

warehousing expenses. We made adjustments for differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale involving imputed credit expenses (less interest revenue) warranties and commissions, where appropriate. We also made adjustments for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset), pursuant to 19 CFR 351.410(e). Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act. In both its narrative response to the Department's questionnaire and in its home market sales listing, P&B described the terms of certain home market sales as F.O.B. plant. However, P&B reported freight expenses for these sales in its home market sales database. For home market sales transactions where this discrepancy occurs, we did not reduce P&B's home market sales price by the reported freight expense.

#### *Currency Conversion*

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determined a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) of the Act directs the Department to allow 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see *Policy Bulletin 96-1: Currency Conversions* 61 FR 9434 (March 9, 1996).) The use of an adjustment period was not warranted in this case because of lira did not undergo a sustained movement.

#### *Verification*

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use 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 imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacture	Weighted-average margin percentage
ILVA SpA .....	3.67
Palini & Bertoli SpA .....	6.35
All Others .....	5.78

#### *ITC Notification*

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

#### *Public Comment*

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than August 25, 1999, and rebuttal briefs no later than September 1, 1999. A list of authorities used and executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on September 10, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and

place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 75 days after the date of this preliminary determination.

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

Dated: July 19, 1999.

**Robert S. LaRussa,**  
Assistant Secretary for Import  
Administration.

[FR Doc. 99-19303 Filed 7-28-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-847]

### Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products From Japan

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

**EFFECTIVE DATE:** July 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mark Manning or Wendy J. Frankel, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3936 or (202) 482-5849, respectively.

#### **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 are made to the Department's regulations at 19 CFR Part 351 (1998).

#### **Preliminary Determination**

We preliminarily determine that certain cut-to-length carbon-quality steel

plate products ("CTL plate") from Japan are being, 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

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from Czech Republic, France, India, Italy, Japan, Republic of Korea, and Former Yugoslav Republic of Macedonia* (64 FR 12959, March 16, 1999)) ("*Initiation Notice*"), the following events have occurred:

In their petition, the petitioners<sup>1</sup> identified Kawasaki Steel Corporation ("Kawasaki"), Kobe Steel, Ltd. ("Kobe"), Nippon Steel Corporation ("Nippon"), NKK Corporation ("NKK"), and Sumitomo Metal Industries, Ltd. ("Sumitomo") as possible exporters of CTL plate from Japan. Though we requested on March 12, 1999, data on all producers and exporters of the subject merchandise during the period of investigation ("POI") from the U.S. embassy in Tokyo, the U.S. embassy was unable to provide us with any additional information on producers or exporters of the subject merchandise to the United States. Based on information contained in the petition, the Department issued antidumping questionnaires to Kawasaki, Kobe, Nippon, NKK, and Sumitomo on March 17, 1999.<sup>2</sup>

In April 1999, the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination in this case (see ITC Investigation No. 731-TA-815-822). Also, the Department received a response to all applicable sections of the questionnaire from Kawasaki and responses to question 1.a.1. of Section A from Kobe, NKK, and Sumitomo. On April 12, 1999, Nippon submitted a

letter stating that it would not be responding to the Department's antidumping questionnaire. On April 26, 1999, Sumitomo submitted a letter to the Department stating that it would not be providing any further questionnaire responses with respect to this antidumping investigation. Kobe and NKK did not respond further to the Department's requests for information.

On April 26, 1999, the Department published its preliminary determination of critical circumstances for certain cut-to-length carbon-quality steel plate from Japan. In that determination, we preliminarily found that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of CTL plate from Japan. See *Preliminary Determination of Critical Circumstances: Certain Cut-To-Length Carbon-Quality Steel Plate From Japan* (April 26, 1999), 64 FR 2025.

On April 26, 1999, Kawasaki requested that it be allowed to exclude certain home market sales made during the period of investigation ("POI"), of merchandise produced at Kawasaki's universal mill at Mizushima and its hot-strip mill at Chiba, from its home market sales listing. Kawasaki further requested that it be excused from reporting the costs associated with producing this same merchandise.

Kawasaki stated that these sales constitute an insignificant amount of its total home market sales, that subject merchandise produced at these two mills was not sold in the United States, and that no merchandise identical to that produced at these mills was sold in the United States. Kawasaki stated that it would be very difficult and burdensome to report the costs associated with the production of subject merchandise at these facilities, especially in light of the fact that the relevant sales represent such an insignificant portion of sales during the POI. On May 14, 1999, the Department denied Kawasaki's request with respect to the sales of subject merchandise produced at the universal mill at Mizushima and the hot-strip mill at Chiba, and instructed Kawasaki to include these sales in its home market sales listing. However, on June 15, 1999, the Department granted Kawasaki's request not to report costs of producing merchandise associated with these two facilities. In granting this request, the Department notified Kawasaki that the Department reserves the right to request additional information concerning these costs and that in the event that we find that there is a need to use the cost data, we may rely on the facts available, as required by section 776 of the Act,

including, if appropriate, adverse inferences.

We issued supplemental questionnaires for Sections A, B, C and D to Kawasaki in May 1999 and received responses to these questionnaires along with revised home market and U.S. sales listings in June 1999. In June 1999, Kawasaki submitted clarifications to its responses and the petitioners submitted comments for the Department's consideration in the preliminary determination. In July 1999, Kawasaki submitted additional clarifications to its responses. Also, the petitioners submitted further comments for the Department's consideration in the preliminary determination.

### Facts Available

Section 776(a)(2) of the Act provides that "if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority \* \* \* shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title."

Moreover, section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its abilities to comply with a request for information. Kobe, Nippon, NKK, and Sumitomo all declined to respond to the Department's antidumping questionnaire. Because these respondents have withheld requested information, we must use facts available, in accordance with section 776(a) of the Act. We have also determined that these respondents have not cooperated to the best of their abilities. Therefore, pursuant to 776(b) of the Act, we used an adverse inference in selecting a margin from the facts available. As facts available, the Department has applied a margin rate of 59.12 percent, the highest alleged margin in the petition.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on "secondary information," such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action

<sup>1</sup> The petitioners are Bethlehem Steel Corporation, Gulf States Steel, Inc., IPSCO Steel Inc., Tuscaloosa Steel Corporation, the United Steelworkers of America, and the U.S. Steel Group (a unit of USX Corporation).

<sup>2</sup> Section A of the questionnaire requested general information concerning the company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of that merchandise in all markets. Sections B and C of the questionnaire requested home market sales listings and U.S. sales listings. Section D of the questionnaire requested information regarding the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E of the questionnaire requested information regarding the cost of further manufacture or assembly performed in the United States.

accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (hereinafter, the "SAA") states that "corroborate" means to determine that the information used has probative value. See SAA at 870.

In this proceeding, we considered the petition information the most appropriate record information to use to establish the dumping margins for these uncooperative respondents. In accordance with section 776(c) of the Act, we sought to corroborate the data contained 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 (e.g., import statistics and foreign market research reports). See *Initiation Notice*.

For purposes of the preliminary determination, we attempted to corroborate the information in the petition. We reexamined the export price and CV 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 July 19, 1999, memorandum to the file regarding *Corroboration of the Petition Data*, on file in the Central Records Unit (CRU) of the Main Commerce Department building).

#### *Scope of Investigation*

The products covered by the scope of this investigation are certain hot-rolled carbon-quality steel: (1) Universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular 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. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included

within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (i.e., USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to these investigations is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 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 Comments*

As stated in our notice of initiation, we set aside a period for parties to raise issues regarding product coverage. In particular, we sought comments on the specific levels of alloying elements set out in the description above, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage.

On March 29, 1999, Usinor, a respondent in the French antidumping and countervailing duty investigations and Dongkuk Steel Mill Co., Ltd. and Pohang Iron and Steel Co., Ltd., respondents in the Korean antidumping and countervailing duty investigations (collectively "the Korean respondents"), filed comments regarding the scope of the investigations on CTL plate and the Department's model matching criteria. On April 14, 1999, the petitioners filed rebuttal comments regarding model matching. In addition, on May 17, 1999, ILVA SpA ("ILVA"), a respondent in the Italian antidumping and countervailing duty investigations, requested guidance on whether certain products are within the scope of these investigations.

Usinor requested that the Department modify the scope to exclude: (1) Plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4" or thicker and which is certified for use in high-pressure, nuclear or other technical applications; and (3) floor plate (i.e., plate with "patterns in relief") made from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

The Department has not modified the scope of these investigations because the current language reflects the product coverage requested by the petitioners, and Usinor's products meet the product description. With respect to Usinor's clarification request, we do not agree that the scope language requires further elucidation with respect to product coverage under the HTSUS. As indicated in the scope section of every Department antidumping and countervailing duty proceeding, the HTSUS subheadings are provided for convenience and Customs purposes only; the written description of the merchandise under investigation or review is dispositive.

The Korean respondents requested confirmation whether the maximum alloy percentages listed in the scope

language are definitive with respect to covered HSLA steels.

At this time, no party has presented any evidence to suggest that these maximum alloy percentages are inappropriate. Therefore, we have not adjusted the scope language. As in all proceedings, questions as to whether or not a specific product is covered by the scope and, hence, must be reported, should be timely raised with Department officials.

ILVA requested guidance on whether certain merchandise produced from billets is within the scope of the current CTL plate investigations. According to ILVA, the billets are converted into wide flats and bar products (a type of long product). ILVA notes that one of the long products, when rolled, has a thickness range that falls within the scope of these investigations. However, according to ILVA, the greatest possible width of these long products would only slightly overlap the narrowest category of width covered by the scope of the investigations. Finally, ILVA states that these products have different production processes and properties than merchandise covered by the scope of the investigations and therefore are not covered by the scope of the investigations.

As ILVA itself acknowledges, the particular products in question appear to fall within the parameters of the scope and, therefore, we are preliminarily treating them as covered merchandise for purposes of these investigations.

#### *Period of Investigation*

The POI is January 1, 1998, through December 31, 1998.

#### *Fair Value Comparisons*

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

#### *Product Comparisons*

In accordance with section 771(16) of the Act, we considered all products produced by Kawasaki covered by the description in the "Scope of Investigation" section, above, and sold in Japan during the POI to be foreign like products for purposes of

determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance (which are identified in Appendix V of the questionnaire): painting, quality, grade specification, heat treatment, nominal thickness, nominal width, patterns in relief, and descaling.

Because Kawasaki had no sales of non-prime merchandise in the United States during the POI, we did not use home market sales of non-prime merchandise in our product comparisons (see, e.g., *Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Sweden* (63 FR 40449, 40450, July 29, 1998) ("SSWR")).

#### *Level of Trade*

In accordance with section 773(a)(1)(B) 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 constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. With respect to U.S. price or EP transactions, the LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP, the LOT 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, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining

whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (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 (November 19, 1997).

Kawasaki reported two customer categories (i.e., trading companies and original equipment manufacturers) and what it claimed were three channels of distribution (i.e., sales to unaffiliated trading companies, direct sales to original equipment manufacturers, and sales to an affiliated trading company, Kawasho Corporation ("Kawasho Japan")) for its home market sales. Kawasaki reported EP and CEP sales in the U.S. market. For EP sales, Kawasaki reported one customer category and one channel of distribution (i.e., direct sales to unaffiliated Japanese trading companies, for sale to the U.S. market). Kawasaki claimed in its response that its EP sales were made at the same LOT as home market sales to unaffiliated trading companies. For this reason, Kawasaki has not asked for a LOT adjustment to NV for comparison to its EP sales. For CEP sales, Kawasaki reported one customer category and one channel of distribution (i.e., Kawasaki sales through Kawasho International ("KI"), which is the U.S. affiliate of Kawasho Japan, Kawasaki's affiliated trading company that sells in the home market and, for U.S. sales purposes, to KI). Kawasaki stated that there is no LOT in the home market that is comparable to the CEP LOT in the United States. Kawasaki claims that when comparing the selling activities of Kawasaki's affiliated trading company, Kawasho Japan, for home market sales (channel three) and for CEP sales, Kawasho provides a higher level of selling services in home market than for CEP sales. Kawasaki asserts that because Kawasho performs greater selling activities in the home market, Kawasho incurs higher selling expenses for home market sales. In addition, Kawasaki argues that the home market LOTs are more remote (further from production) than the CEP LOT. Kawasaki stated that since there is no comparable LOT in the home market, it could not demonstrate a pattern of consistent differences in price due to sales at different LOTs in the home market and therefore did not claim a LOT adjustment. Kawasaki has requested a CEP offset instead.

In determining whether separate LOTs actually existed in the home market and U.S. market, we examined whether Kawasaki's sales involved different marketing stages (or their

equivalent) based on the channel of distribution, customer categories and selling functions.

For sales in the home market we found that Kawasaki performed essentially the same selling activities for each of the three channels of distribution. These include: technical advice, warranty service, advertising, marketing services, freight and delivery, warehousing, inputting a specification control number, sales processing, rebate administration, and demand forecasting. Based on our analysis of these factors, we found that Kawasaki's home market sales comprise a single LOT.

In analyzing Kawasaki's selling activities for its EP sales, we noted that the sales involved basically the same selling functions associated with the home market LOT described above. These selling activities include technical advice, warranty service, advertising, marketing services, inputting a specification control number, sales processing, rebate administration, and demand forecasting. Therefore, based upon this information, we have determined that the LOT for all EP sales is the same as that in the home market.

Kawasaki failed to provide any factual support for its argument that the LOT of its home market sales is more remote than the LOT of its CEP sales. Our analysis indicates that the selling functions performed at the CEP level are essentially the same as those performed in the home market. Specifically, after having excluded selling functions of its U.S. affiliate from our analysis, in accordance with sections 772(d) and 773(a)(7)(A) of the Act, we determined that Kawasaki and/or Kawasho Japan performed the following selling activities for its CEP sales: technical advice, warranty service, advertising, marketing services, freight and delivery, inputting a specification control number, sales processing, and demand forecasting. Therefore, based upon this analysis, we determine that Kawasaki's CEP and home market sales are made at the same LOT.

Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) and no CEP offset pursuant to 773(a)(7)(B) of the Act are warranted.

#### *Export Price and Constructed Export Price*

Kawasaki reported as EP transactions sales of subject merchandise sold to unaffiliated U.S. customers prior to importation through multiple unaffiliated Japanese trading companies. Kawasaki reported as CEP transactions

sales of subject merchandise to an affiliated trading company, Kawasho Japan, which resold the merchandise to KI (Kawasho Japan's U.S. affiliate), which then resold the subject merchandise to unaffiliated customers in the United States.

We calculated EP, in accordance with section 772(a) of the Act, for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted, based on the facts of record. We based EP on the packed FOB stowed and trimmed or FAS price to unaffiliated purchasers in the United States, as appropriate. We made deductions to the starting price for rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling charges, and foreign insurance.

We calculated CEP, in accordance with subsection 772(b) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States. We based CEP on the packed ex-dock, duty paid, U.S. port prices to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, foreign insurance, ocean freight, marine insurance, and U.S. customs duties. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs, technical service costs and advertising expenses) and indirect selling expenses (including inventory carrying costs). We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

#### *Normal Value*

After testing (1) home market viability, (2) whether sales to affiliates were at arm's-length prices, and (3) whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" section of this notice.

#### *1. Home Market Viability*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the

foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Kawasaki'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 Kawasaki'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 Kawasaki.

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

Kawasaki is affiliated with two home market trading companies—Kawasho Japan and a second trading company, which we will refer to as company X. Kawasaki stated in its questionnaire responses that company X, who purchases both Kawasaki-produced subject merchandise and subject merchandise produced by other manufacturers, is unable to link its sales of subject merchandise to unaffiliated home market customers with its purchases of Kawasaki-produced subject merchandise. For this reason, Kawasaki states that it is unable to report the downstream sale from company X to the first unaffiliated home market customer. Therefore, Kawasaki has reported only its sales to company X.

Kawasaki also stated that Kawasho sells subject merchandise to several affiliated processors and resellers in the home market. According to Kawasaki, these affiliated processors and resellers purchase both Kawasaki-produced subject merchandise and subject merchandise produced by other manufacturers. Kawasaki states that it cannot report the downstream sales by these affiliates because these companies do not link the original subject merchandise produced with the product sold. For this reason, Kawasaki has reported only sales from Kawasho to the affiliated processors and resellers.

Because Kawasaki is affiliated with company X and Kawasho's affiliated processors and resellers, we applied the arm's-length test to sales from Kawasaki to company X, and to sales made by Kawasho to its affiliated processors and resellers, by comparing them to sales of identical merchandise from Kawasaki to its unaffiliated home market customers. If these affiliated party sales satisfied the arm's-length test, we used them in our analysis. Sales to affiliated customers in the home market which were not made at arm's-length prices were excluded from our analysis because we considered them to be

outside the ordinary course of trade. See 19 CFR 351.102.

To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, rebates, direct selling expenses, and home market packing. We added interest revenue and billing adjustments to the gross unit price in the amounts reported by Kawasaki. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c) and 62 FR at 27355, *Preamble—Department's Final Antidumping Regulations* (May 19, 1997). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. See *SSWR* at 63 FR 40451. Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

### 3. Cost of Production Analysis

In their petition, the petitioners submitted an allegation pursuant to section 773(b) of the Act that Kawasaki and the other named respondents had made sales in the home market at less than the cost of production ("COP"). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that Kawasaki had sold CTL plate in the home market at prices at less than the COP. Accordingly, we initiated a COP investigation with respect to each respondent to determine whether sales were made at prices less than the COP pursuant to section 773(b) of the Act (see *Initiation Notice* at 64 FR 12959, 12963).

We conducted the COP analysis described below.

#### A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Kawasaki's cost of materials and fabrication for the foreign like product, direct and indirect selling expenses, plus an amount for home market SG&A, interest expenses, and packing costs.

Kawasaki produced a small quantity of subject merchandise at its universal mill at Mizushima and its hot-strip mill

at Chiba. According to Kawasaki, both of these mills primarily produce non-subject merchandise. For this reason, Kawasaki claimed that it would be burdensome to calculate actual production costs for the subject merchandise originating at these mills. After examining this issue, we granted Kawasaki's request not to report the actual costs from both mills, but required Kawasaki to report the standard costs for subject merchandise produced at these mills. We made the following adjustments to respondents' reported costs:

1. For certain models of merchandise produced at both the hot-strip mill at Mizushima and the hot-strip mill at Chiba, we calculated CONNUM-specific weighted-average total costs of manufacture (TOTCOM) using the quantities produced at the respective mills and the actual TOTCOMs from the Mizushima hot-strip facility and the standard costs from the hot-strip mill at Chiba.

2. For certain CONNUMs of merchandise produced only at the universal mill at Mizushima, and for additional other models of merchandise produced only at the hot-strip mill at Chiba, we used as the TOTCOM the standard costs for each product, as reported by Kawasaki.

3. The Department requested in the antidumping questionnaire that Kawasaki provide CONNUM-specific variable cost of manufacturing ("VCOMH") data for home market sales. For certain home market sales, Kawasaki failed to provide this information. Therefore, we applied the CONNUM-specific variable cost of manufacturing data that Kawasaki reported in its cost of production database as the VCOMH for these sales in Kawasaki's home market sales database.

4. Kawasaki failed to provide cost information for a small number of home market sales. Our analysis of these sales indicates that none are of a specification that would be considered identical or similar to any specification sold in the U.S. market during the POI. For this reason, none of these sales are eligible to be matched to a U.S. sale. Consequently, we have not included them in our analysis.

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

We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below COP. In determining whether to disregard home market sales made at prices less than the

COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and rebates.

#### C. Results of the COP Test

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

We found that, for certain grades of CTL plate, more than 20 percent of Kawasaki's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining above-cost sales as the basis for determining NV if such sales existed, in accordance with section 773(b)(1) of the Act.

#### Price-to-Price Comparisons

We calculated NV based on delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length prices, where appropriate. We added to the starting price the amount Kawasaki reported for interest revenue and billing adjustments. We made deductions, where appropriate, from the starting price for rebates, inland freight, warehousing, and inland freight insurance. We made adjustments for differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In its questionnaire responses, Kawasaki reported a certain fee it regularly incurs as a rebate. We reclassified this fee as a direct expense because the amount Kawasaki reported

under this category is for the fees Kawasaki paid to a service provider rather than a rebate Kawasaki paid to its customers. We made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses, advertising, warranty expenses, technical service expenses, and the above-referenced fee. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

#### Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) of the Act directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see *Policy Bulletin 96-1: Currency Conversions* (61 FR 9434, March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the yen did not undergo a sustained movement.

#### Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

#### Suspension of Liquidation

In April 1999, the Department made an early determination of critical circumstances with respect to imports of subject merchandise from Japan. See *Preliminary Determination of Critical Circumstances: Certain Cut-To-Length Carbon-Quality Steel Plate From Japan* (April 26, 1999), 64 FR 2025. Thus, in accordance with section 733(e)(2) of the

Act, the Department will direct the U.S. Customs Service to suspend liquidation of all entries of CTL plate from Japan, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination of sales at LTFV.

We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Kawasaki Steel Corporation	11.70
Kobe Steel, Ltd .....	59.12
Nippon Steel Corporation .....	59.12
NKK Corporation .....	59.12
Sumitomo Metal Industries, Ltd .....	59.12
All Others .....	11.70

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

#### Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than August 25, 1999, and rebuttal briefs no later than September 1, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on September 13, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is

requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 75 days after the date of this preliminary determination.

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

Dated: July 19, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-836]

### Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea

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

**EFFECTIVE DATE:** July 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Frank Thomson or Howard Smith, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4793, or (202) 482-5193, respectively.

#### 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 are made to the Department's regulations at 19 CFR Part 351 (1998).

#### Preliminary Determination

We preliminarily determine that certain cut-to-length carbon-quality steel plate products ("CTL plate") from the Republic of Korea ("Korea") are being, or are likely to be, sold in the United