

annealing, with flat defined as less than or equal to 1 I unit with no coil set.

The merchandise subject to this investigation is typically classified in the HTSUS at subheadings: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.19.0000, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8085, 7225.99.0090, 7226.19.1000, 7226.19.9000, 7226.92.5000, 7226.92.7050, 7226.92.8050, and 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Issues

In the *Initiation Notice*, we invited all interested parties to raise issues and comment regarding the product coverage under the scope of these investigations. We received numerous comments, including scope clarification and scope exclusion requests. The requests covered approximately 80 cold-rolled steel products.

In our review of the comments, we found that, in the overwhelming majority of the cases, parties disagreed on whether or not the exclusion should be granted. Both requesters and petitioners provided factual information and argument in support of their position. We are currently analyzing the information provided.

All parties, however, have agreed to the exclusion from the scope of these investigations of porcelain enameling sheet. This exclusion covers the following product:

Porcelain enameling sheet whether or not coated prior to importation with the following additional characteristics:

Porcelain enameling cold-rolled sheet, the foregoing being continuous annealed cold-reduced steel with a nominal thickness of not more than 0.48 mm and widths from 762 mm to 1,524 mm, having a chemical composition, by weight, of not more than 0.004 percent carbon, nor more than 0.010 percent aluminum, 0.006 percent or more of nitrogen, 0.012 percent or more of boron, and more than 0.005 percent silicon, and 0.010 percent or more of oxygen; having no intentional addition of and less than 0.002 percent by weight of titanium, no intentional addition of and less than 0.002 percent by weight of vanadium, no intentional addition of and less than 0.002 percent by weight of niobium, and no intentional addition of and less than 0.002 percent of antimony; having a yield strength of from 179.3 MPa to 344.7 MPa, a tensile strength of from 303.7 MPa to 413.7 MPa, a percent of elongation of from 28 percent to 46 percent on a standard ASTM sample with a 5.08 mm gauge length; for Fishscale resistance; hydrogen traps provided; with a product shape of flat after annealing, with

flat defined as less than or equal to 1 I unit with no coil set.

Therefore, with regard to porcelain enameling cold-rolled sheet, we have amended the scope of these investigations to exclude this product as described above (see preceding *Scope of the Investigations* section). We will instruct Customs accordingly.

With regard to all other products for which an exclusion was requested, we have determined that it is not practicable for the Department to complete the analysis of each request by the issuance of the notice of preliminary determination. This is due to a number of factors, including the large number of requests and the complexity of the issues involved. We will issue a decision memorandum containing the Department's preliminary determination on all product exclusion requests submitted in the course of these investigations at the earliest possible date but not later than May 24, 2002.

We invite parties to comment on our preliminary determination on this issue. Parties will have three weeks to comment from the date of issuance of the memorandum.

[FR Doc. 02-11182 Filed 5-8-02; 8:45 am]
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DEPARTMENT OF COMMERCE

International Trade Administration

[A-602-804]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Australia

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

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Paige Rivas at (202) 482-0651 or Mark Manning at (202) 482-5253, AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Preliminary Determination

We preliminarily determine that certain cold-rolled carbon steel flat

products (cold-rolled steel) from Australia are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the **Suspension of Liquidation** section of this notice.

Case History

This investigation was initiated on October 18, 2001.¹ See *Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 54198 (October 26, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

On October 31, 2002, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes, and we received comments on our proposed matching criteria on November 8, 2001. On November 8, 2001, we received model match comments from petitioners and respondents. On November 26, 2001, we informed respondents of our revised model match criteria.

On November 13, 2001, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela of cold-rolled steel products. See *Certain Cold-Rolled Steel Products From Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 57985 (November 19, 2001).

On November 19, 2001, the Department issued a complete antidumping questionnaire to Broken Hill Proprietary Limited Steel (BHP JLA), and BHP Steel Americas (BHP SA)

¹ The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel Inc., and Weirton Steel Corporation (collectively, the petitioners).

(collectively known as BHP).² We issued a corrected version of appendix V with revised product characteristic variables on November 26, 2001. BHP submitted its Section A response on December 10, 2001. On December 21, 2001, the Department issued a Section A supplemental questionnaire. On January 14, 2002, BHP submitted its responses to the Department's Sections B and C questionnaire, as well as the Section A supplemental questionnaire. On February 21, 2002, the Department issued a Sections A, B, and C supplemental questionnaire. BHP submitted its response to the Department's Sections A, B, and C supplemental questionnaire on March 18, 2002. On March 28, 2002, BHP submitted its supplemental B and C narrative responses for sales of strapping steel and tin mill black plate.

Based on our analysis of a sales below cost allegation submitted on February 4, 2002 (and revised on February 20, 2002), we found that there were reasonable grounds to believe or suspect that the respondent's sales of the subject merchandise in its comparison market were made at prices below its cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation. See Memorandum to Holly A. Kuga, "Bethlehem Steel Corporation, National Steel Corporation, and United States Steel Corporation (petitioners) Allegation of Home Market Sales Below the Cost of Production (Sales-Below-Cost) for Broken Hill Proprietary Steel (JLA) Pty Ltd. (BHP)," (Cost Memorandum) (March 8, 2002), on file in the Central Records Unit (CRU), Room B-099 of the main Department of Commerce building. On March 11, 2002, we notified BHP of our decision to initiate a sales-below-cost investigation and instructed BHP to respond to Section D of the questionnaire, which was provided to BHP in the original questionnaire on November 19, 2001. BHP submitted its Section D response on March 29, 2002.

On February 7, 2002, the petitioners requested a postponement of the

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

preliminary determination in this investigation. On February 22, 2002, the Department published a **Federal Register** notice postponing the deadline for the preliminary determination until April 26, 2002. *See Postponement of Preliminary Determinations of Antidumping Duty Investigations. Certain Cold-Rolled Carbon Steel Flat Products from Argentina (A-357-816), Australia (A-602-804), Belgium (A-423-811), Brazil (A-351-834), the People's Republic of China (A-570-872), France (A-427-822), Germany (A-428-834), India (A-533-826), Japan (A-588-859), Korea (A-580-848), the Netherlands (A-421-810), New Zealand (A-614-803), Russia (A-821-815), South Africa (A-791-814), Spain (A-469-812), Sweden (A-401-807), Taiwan (A-583-839), Thailand (A-549-819), Turkey (A-489-810) and Venezuela (A-307-822)*, 67 FR 36 (February 22, 2002).

In two letters dated April 23, 2002, BHP notified the Department of its intent to not participate further in the investigation and requested to withdraw its data from the record of the investigation. The Department is sending a letter to BHP certifying the removal and destruction of all proprietary copies of BHP's questionnaire responses.

Critical Circumstances

In a letter dated December 7, 2001, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of cold-rolled steel from Australia. On April 10, 2002, the Department preliminarily determined that critical circumstances exist with respect to imports of cold-rolled steel from Australia. *See Memorandum From Bernard Carreau to Faryar Shirzad Re: Preliminary Affirmative Determinations of Critical Circumstances; see also Notice of Preliminary Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157 (April 18, 2002) (Critical Circumstances Notice).

Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., September 2001).

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality

steel products. For a full description of the scope of this investigation, please see the Scope Appendix attached to the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, published concurrently with this preliminary determination.

Facts Available (FA)

1. Application of FA

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

On April 23, 2002, BHP notified the Department that it did not intend to participate further in the Department's investigation and requested the return of all of its data. BHP was notified by the Department in all of our correspondence concerning the due dates for submitting data that failure to submit the requested information by the date specified may result in use of the FA, as required by section 776(c) of the Act and section 351.308 of the Department's regulations. *See letters from the Department to BHP dated December 7, 2001; December 21, 2001; December 28, 2001; January 4, 2002; February 21, 2002; March 7, 2002; March 22, 2002; and April 17, 2002.*

As described above, BHP withdrew its response to the Department's questionnaire. Because BHP withheld information requested by the Department essential to the calculation of dumping margins, pursuant to section 776(a)(2) of the Act, we have applied FA to calculate the dumping margin.

2. Selection of Adverse FA (AFA)

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the

Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–20 (October 16, 1997). As a general matter, it is reasonable for the Department to assume that BHP possessed the records necessary for the Department to complete its investigation since it provided a nearly complete response before withdrawing it from the record. Therefore, by withdrawing the information the Department requested, BHP failed to cooperate to the best of its ability. As BHP failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As AFA, we have used 24.06 percent, the rate derived from the petition. *See Initiation Notice.*

3. Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” *See Statement of Administrative Action (SAA)*

accompanying the URAA, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d).

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

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent

appropriate information was available for this purpose *see Australia Initiation Checklist (Initiation Checklist)* on file in the CRU for a discussion of the margin calculation in the petition). In addition, in order to determine the probative value of the margin in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculation in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margin in the petition was based.

Export Price

With respect to the margin in the petition, EP was based on average per-unit customs import value (AUV) data for one HTSUS category that accounted for a large portion of imports of subject merchandise from Australia during the period. The petitioners made no adjustments to EP because using an unadjusted AUV as the export price is a conservative methodology. Our review of the EP calculation indicated that the information in the petition has probative value, as certain information (*e.g.*, import statistics) included in the margin calculation in the petition is from public sources and concurrent, for the most part, with the POI. Consequently we consider EPs which are based on U.S. customs data corroborated. *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 76, 84 (January 4, 1999) (Comment 13).

Normal Value

The petitioners calculated NV from price information obtained from foreign market research for grades and sizes of cold-rolled steel comparable to the products exported to the United States which serve as the basis for EP. The petitioners made no adjustment to NV. With regard to the NV contained in the petition, the Department has no useful information from the respondent or other interested parties and is aware of no other independent sources of information that would enable us to further corroborate the margin calculations in the petition. *See Initiation Checklist.*

It is worth noting that the implementing regulation for section 776 of the Act states, “(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using secondary information in question.” *See*

19 CFR 351.308(c). Additionally, the SAA at 870 specifically states that where “corroboration may not be practicable in a given circumstance, the Department need not prove that the facts available are the best alternative information.” Therefore, based on our efforts, described above, to corroborate information contained in the petition, and in accordance with section 776(c) of the Act, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this preliminary determination.

Accordingly, in selecting AFA with respect to BHP, the Department applied the petition rate of 24.06 percent.

All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis*, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated “all others” rate for exporters and producers not individually investigated. This provision contemplates that the Department may weight-average margins other than zero, *de minimis*, and FA margins to establish the “all others” rate. Where the data do not permit weight-averaging such rates, the SAA, at 873, provides that we may use other reasonable methods. Because the petition contained only an estimated price-to-price dumping margin, there are no additional estimated margins available with which to create the “all others” rate. Therefore, we applied the petition margin of 24.06 percent as the “all others” rate. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia*, 66 FR 22163 (May 3, 2001).

Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for Australia when we make our final determination regarding sales at LTFV in this investigation, which will be no later than 75 days after this preliminary determination.

Suspension of Liquidation

Because of our preliminary affirmative critical circumstances finding in this case, and in accordance with section 733(e) of the Act, we are directing the U.S. Customs Service (U.S. Customs) to suspend liquidation of all entries of cold-rolled steel from Australia that are entered, or withdrawn

from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**. We are also instructing U.S. Customs to require a cash deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below.

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

Manufacturer/exporter	Margin (percent)
BHP	24.06
All Others	24.06

Disclosure

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

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our 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 determination.

Public Comment

For the investigation of cold-rolled steel from Australia, case briefs must be submitted no later than 50 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five calendar days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Public versions of all comments and rebuttals should be provided to the Department and made available on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution

Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination in the investigation of cold-rolled steel from Australia no later than 75 days after the date of this preliminary determination.

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

Dated: April 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-11183 Filed 5-8-02; 8:45 am]
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DEPARTMENT OF COMMERCE

International Trade Administration

[A-423-811]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products From Belgium

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 certain cold-rolled carbon steel flat products ("cold-rolled steel") from Belgium are being, or are likely to be, sold in the United States at less than fair value ("LTTFV"), 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: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Lyman Armstrong or Cindy Lai Robinson, Import Administration,

International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3601 or (202) 482-3797, respectively.

The Applicable Statute and Regulations

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).

SUPPLEMENTARY INFORMATION:

Case History

This investigation was initiated on October 18, 2001.¹ See *Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 54198 (October 26, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

On October 31, 2001, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes, and we received comments on our proposed matching criteria on November 8, 2001. On November 8, 2001, we received model match comments from petitioners and respondents. On November 26, 2001, we informed respondents of our revised model match criteria.

On November 13, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela of cold-rolled steel products. See *Certain Cold-Rolled Steel Products From Argentina, Australia, Belgium*,

¹ The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).