

the Department shall not issue an antidumping order so long as: (1) The Agreement remains in force, (2) the Agreement continues to meet the requirements of subsections (d) and (1) of section 734 of the Act, and (3) the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms. See section 734(f)(3)(B) of the Act.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: January 18, 2000.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-357-811, A-588-849, A-549-814]

#### Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand

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

**EFFECTIVE DATE:** February 4, 2000.

**FOR FURTHER INFORMATION CONTACT:** Abdelali Elouaradia at (202) 482-0498 or Gabriel Adler at (202) 482-1442, 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 the Department of Commerce ("the Department") regulations refer to the regulations codified at 19 CFR Part 351 (April 1999).

#### Final Determinations

We determine that cold-rolled flat-rolled carbon-quality steel products ("cold-rolled steel products") from Argentina, Japan and Thailand are being sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins are shown in the *Suspension of Liquidation* section of this notice.

#### Case History

The preliminary determinations in these investigations were issued on November 1, 1999. See *Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand*, 64 FR 60410 (November 5, 1999) ("Preliminary Determinations"). On December 23, the petitioners<sup>1</sup> submitted a case brief regarding the Thailand investigation in which they stated that they agreed fully with the Department's use of the highest margin from the petition as adverse facts available for that final determination. An analysis of the other comment made by the petitioners in their Thailand case brief is set forth in the *Interested Parties Comments* section below. NKK Corporation ("NKK") filed a case brief with the Department regarding the Japan investigation on December 27, 1999. No case briefs were filed in the Argentina investigation, no rebuttal briefs were filed in any of the investigations, and no requests for a hearing in any of the investigations were received by the Department.

#### Scope of Investigations

For purposes of these investigations, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling") "for example,

<sup>1</sup> The petitioners include Bethlehem Steel Corporation, Gulf States Steel, Inc., The Independent Steelworkers Union, Ispat Inland Inc., LTV Steel Company, Inc., National Steel Corporation, Steel Dynamics, Inc., U.S. Steel Group, a unit of USX Corporation, United Steelworkers of America, and Weirton Steel Corporation. National Steel Corporation is not a petitioner in the case regarding Japan.

products which have been beveled or rounded at the edges.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free ("IF")) steels, high strength low alloy ("HSLA") steels, and motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedules of the United States ("HTSUS"), are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight, and; (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 2.25 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- SAE grades (formerly also called AISI grades) above 2300;
- Ball bearing steels, as defined in the HTSUS;
- Tool steels, as defined in the HTSUS;
- Silico-manganese steel, as defined in the HTSUS;
- Silicon-electrical steels, as defined in the HTSUS, that are grain-oriented;
- Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level exceeding 2.25 percent;
- All products (proprietary or otherwise) based on an alloy ASTM



## MECHANICAL PROPERTIES

Hardness .....	Full Hard (Hv 180 minimum)
Total Elongation .....	<3%
Tensile Strength .....	600 to 850 N/mm <sup>2</sup>

## PHYSICAL PROPERTIES

Surface Finish .....	≤0.3 micron
Camber (in 2.0 m) .....	<3.0 mm
Flatness (in 2.0 m) .....	≤0.5 mm
Edge Burr .....	<0.01 mm greater than thickness
Coil Set (in 1.0 m) .....	<75.0 mm

- Certain silicon steel, which meets the following characteristics:

Thickness: 0.024 inch +.0015 inch

Width: 33 to 45.5 inches

## CHEMICAL COMPOSITION

Element .....	C	Mn	P	S	Si	Al
Min. Weight % .....						
Max. Weight % .....	0.004	0.4	0.09	0.009	0.65	0.4

## MECHANICAL PROPERTIES

Hardness .....	B 60–75 (AIM 65)
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## PHYSICAL PROPERTIES

Finish .....	Smooth (30–60 microinches)
Gamma Crown (in 5 inches) .....	0.0005 inch, start measuring ¼ inch from slit edge
Flatness .....	20 I–UNIT max.
Coating .....	C3A–.08A max. (A2 coating acceptable)
Camber (in any 10 feet) .....	1/16 inch
Coil Size I.D. ....	20 inches

## MAGNETIC PROPERTIES

Core Loss (1.5T/60 Hz) NAAS .....	3.8 Watts/Pound max.
Permeability (1.5T/60 Hz) NAAS .....	1700 gauss/oersted typical 1500 minimum.

- Certain aperture mask steel, which has an ultra-flat surface flatness and which meets the following characteristics:

Thickness: 0.025 to 0.245 mm

Width: 381–1000 mm

## CHEMICAL COMPOSITION

Element .....	C	N	Al
Weight % .....	<0.01	0.004 to 0.007	<0.007

- Certain annealed and temper-rolled cold-rolled continuously cast steel, which meets the following characteristics:

## CHEMICAL COMPOSITION

Element .....	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight % .....	0.02	0.20				0.03				0.003
Max. Weight % .....	0.06	0.40	0.02	0.023 (Aiming 0.018 Max.)	0.03	0.08 (Aiming 0.05)	0.02	0.08		0.008 (Aiming 0.005)

Non-Metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides >1micron (0.000039 inch) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inch) in length.

Surface Treatment as follows: The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating.

**SURFACE FINISH**

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Extra Bright .....	5 (0.1)	0 (0)	7 (0.2)

- Certain annealed and temper-rolled cold-rolled continuously cast steel, which meets the following characteristics:

**CHEMICAL COMPOSITION**

Element .....	C	Si	Mn	P	S	Al	N
Weight % .....	<0.08	<0.04	<0.40	<0.03	<0.03	0.010–0.025	<0.0025

**PHYSICAL AND MECHANICAL PROPERTIES**

Thickness Tolerance: Guaranteed inside of 15 mm from mill edges .....	+/- 5 percent (aim +/- 4 percent)
Width Tolerance: .....	- 0/+7 mm
Hardness (Hv): .....	Hv 85–110
Annealing: .....	Annealed
Surface: .....	Matte
Tensile Strength: .....	>275N/mm <sup>2</sup>
Elongation: .....	>36%

- Certain annealed and temper-rolled cold-rolled continuously cast steel, in coils, with a certificate of analysis per Cable System International (“CSI”) Specification 96012, with the following characteristics:

**CHEMICAL COMPOSITION**

Element .....	C	Mn	P	S
Max. Weight % .....	0.13	0.60	0.02	0.05

**PHYSICAL AND MECHANICAL PROPERTIES**

Base Weight .....	55 pounds
Theoretical Thickness: .....	0.0061 inch (+/- 10 percent of theoretical thickness)
Width: .....	31 inches
Tensile Strength: .....	45,000–55,000 psi
Elongation: .....	minimum of 15 percent in 2 inches

- Certain full hard tin mill black plate, continuously cast, which meets the following characteristics:

**CHEMICAL COMPOSITION**

Element .....	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight % .....	0.02	0.20				0.03				0.003
Max. Weight % .....	0.06	0.40	0.02	0.023 (Aiming 0.018 Max.)	0.03	0.08 (Aiming 0.05)	0.02	0.08		0.008 (Aiming 0.005)

Non-Metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides >1 micron (0.000039 inch) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inch) in length.

Surface Treatment as follows: The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating.

**SURFACE FINISH**

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Stone Finish .....	16 (0.4)	8 (0.2)	24 (0.6)

- Certain ultra-bright tin mill black plate meeting ASTM 7A specifications for surface finish and RA of seven micro-inches or lower.

- Concast cold-rolled drawing quality sheet steel, ASTM a-620-97, Type B, or single reduced black plate, ASTM A-625-92, Type D, T-1, ASTM A-625-76 and ASTM A-366-96, T1-T2-T3 Commercial bright/luster 7a both sides, RMS 12 maximum. Thickness range of 0.0088 to 0.038 inches, width of 23.0 inches to 36.875 inches.

- Certain single reduced black plate, meeting ASTM A-625-98 specifications, 53 pound base weight (0.0058 inch thick) with a Temper classification of T-2 (49-57 hardness using the Rockwell 30 T scale).
- Certain single reduced black plate, meeting ASTM A-625-76 specifications, 55 pound base weight, MR type matte finish, TH basic tolerance as per A263 trimmed.
- Certain single reduced black plate, meeting ASTM A-625-98 specifications, 65 pound base weight (0.0072 inch thick) with a Temper classification of T-3 (53-61 hardness using the Rockwell 30 T scale).
- Certain cold-rolled black plate bare steel strip, meeting ASTM A-625 specifications, which meet the following characteristics:

CHEMICAL COMPOSITION

Element .....	C	Mn	P	S
Max. Weight % .....	0.13	0.60	0.02	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Thickness: .....	0.0058 inch +/- 0.0003 inch
Hardness .....	T2/HR 30T 50-60 aiming
Elongation .....	≥ 15%
Tensile Strength .....	51,000 psi +/- 4.0 aiming

- Certain cold-rolled black plate bare steel strip, in coils, meeting ASTM A-623, Table II, Type MR specifications, which meet the following characteristics:

CHEMICAL COMPOSITION

Element .....	C	Mn	P	S
Max. Weight % .....	0.13	0.60	0.04	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Thickness .....	0.0060 inch (+/- 0.0005 inch)
Width .....	≥ 10 inches (+ 1/4 to 3/8 inch/- 0)
Tensile strength .....	55,000 psi max.
Elongation .....	minimum of 15 percent in 2 inches

- Certain "blued steel" coil (also know as "steamed blue steel" or "blue oxide") with a thickness of 0.30 mm to 0.42 mm and width of 609 mm to 1219 mm, in coil form;
- Certain cold-rolled steel sheet, whether coated or not coated with porcelain enameling prior to importation, which meets the following characteristics:  
 Thickness (nominal): ≥ 0.019 inch  
 Width: 35 to 60 inches

CHEMICAL COMPOSITION

Element .....	C	O	B
Max. Weight % .....	0.004	0.010	0.012
Min. Weight % .....			

- Certain cold-rolled steel, which meets the following characteristics: Width: >66 inches

CHEMICAL COMPOSITION

Element .....	C	Mn	P	Si
Max. Weight % .....	0.07	0.67	0.14	0.03

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm): .....	0.800-2.000
Min. Yield Point (MPa): .....	265

PHYSICAL AND MECHANICAL PROPERTIES—Continued

Max Yield Point (MPa): .....	365
Min. Tensile Strength (MPa): .....	440

PHYSICAL AND MECHANICAL PROPERTIES—Continued

Min. Elongation %: .....	26
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- Certain band saw steel, which meets the following characteristics:  
 Thickness: ≥1.31 mm  
 Width: ≥80 mm

## CHEMICAL COMPOSITION

Element .....	C	Si	Mn	P	S	Cr	Ni
Weight % .....	1.2 to 1.3	0.15 to 0.35	0.20 to 0.35	≤ 0.03	≤ 0.007	0.3 to 0.5	≤ 0.25

## Other properties:

Carbide: fully spheroidized having >80% of carbides, which are ≤0.003 mm and uniformly dispersed

Surface finish: bright finish free from pits, scratches, rust, cracks, or seams

Smooth edges

Edge camber (in each 300 mm of length): ≤7 mm arc height

Cross bow (per inch of width): 0.015 mm max.

- Certain transformation-induced plasticity (TRIP) steel, which meets the following characteristics:

## Variety 1:

## CHEMICAL COMPOSITION

Element .....	C	Si	Mn
Min. Weight % .....	0.09	1.0	0.90
Max. Weight % .....	0.13	2.1	1.7

## PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm) .....	1.000–2.300 (inclusive)
Min. Yield Point (MPa) .....	320
Max Yield Point (MPa) .....	480
Min. Tensile Strength (MPa) .....	590
Min. Elongation % .....	24 (if 1.000–1.199 thickness range) 25 (if 1.200–1.599 thickness range) 26 (if 1.600–1.999 thickness range) 27 (if 2.000–2.300 thickness range)

## Variety 2:

## CHEMICAL COMPOSITION

Element .....	C	Si	Mn
Min. Weight % .....	0.12	1.5	1.1
Max. Weight % .....	0.16	2.1	1.9

## PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm): .....	1.000–2.300 (inclusive)
Min. Yield Point (MPa): .....	340
Max Yield Point (MPa): .....	520
Min. Tensile Strength (MPa): .....	690
Min. Elongation %: .....	21 (if 1.000–1.199 thickness range) 22 (if 1.200–1.599 thickness range) 23 (if 1.600–1.999 thickness range) 24 (if 2.000–2.300 thickness range)

## Variety 3:

## CHEMICAL COMPOSITION

Element .....	C	Si	Mn
Min. Weight % .....	0.13	1.3	1.5
Max. Weight % .....	0.21	2.0	2.0

## PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm): .....	1.200–2.300 (inclusive)
Min. Yield Point (MPa): .....	370
Max Yield Point (MPa): .....	570
Min. Tensile Strength (MPa): .....	780

PHYSICAL AND MECHANICAL PROPERTIES—Continued

Min. Elongation %: .....	18 (if 1.200–1.599 thickness range) 19 (if 1.600–1.999 thickness range) 20 (if 2.000–2.300 thickness range)
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- Certain corrosion-resistant cold-rolled steel, which meets the following characteristics:

Variety 1:

CHEMICAL COMPOSITION

Element .....	C	Mn	P	Cu
Min. Weight % .....				0.15
Max. Weight % .....	0.10	0.40	0.10	0.35

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm): .....	0.600–0.800
Min. Yield Point (MPa): .....	185
Max Yield Point (MPa): .....	285
Min. Tensile Strength (MPa): .....	340
Min. Elongation %: .....	31 (ASTM standard 31% = JIS standard 35%)

Variety 2:

CHEMICAL COMPOSITION

Element .....	C	Mn	P	Cu
Min. Weight % .....				0.15
Max. Weight % .....	0.05	0.40	0.08	0.35

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm): .....	0.800–1.000
Min. Yield Point (MPa): .....	145
Max Yield Point (MPa): .....	245
Min. Tensile Strength (MPa): .....	295
Min. Elongation %: .....	31 (ASTM standard 31% = JIS standard 35%)

Variety 3:

CHEMICAL COMPOSITION

Element .....	C	Si	Mn	P	S	Cu	Ni	Al	Nb, Ti, V, B	Mo
Max. Weight % .....	0.01	0.05	0.40	0.10	0.023	0.15–.35	0.35	0.10	0.10	0.30

PHYSICAL AND MECHANICAL PROPERTIES

Thickness (mm) .....	0.7
Elongation % .....	≥35

- Porcelain enameling sheet, drawing quality, in coils, 0.014 inch in thickness, +0.002, -0.000, meeting ASTM A-424-96 Type 1 specifications, and suitable for two coats.

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 U.S. Customs Service (“U.S. Customs”) purposes, the written description of the merchandise under investigation is dispositive.

The Department received comments from a number of parties including importers, respondents, consumers, and the petitioners, aimed at clarifying the scope of these investigations. See *Memorandum to Joseph A. Spetrini* (“Scope Memorandum”), January 18, 2000, for a list of all persons submitting comments and a discussion of all scope comments including those exclusion

requests under consideration at the time of the preliminary determination in these investigations.

#### *Period of Investigations*

The period of the investigations ("POI") is April 1, 1998, through March 31, 1999.

#### *Facts Available*

In the preliminary determinations, the Department based the dumping margins for the mandatory respondents, Siderar Limited, in the Argentina investigation, Nippon Steel Corporation ("NSC"), Kawasaki Steel Corporation ("KSC"), Kobe Steel Ltd. ("Kobe"), and Nisshin Steel Co., Ltd. ("Nisshin"), in the Japan investigation, and Thai Cold Rolled Steel and Sheet Company ("TCRSSC"), an affiliate of Sahaviriya Steel Industries Public Co., Ltd., collectively "TCRSSC/Sahaviriya," in the Thailand investigation, on facts otherwise available pursuant to section 776(a)(2)(A) of the Act. The use of facts otherwise available is necessary because the record does not contain company-specific information due to the fact that each of these respondents failed to respond to the Department's questionnaire, nor did they provide any indication that they were unable to do so. Therefore, the Department found that they failed to cooperate by not acting to the best of their ability. As a result, pursuant to section 776(b), the Department used an adverse inference in selecting from the facts available. Specifically, the Department assigned to the Argentine and Thai mandatory respondents the highest margins alleged in the amendments to the respective petitions. Similarly, the Japanese mandatory respondents were assigned the highest margin alleged in the petition. We continue to find these margins corroborated, pursuant to section 776(c) of the Act, for the reasons discussed in the *Preliminary Determinations*. No interested parties have objected to the use of adverse facts available for the mandatory respondents in these investigations, nor to the Department's choice of facts available. Furthermore, no request for a hearing in any of these investigations was received by the Department. For its final determinations, the Department is continuing to use the highest margins alleged by the petitioners for all non-responding mandatory respondents in these proceedings. See *Preliminary Determinations*. In addition, the Department has left unchanged from the preliminary determinations the "All Others Rate" in each investigation. See *Comments 1 and 2*.

#### *Critical Circumstances*

No comments were received regarding the Department's preliminary critical circumstances determinations, and the Department has not made any changes to those determinations. For the reasons given in the preliminary determinations, the Department continues to find that critical circumstances exist with respect to cold-rolled steel products imported from NSC, KSC, Kobe, and Nisshin, in accordance with section 733(e)(1) of the Act.

As set forth in our preliminary determinations, because the massive imports criterion necessary to find critical circumstances has not been met with respect to firms other than NSC, KSC, Kobe, and Nisshin, the Department continues to find, for the purposes of these final determinations, that critical circumstances do not exist for imports of cold-rolled steel products from Thailand imported from TCRSSC/Sahaviriya or for the "all others" category in both the Japan and Thailand investigations.

There was no allegation of critical circumstances in the Argentina case.

#### *Interested Party Comments*

Comment 1: Calculation of the "All Others" Antidumping Duty Margin in the Case of Thailand

The petitioners assert that the Department, in its simple average calculation of the "all others" antidumping duty margin, incorrectly included two figures that were themselves averages of the minimum and maximum dumping margins presented in the amended petition. The petitioners allege that using the simple average of the minimum and maximum margins presented in the amended petition should have yielded a margin of 69.17 percent.

*DOC Position:* We disagree with the petitioners. The dumping margin for the "all others" category assigned by the Department in our preliminary determination was based on the simple average of all five of the margins<sup>2</sup> presented in the amended petition. Contrary to the petitioners' allegation, we did not include any figures in our calculation that were averages of the minimum and maximum alleged dumping margins. Therefore, we have not changed the dumping margin for the

<sup>2</sup> Of the five margins presented in the amended petition and used in the Department's simple average calculation, three of the margins were based on a comparison of import average unit values ("AUV") to constructed value while the remaining two margins were based on comparisons of price quotes to constructed values.

"all others" category in the case of Thailand.

Comment 2: Calculation of the "All Others" Dumping Margin in the Case of Japan

NKK asserts that the Department effectively applied adverse facts available to the "all others" companies by calculating an "all others" rate based on the simple average of all of the dumping margins in the petition, including margins based on constructed value. NKK states that the Department's calculated margin of 39.28 percent was significantly more adverse than a margin calculated based on the simple average of only the price-to-price comparisons contained within the petition (28.09 percent). By basing the preliminary margin calculation applied to NKK's entries in part on the constructed value comparisons from the petition, NKK argues, the Department effectively assumed that NKK made home market sales of the subject merchandise at prices below cost of production. NKK argues that the Department had no basis to assume that its home market sales of the subject merchandise were made at prices below the cost of production, and that the Department needs specific evidence to justify a finding of below cost sales. NKK states that no such NKK-specific evidence exists and that the facts used to support the below cost allegation in the petition were not specific to NKK.

NKK also argues that the Department had no reason to apply adverse facts available to it, because NKK fully cooperated with all of the Department's requests for information. In support of this argument, NKK states that it is the Department's long-standing policy not to apply the same harsh adverse inferences it may have applied to mandatory respondents to other producers who did not respond. NKK argues that this practice is evident in the Department's decision to not adversely assume that NKK's shipments were massive, when making its preliminary critical circumstances determination for the "all others" group. Because the Department did not apply adverse inferences in regard to critical circumstances, NKK concludes that the Department should not apply adverse inferences when calculating the antidumping margin for NKK.

Finally, NKK asserts that, because the Department expressly excluded NKK from participating as a voluntary respondent, company specific prices and costs are not available on the record. As a result, the Department must operate under section 776(a)(1) of the Act and apply facts available in a

manner that recognizes the fact that the nonparticipating parties have no culpability for the lack of company-specific information on the record. NKK concludes that the Department should exclude the constructed value margins set forth in the petition when deriving an antidumping duty rate for NKK. NKK further suggests that data in the *hot-rolled* steel investigation<sup>3</sup> is evidence that NKK did not sell *cold-rolled* steel below cost.

*DOC Position:* Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged 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. Our recent practice under these circumstances has been to assign, as the "all others" rate, the simple average of the margins in the petition. *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Finding of Critical Circumstances: Elastic Rubber Tape From India*, 64 FR 19123 (April 19, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy*, 64 FR 15458, 15459 (March 21, 1999). The Department, in following its recent practice, did not assume that NKK made sales below cost and did not apply "adverse" facts available to NKK in calculating the "all others" rate in this case. In fact, lacking data for these companies, the Department made no assumptions with respect to whether individual companies within the "all others" group made sales below cost,<sup>4</sup> for this very reason it considered *both* price-to-price and constructed value margins from the petition. This methodology allows the Department to calculate a margin based on facts available. The use of constructed value in the petition was, in this case, an appropriate means of estimating normal value based on sales in the ordinary course of trade. There is no reason to assume that NKK's normal values—and margins—would be lower even if it did

not sell the foreign like product at below-cost prices. In this respect, the "all-others" margin is a generic margin, not based on data specific to any of the companies to which it is applied. Moreover, with respect to NKK's argument that record evidence in the hot-rolled steel case supports the conclusion that NKK did not sell cold-rolled steel below cost in the home market, we note that the hot-rolled information is not on the record of this proceeding.

Furthermore, contrary to NKK's assertions, the fact that the Department declined to make the adverse assumption that the "all others" companies had "massive imports" for purposes of its critical circumstances determination does not require the Department to exclude the constructed value margins from the "all others" rate calculation. As explained above, the use of a simple average of *all* petition margins involves *no* assumptions (adverse or favorable) with respect to whether a given company or the "all others" group as a whole makes sales below cost. Thus there is no conflict between this position and the Department's decision not to make an adverse assumption with regard to massive imports. Had the Department wished to apply an adverse inference, it would have selected the highest margin in the petition, as it did for the uncooperative mandatory respondents. Instead, as stated previously, the Department used non-adverse facts available to determine the "all others" rate for all companies not fully investigated by calculating the margin based on a simple average of all of the margins contained within the petition.

The Department also disagrees with NKK's allegation that it expressly excluded NKK from participating as a voluntary respondent. In the Department's July 9, 1999, respondent selection memo, the Department stated that voluntary respondents would not be investigated unless mandatory respondents failed to cooperate or unless additional resources became available. The Department further noted that, should some mandatory respondents fail to respond, resources would be reallocated to voluntary respondents on a first-come, first-served basis. Thus, the Department expressly indicated that, although it was unable to accept voluntary respondents at that time, it would be willing to do so at a later date if, as happened in these cases, the voluntary respondents' company-specific data had already been placed on the record and some mandatory respondents did not respond to the questionnaires. *See Notice of*

*Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Taiwan*, 65 FR 1095 (January 7, 2000). NKK's company-specific data was not placed on the record. Nonetheless, the Department recognizes the fact that NKK did fully cooperate with its requests prior to the respondent selection in this investigation. As a result, we are not applying the adverse 53.04 percent rate to NKK's entries, but rather are applying the "all others" rate of 39.28 percent. The Department has acted in accordance with section 776(a)(1) of the Act by applying facts available in a manner that recognizes the fact that the nonparticipating parties have no culpability for the absence of their company-specific information on the record. Based on the above reasons, we have not changed the dumping margin for the "all others" category in the case of Japan.

#### *Continuation of Suspension of Liquidation*

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of cold-rolled steel products exported from Japan by KSC, NSC, Kobe and Nisshin that are entered, or withdrawn from warehouse, for consumption on or after August 7, 1999 (90 days prior to the date of publication of the preliminary determinations in the **Federal Register**). In addition, we will direct the Customs Service to continue to suspend liquidation of cold-rolled steel products exported from Argentina, Japan (by companies other than those specifically mentioned above) and Thailand that are entered, or withdrawn from warehouse, for consumption on or after November 5, 1999, the date of publication of our preliminary determinations in the **Federal Register**. The Customs Service shall require a cash or bond deposit equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice. The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
Argentina:	
Siderar Limited .....	24.53
All others .....	24.53
Japan:	
Nippon Steel Corporation ..	53.04
Kawasaki Steel Corpora- tion .....	53.04
Kobe Steel, Ltd .....	53.04

<sup>3</sup> *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan*, 64 FR 24329 (May 6, 1999)

<sup>4</sup> We note, in addition, that the Department does not use constructed value only when there are sales below cost. For example, constructed value margins are utilized whenever there are insufficient matches for price-to-price comparisons, for whatever reasons. Furthermore, the Department also routinely includes constructed value margins in the all-others rate when it uses margins calculated during an investigation for such purposes.

Manufacturer/exporter	Margin (percent)
Nisshin Steel Co., Ltd .....	53.04
All others .....	39.28
Thailand:	
TCRSSC/Sahaviriya .....	80.67
All others .....	67.97

### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determinations. As our final determinations are affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

These determinations are published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: January 18, 2000.

**Robert S. LaRussa,**

Assistant Secretary for Import Administration.

[FR Doc. 00-1847 Filed 2-3-00; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-791-807]

#### Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From South Africa

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

**EFFECTIVE DATE:** February 4, 2000.

- 0.30 percent of tungsten, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- SAE grades (formerly also called AISI grades) above 2300;
- Ball bearing steels, as defined in the HTSUS;
- Tool steels, as defined in the HTSUS;

**FOR FURTHER INFORMATION CONTACT:** Carrie Blozy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0165.

### The Applicable Statute

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 references to the Department's regulations are to the provisions codified at 19 CFR Part 351 (1998).

### Final Determination

We determine that certain cold-rolled flat-rolled carbon-quality steel products ("cold-rolled steel products") from South Africa are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice.

### Case History

The preliminary determination in this investigation was published on November 10, 1999. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From South Africa*, 64 FR 61270 (November 10, 1999) ("*Preliminary Determination*"). No interested parties have provided comments on the *Preliminary Determination* and no request for a hearing has been received by the Department.

### Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide

or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling") for example, products which have been beveled or rounded at the edges.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free ("IF")) steels, high strength low alloy ("HSLA") steels, and motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedules of the United States ("HTSUS"), are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight, and; (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 2.25 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or