Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the 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 EP, 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
Kuei Yi Industrial Co., Ltd. ...	18.01
Tung Ho Steel Enterprise Corporation	4.70
All Others	13.95

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 these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for 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. Section 774 of the Act provides that the Department will hold a public 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 an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date 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 briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

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

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31986 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–811]

Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Spain

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

ACTION: Notice of Preliminary Determination of Sales at Not Less Than Fair Value.

SUMMARY: We preliminarily determine that structural steel beams from Spain are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Jennifer Gehr or Mike Strollo, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1779 or (202) 482–0629, respectively.

SUPPLEMENTARY INFORMATION:

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. In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department's'') regulations are to 19 CFR part 351 (April 2001).

Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 20, 2001)) (''*Initiation Notice*''), the following events have occurred.

On July 9, 2001, the United States International Trade Commission (''ITC'') preliminarily determined that there is a reasonable indication that imports of structural steel beams from Spain are materially injuring the United States industry (*see* ITC Investigation Nos. 731-TA–935–942 (Publication No. 3438)).

On July 18, 2001, we selected the largest producer/exporter of structural steel beams from Spain as the mandatory respondent in this proceeding. For further discussion, see Memorandum to Lou Apple, Director, Office 2, from The Team Re: Respondent Selection dated July 18, 2001. We subsequently issued the antidumping questionnaire to Aceralia Corporacion Siderurgica, S.A. (Aceralia) on July18, 2001.

During the period August through November 2001, the Department received responses to sections A, B, C and D of the Department's original and supplemental questionnaires from Aceralia. On December 18, 2001, we issued an additional supplemental questionnaire to the respondent.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary*

Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan, 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 56078 (November 6, 2001).)

Postponement of Final Determination

Pursuant to section 735(a)(2) of the Act, on December 18, 2001, the petitioners requested that, in the event of a negative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**. In accordance with 19 CFR 351.210(b), because our preliminary determination is negative and no compelling reasons for denial exist, we are granting the petitioners' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams (''W'shapes), bearing piles (''HP'' shapes), standard beams (''S'' or ''I'' shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties*; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (*see* 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp. v. United States*, 572 F. Supp. 883, 889 (CIT 1983) (''*Diversified*''). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's (''ITC'') preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified,* we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that ''* * * beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition.'' However, '' * * * if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.'' Accordingly, we modified the scope definition to account for this clarification. *See* the ''Scope'' section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

Period of Investigation

The period of investigation (''POI'') is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of structural steel beams from Spain to the United States were made at less than fair value (''LTFV''), we compared the export price (''EP'') or constructed export price (''CEP'') to the normal value (''NV''), as described in the ''Export Price,'' ''Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs and CEPs to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondent in the home market during the POI that fit the description in the ''Scope of Investigation'' section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent in the following order of importance: form; shape/size (section depth); strength/grade; and coating.

With respect to home market sales of non-prime merchandise made by Aceralia during the POI, in accordance with our past practice, we excluded these sales from our preliminary analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POI. (*See, e.g., Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Korea,* 58 FR 37176, 37180 (July 9, 1993).) In addition, we excluded from our preliminary analysis all home market sales between Aceralia's mills because these sales were made for internal consumption. (For further discussion, see Memorandum to the file from Jennifer Gehr Re: Calculations Performed for Aceralia Corporacion Siderurgica, S.A. (Aceralia) for the Preliminary Determination in the Less Than Fair Value Investigation on Structural Steel Beams from Spain dated December 19, 2001 (''Sales Calculation Memorandum'').)

Export Price

In accordance with section 772(a) of the Act, we calculated EP for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States. We based EP on the packed price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight and foreign brokerage and handling.

Constructed Export Price

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

We based CEP on the packed prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors. We made deductions for rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland freight expenses (freight from port to warehouse) and U.S. storage expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.,* imputed credit costs) and indirect selling expenses.

Aceralia did not report rebates on certain sales made during the POI. Because the terms of the rebate agreement provide for the payment of rebates on these sales, we based the per-unit rebate expense for them on the amount reported for other sales to the same customers. In addition, Aceralia reported rebates, as well as certain movement expenses, on a theoretical-weight basis. We adjusted these expenses to state them on an actual-weight basis. (*See* the Sales Calculation Memorandum.)

For those U.S. sales which Aceralia did not report a date of payment, we have used the signature date of the preliminary determination (*i.e.,* December 19, 2001) in the calculation of imputed credit expenses. In addition, we restated the respondent's U.S. interest rate on a 365-day basis (rather than a 360-day basis as reported). (*See* the Sales Calculation Memorandum.)

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Aceralia and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent.

B. Affiliated-Party Transactions and Arm's-Length Test

The Department's standard practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are made at arm's-length prices. Therefore, in accordance with that practice, we

performed an arm's-length test on Aceralia's sales to affiliates as follows.

To test whether these sales were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of the foreign like product, 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. Where, for the tested models of the foreign like product, prices to the affiliated party were on average lower than 99.5 percent of the price to the unaffiliated parties, we determined that sales made to the affiliated party were not at arm's length. *See* 19 CFR 351.403(c). *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 58 FR 37062, 37077 (July 9, 1993).

In accordance with 19 CFR 351.403(d), where the respondent's sales to its affiliates constituted at least five percent of the total home market sales, and these sales failed the arm's-length test, our normal practice would be to use sales made by the affiliates to unaffiliated customers in our analysis. In this case, however, we were unable to do so because Aceralia either: (1) Was unable to provide this information; (2) failed to provide it in response to a specific request; or (3) reported information that was so incomplete that it could not be used for the preliminary determination. Consequently, we disregarded the first category of sales (i.e., those for which Aceralia was unable to provide the downstream information) and, we included the latter two categories in our analysis using adverse facts available.

Regarding the first scenario, Aceralia was unable to report downstream sales data for one customer group that became unaffiliated during the POI. In its November 9, 2001, supplemental questionnaire response, Aceralia demonstrated that: (1) it made numerous attempts to obtain the information from this customer after it became unaffiliated; and (2) the customer refused to provide the relevant data. Based on this information, we have accepted Aceralia's claim, for purposes of the preliminary determination that, even acting to the best of its ability, it could not provide the requested information. For the preliminary determination, we have excluded sales to this customer group from our analysis, because we found that they were not made at arm's-length. For further discussion, see the Sales Calculation Memorandum.

Regarding the latter two scenarios, Aceralia did not report necessary information requested by the Department in its supplemental questionnaire. Section 776(a)(2) of the Act provides that if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title.[1] Section 776(b) of the Act further provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

In this case, we find that Aceralia withheld downstream information requested by the Department for certain sales and failed to provide complete and usable information on others. Because: (1) We informed Aceralia of the deficiency in its data and provided it an opportunity to remedy it in a supplemental questionnaire (pursuant to section 782(d) of the Act); and (2) Aceralia did not provide the information requested or provide information that was so incomplete that it could not be used (within the meaning of section 782(e) of the Act), we resorted to facts otherwise available. Further, the data that Aceralia claimed it was unable to provide for these transactions was provided for numerous other transactions. Aceralia did not indicate or explain why it was not possible to provide this information for the transactions in question. Therefore, we conclude that Aceralia could have provided the necessary data but chose not to, thereby failing to cooperate to the best of its ability within the meaning of section 776(b) of the Act. Accordingly, we adjusted the prices charged by Aceralia to the affiliated customers in question using adverse facts available. Specifically, we increased the prices charged to these customers by the largest customer-specific ratio calculated in the arm's length test (*i.e.,* the largest average price difference between the prices charged to any affiliated customer and unaffiliated customers). For further discussion of our application of facts available for the preliminary determination, see the Sales Calculation Memorandum.

On December 18, 2001, we issued an additional supplemental questionnaire to Aceralia on this topic. We intend to verify Aceralia's response to this questionnaire and will consider this information, as appropriate, for purposes of the final determination.

C. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of structural steel beams in the home market were made at prices below their cost of production (''COP''). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether sales were made at prices below their respective COP (*see Initiation Notice*, 66 FR at 33048, 33051).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (''G&A''), interest expenses, and home market packing costs (*see* ''Test of Home Market Sales Prices'' section below for treatment of home market selling expenses). We relied on the COP data submitted by Aceralia, except as noted below.

1. We revised the G&A rate to include net foreign exchange losses on accounts payable for the Gijon plant. In addition, we excluded packing expenses from the cost of goods sold denominator of the four individual plant rate calculations.

[1] Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority'' if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information, if it can do so without undue difficulties.

2. We revised the denominator in the consolidated financial expense rate calculation to include only those offsets for interest income related to allowable short-term interest bearing items. We recalculated the denominator to be based on cost of goods sold rather than raw materials and also to exclude packing expenses.

3. We weight-averaged the revised COP/CV files for the four plants.

See Memorandum from Gina K. Lee to Neal M. Halper, Director, Office of Accounting, dated December 19, 2001, Re: Cost of Production and Constructed Value Calculation Adjustments for Preliminary Determination (''Cost Calculation Memorandum'').

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, rebates, discounts, and direct and indirect selling expenses. Regarding home market movement charges, without explanation, Aceralia did not report certain extra freight charges on sales to the Canary Islands, despite our request that it do so.

See Aceralia's November 8, 2001, submission at pages 15 and 16. As adverse facts available, we increased the freight expenses on these sales by the largest additional charge shown on Aceralia's agreement with its freight provider. (*See* the Sales Calculation Memorandum.)

In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances 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 are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances the below-cost sales represent ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of Aceralia's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (''LOT'') as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the ''chain of distribution''),[2] including selling functions,[3] class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.,* NV based on either home market or third country prices[4]), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States,* Court Nos. 00–1058,–1060 (Fed. Cir. March 7, 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.* no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *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).

We obtained information from Aceralia regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondent for each channel of distribution. Because Aceralia claimed business proprietary treatment for this information, we are unable to discuss it here. For a description of these selling functions, see the Sales Calculation Memorandum.

Aceralia reported home market sales through one channel of distribution: direct sales to both affiliated and unaffiliated distributors. As noted in the ''Affiliated Party Transactions and Arm's Length Test'' section of this notice, we based our preliminary analysis on Aceralia's direct sales (without considering any downstream information). In making our level of trade determination for these sales in the home market, we relied upon the information submitted in Aceralia's section A and supplemental section A responses. Based on our analysis of this business proprietary information, we find that only one level of trade exists

[2] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale appears to occur.

[3] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common structural steel beams selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services, where applicable.

[4] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

in the home market. *See* the Sales Calculation Memorandum.

In the U.S. market, Aceralia reported both EP and CEP sales. In its section A response, Aceralia stated that it made EP sales to the United States through Aristrain Hispano Trade Handelsgesellschaft (''AHT''), an affiliated trading company, for which the distribution process was analogous to Aceralia's CEP sales through TradeARBED, Inc. (''TradeARBED''). Because Aceralia did not report information on the selling functions performed by it in connection with AHT's sales to the first unaffiliated customer, we have insufficient information on the record to make a determination on the EP LOT. Nonetheless, given that we have only one LOT in the home market, it is not possible to make a LOT adjustment for EP sales. We have requested additional information on the selling functions/services provided to AHT and by AHT to its ultimate customer; we will re-examine this issue for purposes of the final determination in the event that we find multiple levels of trade in the home market at that time.

Regarding CEP sales, the relevant transaction for U.S. sales, after CEP adjustments are made, is between Aceralia and its affiliated distributor, TradeARBED. Based on the differences in the number and degree to which selling functions are performed in each market, we found the CEP LOT to be different from the home market LOT and to be at a less advanced stage of distribution than the home market LOT. (Because Aceralia claimed business proprietary treatment for this information, we are unable to discuss our analysis here. *See* the Sales Calculation Memorandum.) Consequently, we could not match to sales at the same LOT in the home market, nor could we determine a LOT adjustment based on Aceralia's home market sales. Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment.

Based on the selling functions provided by Aceralia for its sales to the United States, after CEP adjustments are made, we find that these sales are at a marketing stage which is less advanced than for Aceralia's home market sales. In addition, the data available do not permit us to determine the extent to which this difference in LOT affects price comparability. Therefore, in accordance with 19 CFR 351.412(f), we are granting Aceralia a CEP offset.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on delivered prices to unaffiliated customers, affiliated customers that we determined to be at arm's-length, or certain affiliated customers not determined to be at arm's-length (adjusted as noted in the ''Affiliated Party Transactions and Arm's Length Test'' section, above). We made deductions, where appropriate, from the starting price for billing adjustments, discounts and rebates. We also made deductions for movement expenses, including inland freight, under section 773(a)(6)(B)(ii) of the Act. We increased freight expenses to the Canary Islands, as noted in the ''Test of Home Market Sales Prices'' section, above.

In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for commissions. Because Aceralia reported commissions on a theoretical-weight basis, we restated these expenses to an actual-weight basis. In addition, we recalculated the commission expenses associated with certain sales in order to assign these expenses to the transactions on which they were incurred. Finally, we disallowed an adjustment for imputed credit expenses because Aceralia's payment data contained numerous inconsistencies. (*See* the Sales Calculation Memorandum.)

In accordance with 19 CFR 351.410(e), we offset the commission incurred in the U.S. market with the indirect selling expenses incurred in the home market by the lesser of the commission or the indirect selling expenses. We reclassified technical service expense incurred in the home market as indirect selling expenses because they are not directly associated with individual sales. In addition, we recalculated these expenses as a single percentage of gross unit price because Aceralia did not explain how the expenses differed by mill. (*See* the Sales Calculation Memorandum.)

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the comparison-market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

Currency Conversion

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

Verification

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

Suspension of Liquidation

Exporter/manufacturer	Weighted-average margin Percentage
Aceralia Corporacion Siderurgica, S.A.	1.21

Because the estimated weighted-average dumping margin for the examined company is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of structural steel beams from Spain.

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, pursuant to section 735(b)(3) of the Act, the ITC will determine within 75 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for 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. Section 774 of the Act provides that the Department will hold a public 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 an interested party. If a

request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date 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 briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

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

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31987 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–811]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From South Africa

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

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that structural steel beams from South Africa are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Because we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4033.

SUPPLEMENTARY INFORMATION:

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. In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department's'') regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan,* 66 FR 33048 (June 20, 2001)) (*''Initiation Notice''*), the following events have occurred.

On July 9, 2001, the United States International Trade Commission (''ITC'') preliminarily determined that there is a reasonable indication that imports of structural steel beams from South Africa are materially injuring the United States industry (*see Certain Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan* (66 FR 37050 (July 16, 2001)).

On July 20, 2001, we selected the largest producer/exporter of structural steel beams from South Africa as a mandatory respondent in this proceeding. For further discussion, see Memorandum to Laurie Parkhill, Director Office 3, from The Team Re: Respondent Selection dated July 20, 2001. We subsequently issued the antidumping questionnaire to Highveld Steel and Vanadium Corporation, Ltd. (''Highveld''), on July 20, 2001.

During the period August through November 2001, the Department received responses to sections A, B, C, and D of the Department's original and supplemental questionnaires from Highveld.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan,* 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan* (66 FR 56078 (November 6, 2001).)

On October 3, 2001, the petitioners requested that the Department initiate a sales-below-cost investigation with respect to Highveld. We initiated such an investigation on October 29, 2001. (*See* Memorandum to Richard W. Moreland from Laurie Parkhill Re: Initiation of Cost Investigation, dated October 29, 2001, for further details.)

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on December 14, 2001, Highveld requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b)(2)(ii), because (1) Our preliminary determination is affirmative, (2) Highveld accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed