23, 2000, section A supplemental questionnaire. On November 9, 2000, via email, Master Steel requested an eighteen day extension of time for filing its response to the Department's November 2, 2000, supplemental questionnaire (supplemental questionnaire). On November 14, 2000, in response to Master Steel's November 9, 2000, extension request, and after receiving several improperly submitted submissions (*i.e.* submissions that were presented via facsimile and email), the Department sent Master Steel a letter granting it an extension until November 20, 2000. In addition, the letter once again reiterated the Department's requirement that all documents submitted to the Department must be properly filed and served on all interested parties, in accordance with 19 CFR 351.103 (b) and 19 CFR 351.303. The Department informed Master Steel that it would no longer accept submissions that were not officially submitted to and stamped by the Central Records Unit (CRU) with the date and time of receipt. *See* Letter from the Department of Commerce (November 14, 2000). The November 14, 2000, letter, as well as the Department's previous letters, also advised Master Steel of the potential repercussions (*i.e.,* rejection of responses, use of FA) that could occur from its failure to abide by the Department's filing requirements.

On November 17, 2000, Master Steel, via facsimile, requested yet another extension of time to file its supplemental questionnaire response. Although this extension request was improperly submitted, the Department decided to grant it until November 27, 2000, in case Master Steel had not received the Department's November 14, 2000, letter prior to sending its November 17, 2000, facsimile requesting an extension.

On November 23, 2000, Master Steel, via facsimile, requested another extension of time to file its response to the Department's November 2, 2000, supplemental questionnaire. On November 30, 2000, the Department granted Master Steel an extension until December 1, 2000, to file its response. In addition, the November 30, 2000,

letter noted the improper submission of Master Steel's most recent extension request and stated that this extension would be the last extension granted for Master Steel to respond to the Department's supplemental questionnaire. The Department explained that it was not in a position to grant any further extensions to Master Steel because of the impending deadline for publication of the preliminary determination, the fact that there would not be sufficient time to analyze the Master Steel responses, and the inadequate time to issue supplemental questionnaires regarding any information that Master Steel would have submitted.

However, despite the Department's explanation of the proper filing requirements in its previous extension letters, on December 5, 2000, Master Steel submitted an untimely response to sections B, C, and D of the Department's supplemental questionnaire.

In accordance with section 776(a) of the Act, we have determined that the use of adverse FA is warranted for Sakti, Bhirma, Krakatau, Perdana, Hanil, Pulogadung, Tunggal and Master Steel. Sakti, Bhirma, Krakatau, and Perdana failed to respond to the Department's partial A questionnaire. Hanil, Pulogadung and Tunggal failed to respond to the Department's partial section A questionnaire by the applicable deadline. Because these respondents failed to provide the requested quantity and value information by the applicable deadline, the Department must use FA, in accordance with section 776(a) of the Act. The Department has also determined that because these companies either failed to respond to the partial section A questionnaire, or failed to respond in a timely manner to the partial section A questionnaire, they did not act to the best of their ability to comply with the Department's request for information. Without completed questionnaire responses, the Department lacks critical information that is necessary to the dumping calculation and cannot determine an accurate dumping margin. Therefore, in accordance with section 776(b) of the Act, the Department has used an adverse inference in determining a margin for these companies.

With respect to Master Steel, Master Steel failed to provide, within the applicable deadlines, its responses to the Department's supplemental questionnaires. *See Memorandum Regarding the Application of Adverse Facts Available to Master Steel,* dated, January 16, 2001 (*Master Steel FA Memo*). Despite the Department's repeated attempts, pursuant to section 782(d) of the Act, to obtain the missing information, Master Steel failed to respond in a timely manner. As a result, we do not have a reliable home market or U.S. sales listing to use for comparison purposes in accordance with our practice. In addition, we also question whether Master Steel provided the appropriate date of sale for its reported U.S. sales. Moreover, Master Steel submitted an incomplete cost response, with deficiencies concerning such issues as product specific costs, costs for major inputs received from affiliated parties, and the quantity of specific CONNUMs produced during the POI. *See Master Steel FA Memo.* Master Steel did not notify the Department that it would be unable to submit the requested information, nor did it provide any explanation or propose an alternate form of submitting the required data, pursuant to section 782(c)(1) of the Act. *See Master Steel FA Memo.*

We are unable, under the application of section 782(e), to use the company-specific information contained in the responses we did receive from Master Steel, given that the deadline for submitting the supplemental questionnaire responses has passed, and the responses currently on record are so incomplete that they cannot serve as a reliable basis for reaching the applicable determination. *See Master Steel FA Memo.*

Because the information that Master Steel failed to report is critical for purposes of the preliminary dumping calculations, the Department must resort to facts otherwise available in reaching its preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act.

We also find that the application of an adverse inference in this case is appropriate. Master Steel failed to provide critical data regarding COP, affiliations, accurate control numbers, explanation of zero values for certain selling expenses, HM shipment dates, accurate HM payment dates, and *inter alia* clarification regarding its choice for date of sale. Moreover, despite the Department's directions in the questionnaires and the numerous extensions granted, Master Steel made no effort to provide any explanation or propose an alternate form of submitting the data. *See Master Steel FA Memo.* For these reasons, we find that Master Steel did not act to the best of its ability in responding to the Department's requests for information, *see, e.g., Circular Stainless Steel Hollow Products,* and that, consequently, an adverse inference is warranted under section 776(b) of the Act. *See Master Steel FA Memo.*

Ukraine

In accordance with sections 776(a) and (b) of the Act, for the reasons explained below, we preliminarily determine that the use of total adverse facts available is warranted with respect to Krovoi Rog State Mining and Metal Works (Krivorozhstal). On August 18, 2000, the Department issued a nonmarket economy questionnaire to the Embassy of Ukraine in Washington, DC and, concurrently, to the five known Ukrainian producers of rebar. Questionnaires were sent, specifically, to Dneprovsky Iron and Steel Works (Dneprovsky), Makeevsky Iron and Steel Works, Kramatorsk Iron and Steel Works, Yenakievsky Iron and Steel Works, and Krivorozhstal. By the extended September 22, 2000, deadline for responding to the Department's section A questionnaire, we received responses from Dneprovsky and Krivorozhstal. Dneprovsky stated that the company does not export rebar to the United States. The Department received quantity and value data from Krivorozhstal and selected Krivorozhstal as the sole mandatory respondent in the Ukraine case. Krivorozhstal, over the course of this proceeding, has not provided the Department with complete, documented, product-specific factors of production information. Accordingly, we are relying on the facts otherwise available for purposes of the preliminary determination.

The questionnaire sent to Krivorozhstal on August 18, 2000, described in detail how respondents should report factors of production data for intermediate products produced by separate production processes. On October 10, 2000, Krivorozhstal submitted a section D questionnaire response with incomplete factors of production data. On October 26, pursuant to section 782(d) of the Act, the Department issued a supplemental questionnaire and reminded Krivorozhstal of its obligation to provide complete factors of production data. On November 9, 2000, Krivorozhstal responded to the Department's supplemental questionnaire and, again, failed to provide complete factors of production information. Krivorozhstal's November 9, 2000, response, while providing some additional data, did not properly document and support with narrative explanation these additional factors of production data, again did not provide the Department with product-specific factors of production and, finally, did not propose an appropriate

alternative methodology for deriving product-specific factors of production. *See Decision Memorandum to Troy Cribb Regarding the Use of Facts Available for the Antidumping Investigation of Steel Concrete Reinforcing Bars from Ukraine (Ukraine FA Memo*) (January 16, 2001) for further detail regarding the inadequacy of Krivorozhstal's submitted data.

Because Krivorozhstal has refused to provide the Department with a full accounting of its factors of production, the Department must use facts available under sections 776(a)(2)(A) of the Act, and (B) of the Act. In addition, we consider that Krivorozhstal has not acted to the best of its ability to provide complete factors of production information, since, as explained above, Krivorozhstal has failed to provide basic information readily at its disposal.

2. Selection and Corroboration of Facts Available

Section 776(b) of the Act states that an adverse inference may include reliance on information derived from the petition. *See also* SAA at 829–831. Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.

The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (*see* SAA at 870).

In order to determine the probative value of the margins in the petitions for use as adverse facts available for purposes of this determination, we examined evidence supporting the calculations in the petitions. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the (EP) and normal value (NV) calculations on which the margins in the petitions were based. Our review of the EP and NV calculations indicated that the information in the petitions has probative value, as certain information included in the margin calculations in the petitions is from public sources concurrent, for the most part, with the relevant POI. For purposes of the preliminary determination, we attempted to further corroborate the information in the petition. We re-examined the EP and NV data which formed the basis for the highest margin in the petition in light of information obtained during the investigation and, to the extent practicable, found that it has probative value (*see* the January 16, 2001, memoranda to the file regarding *Application of Facts Available for Huta Ostroweic, S.A. and Stalexport, S.A.; Master Steel FA Memo; Corroboration of the Petition Data for Indonesia* at section C; and *Ukraine FA Memo* on file in the Central Records Unit, Room B–099, of the Main Commerce Department building).

Accordingly, in selecting adverse facts available with respect to Stalexport, the Department determined to apply a constructed value margin rate of 52.07 percent, the highest margin alleged for Poland in the petitioner's July 10, 2000, addendum to the petition. For Indonesia, as FA for Sakti, Bhirma, Krakatau, Perdana, Hanil, Pulogadung and Master Steel, the Department applied a constructed value margin rate of 71.01 percent, the highest margin alleged for Indonesia in the petitioner's July 10, 2000, addendum to the petition. For Ukraine, inasmuch as we have been unable to rely on Krivorozhstal's questionnaire responses, we have not determined whether Krivorozhstal warrants a separate rate. We have assigned to all exports of subject rebar from the Ukraine a country-wide rate of 41.69 percent, the single margin alleged in the petitioner's July 10, 2000, addendum to the petition.

Separate Rates—Ukraine. It is the Department's policy to assign all exporters of merchandise subject to investigation in a NME country a single rate, unless an exporter can demonstrate that it is sufficiently independent from government control so as to be entitled to a separate rate. In the case involving Ukraine, the single respondent company, Krivorozhstal, has claimed to be sufficiently independent to warrant a separate rate. However, since, as explained above, Krivorozhstal has impeded the Department's investigation, we have not made a determination as to whether Krivorozhstal merits a separate rate, and are assigning a single country-wide rate for all exporters of subject merchandise from Ukraine.[5]

[5] We note that, inasmuch as the petition contains only a single margin, the same rate would apply to Krivorozhstal and all other exporters of subject merchandise from Ukraine, even if Krivorozhstal had been assigned a separate rate. In the event that the Department is able to base its final determination on the data submitted by Krivorozhstal rather than on the facts otherwise available, the Department will determine whether Krivorozhstal merits a separate rate.

All Others—Poland and Indonesia. Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''all others'' rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than facts available margins to establish the ''all others'' rate. Where the data do not permit weight-averaging such rates, the SAA, at 873, provides that we may use other reasonable methods. With respect to Poland and Indonesia, because there is no other information on the record on which to base an ''all others'' rate, consistent with the Department's practice, we have based the ''all others'' rate on the simple average of the rates provided by the petitioner. *See, e.g., Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand*, 65 FR 5520, 5528 (February 4, 2000).

Final Critical Circumstances Determinations

We will make a final determination concerning critical circumstances for Poland and Ukraine when we make our final determination regarding sales at LTFV in this investigation, which will be no later than 75 days after the publication of this notice in the **Federal Register**.

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 entries of rebar from Indonesia that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. In the case of Poland and Ukraine, because of our preliminary affirmative critical circumstances findings in these cases, and in accordance with section 733(e) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of rebar from Poland and Ukraine 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**. For Poland, Indonesia and Ukraine, we are also instructing the Customs Service to require a cash deposit or the posting of

a bond equal to the dumping margin, as indicated in the chart below.

These instructions suspending liquidation will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
Poland:	
Huta Ostrowiec S.A. ("Stalexport")	52.07
All Others	47.13
Indonesia:	
Sakti	71.01
Bhirma	71.01
Krakatau	71.01
Perdana	71.01
Hanil	71.01
Pulogadung	71.01
Tunggal	71.01
Master Steel	71.01
All Others	60.46
Ukraine:	
Ukraine-Wide Rate	41.69

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in these investigations in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations. If our final antidumping determinations are affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of these preliminary determinations or 45 days after the date of our final determinations.

Public Comment

For the investigations of steel concrete reinforcing bars from Poland, Indonesia, and Ukraine, case briefs must be submitted no later than 35 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Public versions of all comments and rebuttals should be provided to the Department and made available on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to several rebar cases, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place 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 within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If these investigations proceed normally, we will make our final determinations in the investigations of steel concrete reinforcing bars from Poland, Indonesia and Ukraine no later than 75 days after the date of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: January 16, 2001.

Troy H. Cribb,

Assistant Secretary for Import Administration.

[FR Doc. 01–2522 Filed 1–29–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–844]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Concrete Reinforcing Bars From the Republic of Korea

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

EFFECTIVE DATE: January 30, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Jeff Pedersen at (202) 482–3936 and (202) 482–4195, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2000).

Preliminary Determination

We preliminarily determine that steel concrete reinforcing bars (rebar) from the Republic of Korea (Korea) are being sold, 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.

Case History

This investigation was initiated on July 18, 2000.[1] *See Initiation of Antidumping Duty Investigations: Steel Concrete Reinforcing Bars from Austria, Belarus, Indonesia, Japan, Latvia, Moldova, the People's Republic of China, Poland, the Republic of Korea, the Russian Federation, Ukraine, and Venezuela,* 65 FR 45754 (July 25, 2000) (*Initiation Notice*). Since the initiation of these investigations, the following events have occurred.

On August 14, 2000, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to this investigation are threatening material injury or materially injuring a regional industry in the United States producing the domestic like product. *See Certain Steel Concrete Reinforcing Bars From Austria, Belarus, China, Indonesia, Japan, Korea, Latvia, Moldova, Poland, Russia, Ukraine, and Venezuela,* 65 FR 51329 (August 23, 2000). With respect to subject imports from Austria, Russia, and Venezuela, the ITC determined that imports from these countries during the period of investigation (POI) were negligible and, therefore, these investigations were terminated. The ITC also determined that there is no reasonable indication that an industry in the United States is

[1] The petitioner in these investigations is the Rebar Trade Action Coalition (RTAC), and its individual members, AmeriSteel, Auburn Steel Co., Inc., Birmingham Steel Corp., Border Steel, Inc., Marion Steel Company, Riverview Steel, and Nucor Steel and CMC Steel Group. (Auburn Steel was not a petitioner in the Indonesia case).