DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–819]

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

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

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Maureen Flannery at (202) 482–3020, Matthew Renkey at (202) 482–2312, or Elfi Blum at (202) 482–0197, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

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

Preliminary Determination

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

Case History

This investigation was initiated on October 18, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 54198 (October 26, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events occurred.

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

Based on our analysis of an allegation contained in the petition, we found at the initiation of this investigation that there were reasonable grounds to believe or suspect that the respondent's sales of the subject merchandise in its comparison market were made at prices below its cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation. *See Initiation Notice.*

On November 19, 2001, the Department issued Sections A–E of its antidumping duty questionnaire to Thai Cold Rolled Steel Sheet Public Company Limited (TCR). Additionally, the Department issued a request to the Embassy of Thailand for information regarding the quantity and value of sales of subject merchandise to the United States for all known producers/exporters of subject merchandise in Thailand. The Department received a request from TCR for an extension to file Section A on December 4, 2001, and the Department granted an extension of the deadline for submitting the response to Section A of the Department's questionnaire until noon December 17, 2001.

On December 11, 2001, the Department determined that TCR would be the only mandatory respondent in this investigation. Refer to *Selection of Respondents* section below. On December 17, 2001, the Department received TCR's response to Section A of the questionnaire. On December 19, 2001, TCR requested an extension to file its responses to Sections B through E, and the Department granted an extension of the deadline for submitting its response to the Department's questionnaire until noon, January 17, 2002. The Department issued a supplemental questionnaire regarding TCR's Section A response on December 21, 2001. TCR requested, and the Department granted an extension to file the response to the supplemental Section A questionnaire until January 11, 2002. On January 17, 2002, six days after the filing deadline for the response to the Department's supplemental questionnaire to Section A, and the extended due date for its responses to Sections B through E, TCR informed the Department that it had decided not to respond to continued requests for information or participate in verification in this antidumping investigation.

On February 7, 2002, the petitioners requested a postponement of the preliminary determination in this investigation. On February 22, 2002, the Department published a **Federal Register** notice postponing the preliminary determination until April 26, 2002. *See Postponement of Preliminary Determinations of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (A–357–816), Australia (A–602–804), Belgium (A–423–811), Brazil (A–351–834), the People's Republic of China (A–570–872), France (A–427–822), Germany (A–428–834), India (A–533–826), Japan (A–588–859), Korea (A–580–848), the Netherlands (A–421–810), New Zealand (A–614–803), Russia (A–821–815), South Africa (A–791–814), Spain (A–469–812), Sweden (A–401–807), Taiwan (A–583–839), Thailand (A–549–819), Turkey (A–489–810) and Venezuela (A–307–822),* 67 FR 8227 (February 22, 2002).

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 producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department 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 be reasonably examined. Using import data from the U.S. Customs Service, we found multiple exporters of cold-rolled steel to the United States during the period of investigation (POI). According to this data, TCR, together with its affiliated trading company, accounted for significantly more than 60 percent of all known exports of the subject merchandise during the POI from Thailand. Due to limited resources,

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

we determined that we could only investigate the largest producer/exporter. Therefore, we designated TCR as the only mandatory respondent. *See* the memorandum entitled *Antidumping Duty Investigation of Cold-Rolled Carbon Steel Flat Products from Thailand—Respondent Selection* (December 11, 2001) (*Respondent Selection Memo*).

Period of Investigation

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

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, 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 (FA)

1. Application of FA

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to section 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statue; or (D) provides such information but the information cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

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

On November 19, 2001, the Department issued sections A–E of its antidumping duty questionnaire to TCR. The Department received a request for an extension to file Section A on December 4, 2001, and the Department granted an extension of the deadline for submitting its response to the Department's questionnaire until December 17, 2001. On December 19, 2001, TCR requested an extension to file its responses to Sections B through E, and the Department granted an extension of the deadline for submitting its response to the Department's questionnaire until January 17, 2002. The Department issued a supplemental questionnaire regarding TCR's Section A response on December 21, 2001. TCR requested, and the Department granted, an extension to file the response to the supplemental Section A questionnaire until January 11, 2002. As stated in the *Respondent Selection Memo,* the Department found that TCR was the largest producer/exporter of the subject merchandise and, therefore, designated it as the sole mandatory respondent. *See Respondent Selection Memo.* In addition, the Department informed TCR that it would attempt to accommodate any difficulties it had in answering the questionnaire. The Department also informed TCR that failure to submit the requested information by the date specified might result in use of FA.

Although we informed TCR that we would attempt to accommodate any difficulties it had in answering the questionnaire, and granted its three extension requests, TCR only responded to Section A of the Department's questionnaire. TCR made no additional contact with the Department to request further extensions, or to suggest any alternative methods of providing the requested information that would accommodate any difficulties it might have experienced, or expected to experience, in responding to the questionnaires.

On January 17, 2002, six days after the filing deadline for the response to the Department's supplemental questionnaire to Section A, and the extended due date for its responses to Sections B through E, TCR informed the Department that it had decided not to respond to continued requests for information or participate in verification in this antidumping investigation. On March 6, 2002, petitioners submitted comments highlighting TCR's failure to submit information requested by the Department. As adverse FA (AFA), petitioners suggested that we apply the highest margin from the original petition, 150.26 percent. Alternatively, petitioners suggested that the Department apply the highest rate from the *Initiation Notice,* 142.78 percent, which was based on petitioners' October 12, 2001 amendment to the petition.

As described above, TCR failed to provide a full response to the Department's questionnaires despite the Department's willingness to accommodate its difficulties. Because TCR failed to provide the necessary information requested by the Department, pursuant to section 776(a)(2)(B) of the Act, we have applied FA to determine its dumping margin.

2. Selection of AFA

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808, 53819–20 (October 16, 1997). TCR was notified twice in the Department's questionnaires that failure to submit the requested information by the date specified might result in the use of FA. As described above, prior to withdrawing, TCR failed to contact the Department to express any difficulties it might have been experiencing or to suggest how we might accommodate it in overcoming these difficulties, with the exception of its three extension requests, which we granted. As a general matter, it is reasonable for the Department to assume that TCR possessed the records necessary for this investigation, and that by not supplying the information requested, it failed to cooperate to the best of its ability. Since TCR failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As AFA, we have used 142.78 percent, the highest rate at which we initiated. *See Initiation Notice.*

3. Corroboration of AFA Information

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

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review

under section 751 concerning the subject merchandise.'' *See* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d).

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

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*see Thailand Initiation Checklist* on file in the Central Records Unit (*Initiation Checklist*), Room B–099, of the Main Commerce Department building, for a discussion of the margin calculation in the petition). In addition, in order to determine the probative value of the margin in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculation in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and Normal Value (NV) calculations on which the margins in the petition were based.

a. Export Price

With respect to the margins in the petition, EP was based on average per-unit customs import values (AUV) for the two ten-digit categories of the Harmonized Tariff Schedule of the United States (HTSUS) accounting for a significant percentage of in-scope imports from Thailand during the POI. Our review of the EP calculation indicated that the information in the petition has probative value, as certain information (*e.g.,* import statistics) included in the margin calculations in the petition is from public sources concurrent with the POI. Export prices which are based on U.S. customs data are considered corroborated. *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review,* 64 FR 76, 84 (January 4, 1999) (Comment 13).

b. Normal Value

The petitioners calculated NV from price information obtained from foreign market research for cold-rolled steel comparable to the products used as the basis for EP. The petitioners made no adjustments to NV.

With respect to NV, the petitioners also provided information demonstrating reasonable grounds to believe or suspect that sales of cold-rolled carbon steel flat products in the home market were made at prices below the COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of cost of manufacture (COM), selling, general and administrative (SG&A) expenses, and packing. The petitioners calculated COM based on their own production experience, adjusted for known differences between costs incurred to produce cold-rolled carbon steel flat products in the United States and Thailand using publicly available data. To calculate SG&A and interest, the petitioners relied upon amounts reported in TCR's 1999 financial statements. Because the Thai home market price of cold-rolled steel products in the petition was below the COP, the petitioners also based NV for sales in Thailand on constructed value (CV), pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act. The petitioners calculated CV using the same COM, SG&A and interest expense figures used to compute Thai home market costs, and included in CV an amount for profit. For profit, the petitioners relied upon amounts reported in TCR's 1999 financial statements. *See Initiation Checklist.*

With respect to the CV data, we were able to corroborate the reasonableness of these data by examining the financial statements used to calculate COP and the petitioners' own information about the cost of transforming the hot-rolled coil into subject merchandise. With respect to the petitioners' own information regarding the cost of transforming the hot-rolled coil into subject merchandise, we corroborated the information by tracing the surrogate factors and values to the certification provided by the U.S. surrogate. Where applicable, we corroborated petitioners' own information adjusted for known differences with publicly available data. With regard to the CV contained in the petition, the Department was provided no useful information by the respondent or other interested parties and is aware of no other independent sources of information that would enable us to further corroborate the margin calculations in the petition.

Accordingly, in selecting AFA with respect to TCR, the Department decided to apply the CV margin rate of 142.78 percent, which is the highest estimated dumping margin calculated by the petitioners in the amendment to the petition of this investigation. *See Initiation Notice.*

All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis,* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''All Others'' rate for exporters and producers not individually investigated. 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: Stainless Steel Plate in Coil from Canada (Plate from Canada),* 64 FR 15457 (March 31, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy (Plate from Italy),* 64 FR 15458, 15459 (March 21, 1999). For purposes of this preliminary determination, we are basing the ''All Others'' rate on the simple average of margins for certain products under investigation at which we initiated, which is 127.44 percent.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service (Customs) to suspend liquidation of all entries of cold-rolled steel exported from Thailand 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 Customs to require a cash deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
Thai Cold-Rolled Steel Sheet Public Company, Limited	142.78
All Others	127.44

Disclosure

The Department will disclose calculations performed within five days

of the date of publication of this notice to the parties of the proceedings in these investigations in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threatening 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

Unless otherwise directed by the Department, case briefs must be submitted no later than 50 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five 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 an 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 location of the hearing 48 hours prior to the scheduled time.

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

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

Dated: April 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–810]

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

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

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge, or Robert James at (202) 482–3518, (202) 482–1131, or (202) 482–0649, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, 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 Tariff Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Preliminary Determinations

We preliminarily determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Turkey 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 Tariff Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On October 18, 2001, the Department initiated antidumping investigations of cold-rolled steel from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey and Venezuela. The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corp., NUCOR Corporation, Steel Dynamics, Inc., United States Steel LLC, WCI Steel, Inc., and Weirton Steel Corporation. *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 54198 (October 26, 2001).

In the initiation the Department set aside a period for all interested parties to raise issues regarding product coverage. For a complete discussion of all scope exclusion requests submitted in the context of the on-going cold-rolled steel investigations, 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. Since the initiation of these investigations the following events have occurred.

On November 13, 2001, the United States International Trade Commission (ITC) notified the Department that it preliminarily determined there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela. *See Cold-Rolled Steel Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 57985 (November 19, 2001).

On November 8, 2001, the Department issued Section A, Question 1 of the antidumping questionnaire to Borcelik Celik Sanayii ve Ticaret A.S.(Borcelik), Eregli Demir ve Celik, and Cargill Tarim Sanayii ve Ticaret, requesting volume and value information for the POI for each exporter. We received the information requested on November 22,