

is participating in these reviews, and it is revoking these antidumping duty orders.

#### Effective Date of Revocations

Pursuant to sections 751(c)(3)(A) and 751(d)(2) of the Act, and 19 CFR 351.222(i)(2)(i), the Department will instruct the Customs Service to terminate the suspension of liquidation of the merchandise subject to these orders entered, or withdrawn from warehouse, on or after May 14, 2001. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 27, 2001.

**Bernard T. Carreau,**

*Deputy Assistant Secretary, Import Administration.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-421-807]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products From the Netherlands

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

**EFFECTIVE DATE:** May 3, 2001.

**FOR FURTHER INFORMATION CONTACT:** Melissa Blackledge, Stephanie Arthur, or Robert James at (202) 482-3518, (202) 482-6312, or (202) 482-0649, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, 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 Tariff Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to the regulations at 19 CFR part 351 (April 2000).

#### Preliminary Determination

We preliminarily determine that certain hot-rolled carbon steel flat products (hot-rolled steel) from the Netherlands 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 Tariff Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

On December 4, 2000 the Department initiated antidumping investigations of hot-rolled steel from Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine. See Initiation of Antidumping Duty Investigation: Certain Hot-Rolled Carbon Steel Flat Products from Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine, 65 FR 77568 (December 12, 2000). Since the initiation of these investigations the following events have occurred.

In its initiation notice the Department set aside a period for all interested parties to raise issues regarding product coverage. See 65 FR 77568. We received comments regarding product coverage as follows: from Duracell Global Business Management Group on December 11, 2000; from Energizer on December 15, 2000; from Bouffard Metal Goods Inc. and Truelove & MacLean, Inc. on December 18, 2000; from the Corus Group plc., which includes Corus Steel USA (CSUSA) and Corus Staal BV (Corus Staal), and Thomas Steel Strip on December 26, 2000; and from Rayovac Corporation on March 12, 2001.

On December 22, 2000, the Department issued a letter to interested parties in all of the concurrent HR products antidumping investigations, providing an opportunity to comment on the Department's proposed model matching characteristics and hierarchy. Comments were submitted by: petitioners (January 5, 2001); Corus Staal and CSUSA (January 3, 2001); Iscor Limited (Isacor), respondent in the South Africa investigation (January 3, 2001); and Zaporizhstal, respondent in the Ukraine investigation (January 3,

2001). Petitioners agreed with the Department's proposed characteristics and hierarchy of characteristics. Corus Staal and CSUSA suggested adding a product characteristic to distinguish prime merchandise from non-prime merchandise. Neither Iscor nor Zaporizhstal proposed any changes to either the list of product characteristics proposed by the Department or the hierarchy of those product characteristics but, rather, provided information relating to its own products that was not relevant in the context of determining what information to include in the Department's questionnaires. For purposes of the questionnaires subsequently issued by the Department to the respondents, no changes were made to the product characteristics or the hierarchy of those characteristics from those originally proposed by the Department in its letter dated December 22, 2000. With respect to Corus Staal's and CSUSA's request, the additional product characteristic suggested to distinguish prime from non-prime merchandise is unnecessary. The Department already asks respondents to distinguish prime from non-prime merchandise in field number 2.2 "Prime vs. Secondary Merchandise." See the Department's Antidumping Duty Questionnaire, at B-7 and C-7. These fields are used in the model-match program to prevent matches of prime merchandise to non-prime merchandise.

On December 28, 2000, the United States International Trade Commission (ITC) notified the Department that it preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by the reason of imports of the subject merchandise from Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine. See Hot-Rolled Steel Products from Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine, 66 FR 805 (January 4, 2001).

On January 4, 2001 the Department issued an antidumping questionnaire to the Corus Group plc., the sole producer of subject hot-rolled steel in the Netherlands. We requested that Corus Staal and CSUSA respond to section A (general information, corporate structure, sales practices, and merchandise produced), section B (home market or third-country sales), section C (U.S. sales), section D (cost of production/constructed value), and, if applicable, section E (cost of further

manufacture or assembly performed in the United States).

Respondent submitted its initial response to section A of the Department's questionnaire on February 1, 2001. We received Corus Staal's and CSUSA's sections B through E responses on February 26, 2001. Petitioners filed comments regarding all portions of respondent's questionnaire response on March 6, 2001. We issued the following supplemental questionnaires to respondent: (i) Section A on February 27, 2001, (ii) sections B and C on March 13, 2001, and (iii) sections D and E on March 14, 2001. Respondent filed a response to our section A and sections B through E supplemental questionnaires on March 16, 2001 and April 4, 2001, respectively. In addition, pursuant to the Department's preliminary determination that Corus Staal and CSUSA are affiliated with Galvpro LP (Galvpro), on March 16, 2001 respondent filed a section E response reporting the cost of U.S. further manufacturing incurred by Galvpro. See Memorandum to Joseph A. Spetrini; Affiliation Issue Regarding Galvpro LP and Laura Metaal Holding, February 27, 2001 (Affiliation Memorandum); see also Letter from Robert M. James to the Corus Group, February 27, 2001. The "Affiliation" section of this notice provides further information regarding our preliminary determination with respect to affiliation issues.

#### Period of Investigation

The period of investigation (POI) is October 1, 1999 through September 30, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., December 2000), and is in accordance with our regulations. See 19 CFR 351.204(b)(1).

#### Scope of Investigation

For purposes of this investigation, the products covered are certain hot-rolled carbon steel flat 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 of 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 4.0 mm, not in coils and

without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation. Specifically included within the scope of this investigation 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 or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, 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 definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 2.25 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
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, 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 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, A506).
- Society of Automotive Engineers (SAE)/American Iron and Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.

- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this investigation is classified in the HTS 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, 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, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon steel flat products 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. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

#### Affiliation

In its initiation notice, the Department identified as a respondent in this investigation the Corus Group plc. See 65 FR 77573. As indicated in respondent's February 1, 2001 questionnaire response at pages A-7 and A-8, the Corus Group plc. wholly owns Koninklijke Hoogovens NV (KHNV) which, in turn, wholly owns

Corus Staal. CSUSA is a U.S. subsidiary of KHNv and acts as an agent for Corus Staal's U.S. sales. CSUSA argues in its January 18, 2001 submission that Galvpro should not be considered an affiliated party under section 771(33) of the Tariff Act because neither Corus Staal nor CSUSA has any direct or indirect ownership of Galvpro<sup>1</sup>. In addition, Corus Staal claims in its February 1, 2001 questionnaire response that it also considers sales made to Laura Metaal Trading BV (Laura Metaal) to be unaffiliated transactions because KHNv (Corus Staal's parent and a minority shareholder in Laura Metaal) is not in a position to exercise or assert control over Laura Metaal or its subsidiaries.

However, as explained below, the Department has preliminarily determined that Corus Staal, CSUSA, Laura Metaal, and Galvpro are affiliated parties within the meaning of section 771(33)(F) of the Tariff Act because they are all under the common control of the Corus Group plc. See Affiliation Memorandum. Section 771(33)(F) of the Tariff Act defines affiliated parties to include "[t]wo or more persons directly or indirectly controlling, controlled by, or under the common control with, any person." Control, in turn, is defined by section 771(33) as one person being "legally or operationally in a position to exercise restraint or direction over the other." In determining whether control exists, the Department considers corporate or family groupings, franchise or joint venture agreements, debt financing, and close supplier relationships. See 19 CFR 351.102(b).

Galvpro is a joint venture of Corus Coatings USA, Inc., a wholly-owned subsidiary of the Corus Group plc., and Weirton Coatings LLC, a subsidiary of Weirton Steel Corporation (Weirton). The Corus Group plc. (through Corus Coatings USA) has a substantial equity interest in Galvpro. See Respondent's February 1, 2001 response at page A-10; see also Respondent's January 18, 2001 letter to the Department at page 3. In previous cases the Department has determined that control exists when one party is in a position to influence the pricing and production decisions of the affiliated entity. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Stainless Steel

Sheet and Strip in Coils From Germany, 64 FR 30710, 30721-24 (June 8, 1999). The record in this investigation indicates that the Corus Group plc. is indeed in a position to influence pricing and production decisions of Galvpro. See Affiliation Memorandum at pages 2 and 3 for more detailed information regarding this issue. In addition, a review of the record reveals other indicia of control, including debt financing of Galvpro by the Corus Group plc.. See Affiliation Memorandum at page 3; see also Petitioners' January 26, 2001 submission at Exhibit 2. Finally, the significant equity in Galvpro by the Corus Group plc. (through Corus Coatings USA) is clear evidence of the ability of Corus Group plc. to exert influence over Galvpro's production, pricing, or cost of the subject merchandise or foreign like product.

The record also indicates that the Corus Group plc. has the ability to exert control over Laura Metaal. Laura Metaal consumes subject merchandise through its manufacturing operations and acts as a reseller through its service center.<sup>2</sup> See Respondent's February 1, 2001 response at page A-3. The Corus Group plc. wholly owns KHNv, which in turn has a minority shareholder interest in Laura Metaal. In addition, KHNv nominated one of the four voting members on Laura Metaal's Board of Directors, and nominated one of two non-voting advisors to the Board, affording the Corus Group plc. substantial influence over Laura Metaal and the company's operations. See Respondent's February 1, 2001 response at page A-3.

As indicated above, the Corus Group plc. has the potential ability to exercise direction and restraint over Galvpro's and Laura Metaal's production and pricing. The Corus Group plc. has a substantial equity interest in both Galvpro and Laura Metaal and plays a substantial role in their operations and management. The Corus Group plc. is in a position, legally and operationally, to exercise direction and restraint over both Galvpro and Laura Metaal, within the meaning of section 771(33)(F) of the Tariff Act, as amended by the URAA. Because Corus Staal and CSUSA are wholly-owned subsidiaries of the Corus Group plc, Corus Group plc also is in a position legally and operationally to exercise direction and restraint over Corus Staal and CSUSA, within the meaning of section 771(33)(F) of the Act. As a result, we preliminarily find that both Galvpro and Laura Metaal are affiliated with Corus Staal and CSUSA, within the meaning of section 771(33)(F) of the Tariff Act because these four companies are all under the common control of the Corus Group plc.

For a more detailed discussion of our preliminary affiliation determination, please refer to the Affiliation Memorandum.

### Product Comparisons

Pursuant to section 771(16) of the Tariff Act, all products produced by the respondent that are within the scope of the investigation, above, and were sold in the comparison market during the POI, are considered to be foreign like products. We have relied on the following eleven criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: whether or not painted, quality, carbon content level, yield strength, thickness, width, whether coil or cut sheet, whether or not tempered, whether or not pickled, whether mill or trimmed edge, and whether the steel is rolled with or without patterns in relief. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's January 4, 2001 questionnaire.

### Fair Value Comparisons

To determine whether sales of hot-rolled steel from the Netherlands were made in the United States at less than fair value, we compared constructed export price (CEP) to normal value (NV), as described in the "Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Tariff Act, we calculated weighted-average CEPs for comparison to weighted-average NVs.

### Constructed Export Price

Corus Staal reported as export price (EP) transactions certain sales of subject merchandise sold to unaffiliated U.S. customers prior to importation. Corus Staal reported as CEP transactions its sales of subject merchandise sold through the Rafferty-Brown Companies, two affiliated steel service centers which further manufacture flat-rolled steel products. In addition, in accordance with our preliminary affiliation determination, Corus Staal reported as CEP transactions sales made through Galvpro.

We have preliminarily determined with respect to Corus Staal's reported EP sales that such transactions are properly classified as CEP transactions. Having reviewed the evidence on the record of this investigation regarding respondent's reported EP sales, we conclude that sales between the foreign producer (i.e., Corus Staal) and the U.S.

<sup>1</sup> Galvpro is a limited partnership, with ownership held by Weirton Coatings LLC, the Galvpro management, and Corus Group plc. (through Corus Coatings LLC). Galvpro was formed to construct and operate a manufacturing facility for the treatment of cold-rolled steel to produce galvanized steel products. See Respondent's January 18, 2001 submission at page 2.

customer were made "in the United States" by CSUSA on behalf of Corus Staal within the meaning of section 772(b) of the Tariff Act, and therefore, should be treated as CEP transactions. Specifically, although Corus Staal initially reaches the agreement with the U.S. customer on the estimated overall volume and pricing of merchandise, CSUSA provides the final written confirmation of the agreement, setting forth the agreed prices and quantities, to the U.S. customer. See Respondent's February 1, 2001 response at page A-56. The description provided by Corus Staal regarding the sales process for its alleged EP transactions indicates that, for these sales, the merchandise was "sold (or agreed to be sold)" in the United States. Therefore, we have preliminarily decided to treat Corus Staal's reported EP sales as CEP transactions. This is consistent with the Federal Circuit's decision in *AK Steel Corporation et. al. v. United States*, 226 F.3d 1361 (Fed. Cir. 2000) (AK Steel). See also Polyvinyl Alcohol from Japan: Preliminary Results of Antidumping Duty Administrative Review, 66 FR 11140 (February 22, 2001), where the Department preliminarily determined that, pursuant to AK Steel, sales through a U.S. affiliate were made "in the United States" and were therefore classifiable as CEP transactions. For a more detailed discussion of this issue, please refer to our Preliminary Analysis Memorandum, dated April 23, 2001.

We calculated CEP in accordance with subsection 772(b) of the Tariff Act. We based CEP on the packed, delivered, duty paid or delivered prices to unaffiliated purchasers in the United States. We made adjustments for price-billing errors and early payment discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act; these included, where appropriate, foreign inland freight, marine insurance, foreign brokerage and handling, international freight, U.S. customs duties, U.S. inland freight, U.S. inland insurance, and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Tariff Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs and warranty expenses), and indirect selling expenses, including inventory carrying costs. We also made an adjustment for profit in accordance with section 772(d)(3) of the Tariff Act.

With respect to subject merchandise to which value was added in the United States by the Rafferty Brown Companies and Galvpro prior to sale to unaffiliated

customers, we deducted the cost of further manufacturing in accordance with section 772(d)(2) of the Tariff Act.

#### Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP the U.S. 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.<sup>3</sup>

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

<sup>3</sup>The U.S. Court of International Trade (CIT) has held that the Department's practice of determining levels of trade for CEP transactions after CEP deductions is an impermissible interpretation of section 772(d) of the Tariff Act. See *Borden, Inc. v. United States*, 4 F. Supp. 2d 1221, 1241-42 (CIT 1998) (Borden); see also *Micron Technology v. United States*, 40 F. Supp. 2d. 481 (1999)(Micron). The U.S. Court of Appeals for the Federal Circuit (CAFC), however, has reversed the CIT's holdings in both *Micron* and *Borden* on the level of trade issue. The CAFC held that the statute unambiguously requires Commerce to deduct the selling expenses set forth in section 772(d) from the CEP starting price prior to performing its LOT analysis. See *Micron Technology Inc. v. United States*, Court Nos. 00-1058-1060 (Fed. Cir. March 7, 2001); see also *Borden, Inc. v. United States*, Court Nos. 99-1575-1576 (Fed. Cir. March 12, 2001)(unpublished opinion). Consequently, the Department will continue to adjust the CEP, pursuant to section 772(d) of the Tariff Act, prior to performing the LOT analysis, as articulated by the Department's regulations at 19 CFR 351.412.

In implementing these principles in this investigation, we obtained information from Corus Staal and CSUSA about the marketing stages involved in its reported U.S. and home market sales, including a description of the selling activities performed by Corus Staal and CSUSA for each channel of distribution. In identifying LOTs for U.S. CEP sales we considered the selling functions reflected in the starting price after any adjustments under section 772(D) of the Tariff Act.

In the home market, Corus Staal reported two channels of distribution (sales by Corus Staal and sales through its affiliated service centers) and three customer categories (end users, steel service centers, and trading companies). For both channels of distribution in the home market, Corus Staal performed similar selling functions, including strategic and economic planning, advertising, freight and delivery arrangements, technical/warranty services, and sales logistics support. The remaining selling activities did not differ significantly by channel of distribution. See Corus Staal's February 1, 2001 response at Exhibit A-8. Because channels of distribution do not qualify as separate levels of trade when the selling functions performed for each channel are sufficiently similar, we have determined that one LOT exists for Corus Staal's home market sales.

In the United States CSUSA reported two channels of distribution for sales of subject merchandise during the POI (EP sales made directly from CSUSA to U.S. customers and CEP sales made through affiliated service centers). For EP sales, CSUSA reported two customer categories (end users and steel service centers). See CSUSA's February 26, 2001 response at pages C-13 through C-15. As explained in the "Constructed Export Price" section of our notice, we have preliminarily determined that all of Corus Staal's reported EP transactions are properly classified as CEP sales. In CEP situations we do not determine the U.S. LOT on the basis of the CEP starting price. Rather, as described above, we determine the U.S. LOT on the basis of the CEP starting price minus the expenses and profit deducted pursuant to section 772(d) of the Act.

Corus Staal and CSUSA claimed that sales made through its second channel of distribution in the home market (i.e., those through affiliated service centers) constituted a different LOT from its alleged EP sales. Corus Staal and CSUSA therefore requested a LOT adjustment to the extent that price comparisons were made between U.S. EP sales and those through home market affiliated service centers. As there are no

EP transactions in the United States, it is not necessary to address respondent's request for a LOT adjustment with respect to EP sales.

With regard to its CEP sales, respondent claims that a CEP offset for sales made through two affiliated parties, Rafferty-Brown Steel Company of Connecticut (RBC) and Rafferty-Brown Steel Company of North Carolina (RBN) (collectively, the Rafferty-Brown Companies) is appropriate because the RBC and RBN sales are made at a point in the distribution process that is less advanced than Corus Staal's home market sales. In analyzing respondent's request for a CEP offset, we reviewed information respondent provided in section A of its response regarding selling activities performed and services offered in the U.S. and foreign market. We found there to be few differences in the selling functions performed by Corus Staal on sales to its affiliated U.S. importers and those performed for sales in the home market. For example, on sales to both home market customers and to affiliated U.S. importers, Corus Staal provided similar freight and delivery services and technical/warranty assistance. See Respondent's February 1, 2001 response at pages A-19 through A-46. The Department has preliminarily determined that the record does not support Corus Staal's claim that home market sales are at a different, more advanced LOT than the adjusted CEP sales. Accordingly, no CEP offset adjustment to NV is warranted. For a more detailed discussion regarding the basis for our LOT determination, refer to our Preliminary Determination Analysis Memorandum for the Corus Group plc., dated April 23, 2001.

## Normal Value

### *Home Market Viability*

In order to determine whether there was 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 was equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Corus Staal's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Tariff Act. As Corus Staal's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales in the usual commercial

quantities and in the ordinary course of trade.

### *Affiliated-Party Transactions and Arm's-Length Test*

Corus Staal's sales to affiliated home market customers for consumption which were not made at arm's-length prices were excluded from our analysis because we considered them to be outside the ordinary course of trade.<sup>4</sup> See 19 CFR 351.102(b). To test whether these sales were made at arm's-length prices, we 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 the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c). In instances where no price ratio could be calculated for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. See, e.g., 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); see also Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Brazil, 63 FR 59509, 59512 (November 4, 1998). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

<sup>4</sup> On March 6, 2001 Corus Staal requested that it not be required to report downstream home market sales made through Feijen Staal service (Feijen), claiming that the cut-to-length sheet sold by this firm would have a low likelihood of matching to U.S. sales of coiled material. The Department informed Corus Staal on March 8, 2001 that it would not be required to report Feijen's downstream sales based on Corus Staal's claims, on the record, with respect to the nature of the products sold by Feijen. The Department will accordingly include in its calculation of normal value sales to Feijen from Corus Staal, provided these transactions pass our arm's-length test. Corus Staal also requested an exemption from reporting downstream sales made by Vlietjonge BV (Vlietjonge), an affiliated party involved in the processing and sale of flat products. See Corus Staal's April 4, 2001 supplemental response at page A-4. Corus Staal again claimed that the cut-to-length merchandise sold by Vlietjonge would not likely match to U.S. sales of coiled material. The Department granted Corus Staal's request on April 6, 2001.

### *Cost of Production Analysis*

Based on allegations contained in the petition, and in accordance with section 773(b)(2)(A)(i) of the Tariff Act, we found reasonable grounds to believe or suspect that sales of hot-rolled steel produced in the Netherlands were made at prices below the cost of production (COP). As a result, the Department has initiated investigations to determine whether Corus Staal made home market sales during the POI at prices below its respective COP, within the meaning of section 773(b) of the Tariff Act. We conducted the COP analysis described below.

#### A. Calculation of COP

In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of Corus Staal's cost of materials and fabrication for the foreign like product, plus an amount for home market SG&A expenses, interest expenses, and packing costs. We relied on the home market sales and COP information provided by Corus Staal in its original and supplemental responses. Where appropriate, we made certain adjustments to Corus Staal's reported COP. See Memorandum to the File, "Analysis of Cost-of-Production Data of Corus Group plc.," April 23, 2001, on file in room B-099 of the Main Commerce building.

#### B. Test of Home-Market Sales Prices

We compared the adjusted weighted-average COP for Corus Staal to the home market sales of the foreign like product, as required under section 773(b) of the Tariff Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (i.e., a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. In accordance with section 773(b)(2)(C)(i) of the Tariff Act, we determined that sales made below the COP were made in substantial quantities if the volume of such sales represented 20 percent or more of the volume of sales under consideration for the determination of normal value.

On a model-specific basis, we compared the revised COP to the home market prices, less any applicable movement charges and other direct and indirect selling expenses.

#### C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of

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

We found that for certain models of hot-rolled steel, more than 20 percent of the home-market sales by Corus Staal were made within an extended period of time at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Tariff Act. For those U.S. sales of hot-rolled steel for which there were no comparable home market sales in the ordinary course of trade, we compared EP to constructed value (CV) in accordance with section 773(a)(4) of the Tariff Act. See Price-to-CV Comparisons, below.

**D. Calculation of Constructed Value**

In accordance with section 773(e)(1) of the Tariff Act, we calculated CV based on the sum of Corus Staal's cost of materials, fabrication, SG&A, interest, U.S. packing costs, and an amount for profit. We made adjustments similar to those described above for COP. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A and profit on the amounts incurred and realized by Corus Staal in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market. For selling expenses we used the weighted-average home market selling expenses.

**Price-to-Price Comparisons**

We calculated NV based on the FOB or delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, early payment discounts, and inland freight. Where appropriate, we made adjustments for differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii)

of the Tariff Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Tariff Act for differences in circumstances of sale for imputed credit expenses (offset by interest revenue) and warranties. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Tariff Act.

**Price-to-CV Comparisons**

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act. We deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses in accordance with section 773(a)(6)(C)(iii) of the Tariff Act.

**Currency Conversions**

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

**Verification**

Pursuant to section 782(i) of the Tariff Act, we intend to verify all information relied upon in making our final determination.

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Tariff Act, we are directing the Customs Service to suspend liquidation of all entries of hot-rolled steel from the Netherlands that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the 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 CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Corus Staal BV .....	2.44
All Others .....	2.44

**ITC Notification**

In accordance with section 733(f) of the Tariff Act, we have notified the ITC of our determination. If our final antidumping determination is 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 this preliminary determination or 45 days after the date of our final determinations.

**Public Comment**

Case briefs or other written comments in at least six copies must be submitted to the Assistant Secretary for Import Administration no later than 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. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Tariff Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. 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 to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the 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. Oral presentations will be limited to issues raised in the case and rebuttal briefs. We intend to make our final determination no later than 75 days after the date of this preliminary determination.

This determination is published pursuant to sections 733(f) and 777(i)(1) of the Tariff Act. Since January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 23, 2001.

**Bernard T. Carreau,**  
*Deputy Assistant Secretary, Import Administration.*

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