DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–839]

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

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

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Christopher Riker or Martin Claessens, AD/CVD Enforcement Office V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0186 or (202) 482–5451, 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:

Preliminary Determination

We preliminarily determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Taiwan 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 margin of sales at LTFV is shown in the *Suspension of Liquidation* section of this notice.

Case History

This investigation was initiated on October 18, 2001.[1] Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, Netherlands, New Zealand, Russian, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 54198 (October 26, 2001)) (*Initiation Notice*), 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 the petitioners and CSC. On November 26, 2001, we informed CSC and Kao Hsing 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, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey and Venezuela,* 66 FR 57985 (November 19, 2001).

On November 23, 2001, we selected as mandatory respondents China Steel Corporation including its affiliate Yieh Loong Enterprise Co. Ltd. (Yieh Loong) (collectively CSC) and Kao Hsing Chang Iron & Steel Corporation (Kao Hsing), companies which we believed to be the two largest producers/exporters of certain cold-rolled carbon steel products in Taiwan, as the mandatory respondents in this proceeding. For further discussion, *see* Respondent Selection Memorandum dated November 23, 2001. However, after receiving revised shipment data from the American Institute in Taiwan, the Department amended its respondent selection memorandum and added Ton Yi Industrial Corporation (Ton Yi) to the list of mandatory respondents selected in this investigation. For further discussion, *see* Amended Respondents Selection Memorandum dated November 29, 2001. Questionnaires were issued to CSC on November 20, Kao Hsing on November 23, and Ton Yi on November 29, 2001.[2]

On December 7, 2001, the petitioners filed an allegation of critical circumstances with respect to imports of cold-rolled steel from Taiwan

During the period December 2001 through April 2002, the Department received responses to the original and supplemental questionnaires from CSC. To date, we have not received any information from either Kao Hsing or Ton Yi. On January 4, 2002, we sent letters to both companies informing them that, while we had confirmed that they had received our questionnaire, we had not yet received a response. These letters also went without response, and we have determined that we have no choice but to apply total adverse facts available to these respondents. (For a more detailed explanation, *see* the *Application of Facts Available* section, below.)

On February 7, 2002, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on February 14, 2002, and postponed the preliminary determination until no later than April 26, 2002. *See Notice of 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 8227 (February 22, 2002).

On February 8, 2002, the petitioners requested the Department initiate a sales-below-cost investigation of CSC, and requested that the Department solicit CSC's response to section D of the Department's questionnaire. On February 21, 2002, the Department determined that there were reasonable grounds to believe or suspect that CSC made sales of the foreign like product at prices below its cost of production, within the meaning of section 773(b) of the Act and requested that CSC respond to section D of the questionnaire. CSC responded to the Department's request in a timely manner on March 20, 2002.

[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).

[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. Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producer/exporters of subject merchandise, section 777A(c)(2) of the Act permits us to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid, based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. Using company-specific export data and U.S. Customs Service import data for the POI, we found that CSC, Kao Hsing and Ton Yi accounted for a majority of the imports during the POI. *See,* Respondent Selection Memorandum dated November 23, 2001; *see also,* Amended Respondents Selection Memorandum dated November 29, 2001. Therefore, as previously stated, we designated these three companies as the mandatory respondents and sent to them the Department's antidumping questionnaire.

Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Section 351.210(e)(2) of the Department's regulations requires that exporters requesting postponement of the final determination must also request an extension of the provisional measures referred to in section 733(d) of the Act from a four-month period until not more than six months. We received a request to postpone the final determination from the respondent, CSC, on April 25, 2002. In its request, CSC consented to the extension of provisional measures to no longer than the date of the final determination.

Since this preliminary determination is affirmative, the request for postponement is made by an exporter that accounts for a significant proportion of exports of the subject merchandise, and there is no compelling reason to deny the respondent's request, we have extended the deadline for issuance of the final determination until the 135th day after the date of publication of this preliminary determination in the **Federal Register** and have extended provisional measures to no longer than six months.

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, as well as a complete discussion of all scope exclusion requests submitted in the context of the on-going cold-rolled steel investigations, 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

1. Application of Facts Available

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

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

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference, if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. Furthermore, section 776(b) of the Act states that an adverse inference may include reliance on information derived from the petition. *See also* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994).

In accordance with section 776(a)(2), 776(b), and 782(d) and (e) of the Act, for the reasons briefly explained below, we preliminarily determine that the use of total adverse facts available is warranted with respect to Kao Hsing and Ton Yi.

As noted above, Kao Hsing and Ton Yi failed to provide, within the applicable deadlines, responses to the Department's questionnaire. Despite the Department's attempts to obtain Kao Hsing and Ton Yi's U.S. and home market information, both companies failed to reply. Because the requested information is crucial for purposes of preliminary dumping calculations, the Department must resort to facts otherwise available in reaching its preliminary determination, pursuant to section 776(a)(2)(A), (B) and (C).

We also find that the application of an adverse inference in this case is appropriate, pursuant to section 776(b) of the Act. As discussed above, both Kao Hsing and Ton Yi failed to provide the critical data requested, despite the Department's clear directions in the original questionnaire. Furthermore, neither Kao Hsing nor Ton Yi made any effort to provide an explanation or propose an alternate form of submitting the required data. In fact, neither company has responded to the Department's letter of January 4, 2002, in which the Department reminded both companies that it had not received a response to its request for information. For these reasons, we find that neither Kao Hsing nor Ton Yi has acted to the best of its ability in responding to the Department's request for information, and that, consequently, an adverse inference is warranted under section 776(b) of the Act. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan,* 65 FR 42985 (July 12, 2000) (the Department applied total adverse facts available where respondent failed to respond to the antidumping questionnaires).

Accordingly, in selecting adverse facts available with respect to Kao Hsing and Ton Yi, the Department determined to apply a margin rate of 16.80 percent, the highest margin alleged for Taiwan in the petitioners' September 28, 2001 petition. (For a more detailed analysis of the particulars and application of facts available, *see* the Application of Facts Available for Kao Hsing and Ton Yi memorandum dated April 26, 2002.)

2. Corroboration of Information

Section 776(b) of the Act states that an adverse inference may include reliance

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

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

To determine the probative value of the margins in the petition for use as adverse facts available for purposes of this determination, we examined evidence supporting the calculations 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 margins in the petition were based. Our review of the EP and NV calculations indicated that the information in the petition has probative value, as certain information included in the margin calculations in the petition is from public sources concurrent, for the most part, with the relevant POI. For purposes of the preliminary determination, we attempted to further corroborate the information in the petition. We re-examined the EP and NV data which formed the basis for the highest margin in the petition in light of information obtained during the investigation and, to the extent practicable, found that it has probative value (*see* the April 26, 2002, memorandum to the file regarding *Application of Facts Available for Kao Hsing Chang Iron & Steel Corporation and Ton Yi Industrial Corporation*).

Accordingly, in selecting adverse facts available with respect to Kao Hsing and Ton Yi, the Department determined to apply a margin rate of 16.80 percent, the highest margin alleged for Taiwan in the petition.

Fair Value Comparisons

To determine whether sales of cold-rolled steel from Taiwan by CSC to the United States were made at LTFV, we compared the EP to the NV, as described in the *Export Price* and *Normal Value* sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs 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 the 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 product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: hardening and tempering, painted, carbon level, quality, yield strength, minimum thickness, thickness tolerance, width, edge finish, form, temper rolling, leveling, annealing and surface finish.

1. Kick-off pup coil sales

CSC argues that home market sales of ''kick-off pup coil'' are outside the ordinary course of trade. Specifically, CSC argues that no physical characteristics are maintained for these products because they are the tail and end parts of the coils that are not produced to order and are considered to be of a lesser quality than both secondary or salvage merchandise. Additionally, sales of this merchandise constitute an extremely small portion of CSC's sales and were only made in the home market. As such, for the preliminary determination the Department has excluded sales of the aforementioned merchandise from its analysis. However, the Department intends to verify the accuracy of the information submitted on the record as it pertains to sales of kick-off pup coils and will revise its position if necessary for purposes of the final determination.

2. Carbon Quality

CSC created an additional field in its sales databases requesting that the Department further distinguish grades of commercial quality cold-rolled products. Specifically, CSC requested that the Department accept three subcategories of commercial steel, ''CQ1,'' ''CQ2,'' and ''CQS.''[3] CSC argued that these three subcategories represent ''three separate internal standards'' which correspond to distinct sets of mechanical and chemical properties. CSC argues that each subcategory represents a different hardness level, corresponding to carbon content. Additionally, CSC created additional subcategories for other qualities of commercial steels that fall under different hardness levels than three previously mentioned subcategories.

The petitioners argue that it is not the Department's normal practice to allow companies to change reporting criteria based on their own internal product coding system, and that the differences in mechanical and chemical properties are broken out in various other fields.[4] As such, the petitioners argue that the Department should reject CSC's suggestion and continue to use the information originally requested in the questionnaire.

For purposes of the preliminary determination, we have not granted CSC's request to amend the reporting requirements for the quality field. It is the Department's position that the hardness specifications can be distinguished through CSC's response to other fields, including annealing, temper rolling and yield strength. Therefore, we continue to believe that the Department's initial reporting requirements remain appropriate.

Export Price

For the price to the United States, we calculated EP, based on the packed prices charged to the first unaffiliated customer in the United States, pursuant to section 772(a) of the Act because the subject merchandise was either first sold by the exporter or producer outside the United States to an unaffiliated purchaser for exportation to the United States before the date of importation, or to an unaffiliated purchaser for exportation to the United States.

In accordance with section 772(c)(2) of the Act, we reduced the EP by movement expenses, where appropriate.

[3] *See* Letter to the Department of Commerce from China Steel Corporation regarding product characteristics (November 6, 2001); *see also* sections B and C questionnaire response submitted by CSC and Yieh Loong at B–6 and B–7 (January 22, 2002).

[4] *See* Letter to the Department of Commerce from Bethlehem Steel Corporation, National Steel Corporation and United States Steel Corporation regarding comments on the sales information submitted by CSC and Yieh Loong at 6 and 7 (April 8, 2002).

Normal Value

A. Home Market Viability

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, 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. Arm's-Length Test

Sales to affiliated customers for consumption in the home market which were determined not to be at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the prices of comparison products to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts and packing pursuant to section 773(a)(6) of the Act. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, where the prices to the affiliated party were on average less than 99.5 percent of the prices to unaffiliated parties, we determine that the sales made to the affiliated party were not at arm's length. *See e.g., Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan,* 62 FR 60472, 60478 (November 10, 1997), and *Antidumping Duties; Countervailing Duties: Final Rule* (Antidumping Duties), 62 FR 27295, 27355–56 (May 19, 1997). We included in our NV calculations those sales to affiliated customers that passed the arm's-length test in our analysis. *See* 19 CFR 351.403; *Antidumping Duties,* 62 FR 27355–56.

C. Cost of Production Analysis

Based on our analysis of an allegation filed by the petitioners,[5] we found that there were reasonable grounds to believe or suspect that sales of cold-rolled steel 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 company-specific sales-below-cost investigation to determine whether sales were made at prices below their respective COPs (*see* memo from Nancy Decker and Martin Claessens to Gary Taverman (February 21, 2002)).

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 selling, general and administrative expenses (SG&A), including 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 CSC, except as noted below.

a. During the period of investigation, Yieh Loong purchased from an affiliate slabs used in the production of subject merchandise. In accordance with section 773(f)(2), we adjusted the reported transfer price to reflect the market price of the slabs.

b. We revised CSC's SG&A rate calculation to exclude the following non-operating revenue items: rent revenue/income, gain on long-term investment, gain on physical inventory, revenue from sale of scrap, and revenue from sale of fines. We also included the ''depreciation from manage other assets'' which was listed as a non-operating expense item and disallowed the ''loss for market price decline inventory'' which appears as a reduction in non-operating expenses.

c. We revised Yieh Loong's SG&A rate calculation to exclude rental income and exchange gain.

See Memorandum from Laurens van Houten to Neal Halper, Director, Office of Accounting, regarding the Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination (April 26, 2002).

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. 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 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 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 CSC'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. Calculation of Normal Value Based on Home Market Prices

We based home market prices on packed prices to unaffiliated purchasers in Taiwan. We adjusted, where applicable, the starting price for discounts and rebates. We made adjustments for any differences in packing and deducted home market movement expenses and domestic brokerage and handling, pursuant to sections 773(a)(6)(A) and 773(a)(6)(B)(ii) of the Act. We also made circumstance of sale (COS) adjustments, where applicable, by deducting direct selling expenses incurred for home market sales (*e.g.,* credit expenses, inventory maintenance, warranty expenses and technical services). 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.

E. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison-market sales, NV may be based on constructed value (CV). Accordingly, for those models of cold-rolled steel for which we could not

[5] See Letter from the petitioners to the Department (February 8, 2002).

determine the NV based on comparison-market sales, either because there were no sales of a comparable product or all sales of the comparison products failed the COP test, we based NV on CV.

Section 773(e)(1) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise plus amounts for selling, general, and administrative expenses (SG&A), profit, and U.S. packing expenses. We calculated the cost of materials and fabrication based on the methodology described in the COP section of this notice. We based CSC's and Yieh Loong's respective SG&A and profit on the actual amounts incurred and realized by each in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act.

We made adjustments to CV for differences in the COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. These involved the deduction from CV of direct selling expenses incurred on home market sales (*e.g.,* credit expenses, inventory maintenance, warranty expenses and technical services).

F. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the 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 SG&A expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP transactions, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the distribution chain 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 level-of-trade adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (*i.e,* the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731, 61733, 61746 (November 19, 1997).

In implementing these principles in this investigation, we obtained information from CSC about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by CSC for each channel of distribution. In identifying levels of trade for EP and home market sales we considered the selling functions reflected in the starting price before any adjustments.

The respondents reported two separate channels of distribution in the home market, sales through an unaffiliated coil center, and sales directly to an end-user. While CSC claimed two home market channels of distribution, we preliminarily determine that it is more appropriate to consider their home market sales to have been made via a single channel of distribution, *i.e.,* direct from the factory, albeit to two different customer categories (coil center and end-user). Nevertheless, regardless of the channel of distribution or customer category, all home market transactions received inventory maintenance, warranty services, technical advice, delivery arrangement services and sales support. Therefore, we have determined that there is a single LOT for all sales in the home market.

For sales to the United States, CSC's EP sales were made through one channel of distribution, sales to an unaffiliated trading company or U.S. importer. CSC provided delivery arrangements and warranty service arrangements to its U.S. customer. Our examination of the selling functions, selling expenses and customer categories involved in home market and U.S. sales indicates that home market sales were made at a level more remote from the factory than the level of the EP transactions. However, because there was a single home market LOT, there is no information available with which to determine a pattern of consistent price differences between the sales on which normal value is based and home market sales at the LOT of the export transactions. Further, we do not have information that would allow us to examine pricing patterns based on the respondent's sales of other products, and there are no other respondents or other record information on which such an analysis could be based. Therefore, all available home market sales have been considered in making our product matches and no LOT adjustment has been made.

Currency Conversion

We made currency conversions in accordance with section 773A of the Act based on daily exchange rates as certified by the Federal Reserve Bank.

Critical Circumstances

Of the petitioners, Nucor Corporation, Steel Dynamics, Inc., WCI Steel, Inc., and Weirton Steel Corporation filed an allegation of critical circumstances with respect to imports of cold-rolled steel from Taiwan on December 7, 2001. Inasmuch as the petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, section 351.206(c)(2)(i) of the Department's regulations provides that we must issue our preliminary critical circumstances determinations not later than the date of the preliminary determination.

If critical circumstances are alleged, section 733(e)(1) of the Act directs the Department to examine whether there is a reasonable basis to believe or suspect that: (A)(i) {t}here is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In order to demonstrate a history of dumping and material injury with respect to Taiwan, the petitioners cite to the September 10, 2001, final dumping determination issued by the Canada Customs and Revenue Agency (CCRA), where the CCRA found that Taiwanese steel had been dumped in Canada at an average margin of 28.71 percent. In addition, the petitioners cite to a newspaper that claims that the Thai steel industry is collecting information on possible dumping by companies from several countries, including Taiwan. *See* the Petition at Exhibit II–52.

In evaluating the evidence supplied by the petitioners, we note that on October 9, 2001, the Canadian International Trade Tribunal (CITT) issued a final injury determination which found that imports of cold-rolled

steel from several countries, including Taiwan, have not caused injury or retardation and are not threatening to cause injury to the domestic industry. Since the CITT issued a negative final injury determination, we find that the Canadian cold-rolled steel antidumping duty investigation does not constitute a history of dumping and material injury. Furthermore, the newspaper article discussing the Thai steel industry's intention of naming Taiwan in a potential antidumping duty petition with the Government of Thailand is not evidence of a history of dumping and material injury. Because we are not aware of any existing or recent antidumping order for Taiwan in the United States or any other country, the Department finds that there is no history of dumping and material injury for cold-rolled steel imports from Taiwan.

The Department normally considers margins of 25 percent or more for EP sales sufficient to impute importer knowledge of sales at LTFV. We have calculated a preliminary margin of 3.15 percent for CSC. With regard to Kao Hsing and Ton Yi, we note that the margin relied upon for the initiation of this investigation, and assigned to these non-responding companies as adverse facts available, was 16.80 percent. This margin, based on an analysis conducted by the petitioners, was conducted with the understanding that cold-rolled steel from Taiwan is sold to unaffiliated trading companies for export to the United States. Finally, with regard to the ''All Others'' category, it is the Department's practice to conduct its critical circumstances analysis of companies in this category based on the experience of the investigated companies. Therefore, in this case, we have assigned the ''all others'' category the same rate as was calculated for CSC. Because the petition margin for Taiwan was 16.80 percent, and the calculated rate for CSC is 3.15 percent, the margins fall below the 25 percent threshold we use to impute importer knowledge of sales at LTFV in EP price situations. Therefore, the requirements of the provision in section 733(e)(1)(A)(ii) of the Act are not satisfied.

Given that Taiwan had no history of dumping and that the threshold to impute importer knowledge of sales at LTFV was not met, we preliminarily find no critical circumstances for Taiwan in this investigation.

Verification

In accordance with section 782(i) of the Act, we intend to verify information to be used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of certain cold-rolled carbon steel flat products from Taiwan, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the EP or CEP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/producer	Margin (percentage)
China Steel Corp./Yieh Loong	3.15
Kao Hsing Chang Iron & Steel	16.80
Ton Yi Industrial	16.80
All Others	3.15

With respect to the ''all others'' rate, section 735(c)(5)(A) of the Act requires that the ''all others'' rate equal the weighted average of the estimated weighted-average rates established for exporters and producers individually investigated, excluding any zero and de minimis margins and margins based entirely on facts available. Because two of the companies have a rate based entirely on facts available, we have assigned the calculated rate for CSC as the ''All Others'' rate.

Disclosure

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

ITC Notification

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

All parties will be notified of the specific schedule for submission of case and rebuttal briefs. In general, case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. Rebuttal briefs must be filed within five 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 this 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.

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

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.

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