

presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination in the investigation of cold-rolled steel from India 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-588-859]

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

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

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon at (202) 482-0162, Mark Hoadley at (202) 482-0666, or Julio Fernandez at (202) 482-0190, 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 Japan 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, the 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 20, 2001, the Department issued Section A antidumping questionnaires to four producers/exporters of subject merchandise, Sumitomo Metal Industries, Ltd. (Sumitomo), NKK Corporation (NKK), Nippon Steel Corporation (Nippon), and Kawasaki Steel Corporation (Kawasaki), requesting that they respond to part 1 of Section A, *i.e.*, the total quantity and value of sales of subject merchandise to the United States, the home market, and to third countries, within 10 days

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

(November 30, 2001). We requested that they complete the remainder of Section A by December 11, 2001.² Additionally, the Department issued a request to the Embassy of Japan for information regarding the quantity and value of sales of subject merchandise to the United States for all known producers/exporters. The Department received responses to part 1 of the Section A questionnaire from NKK and Kawasaki on November 30, 2001, but not from Sumitomo or Nippon. On November 30, 2001, Nippon requested, and the Department granted, an extension of the deadline for submitting its response to part 1 of Section A of the Department's questionnaire until December 5, 2001. On December 4, 2001, Sumitomo and Nippon each informed the Department by telephone that they would not be responding to any part of the Department's questionnaire. See *Memorandum to the File from Mark Hoadley through Sally Gannon, Regarding Certain Cold-Rolled Carbon Steel Flat Products from Japan* (December 5, 2001). On December 7, 2001, the Department received quantity and value information from the Embassy of Japan for the four producers/exporters named above and for two additional companies: Nisshin Steel Co., Ltd. and Kobe Steel, Ltd. Also on December 7, 2001, the Department received a request from Kawasaki that the deadline for its submission of the remainder of Section A be extended to December 18, 2001. We granted the extension.

On December 17, 2001, based on the information received on the record, the Department selected Kawasaki and Nippon as mandatory respondents in this investigation and requested that they complete Sections B through E of the antidumping questionnaire. Refer to *Selection of Respondents* section below. We set a deadline of January 21, 2001, for Sections B through E.

On December 18, 2001, the Department received a Section A response from Kawasaki. On January 4, 2001, the Department issued a supplemental questionnaire to

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

Kawasaki, pertaining to its December 18 response. We set a deadline of January 18, 2002 to respond to this supplemental questionnaire. The Department never received a response to Sections A through E or requests for extensions from Nippon, and never received a response to the supplemental questionnaire, Sections B through E, or requests for extensions from Kawasaki. On January 18, 2002, Kawasaki submitted a letter informing the Department that it would not be responding further to the Department's questionnaire.

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 company-specific export data for the POI provided by the Embassy of Japan in its December 7, 2001 submission, we found that six producers/exporters exported cold-rolled steel to the United States during the POI. According to the data provided by the Embassy, Kawasaki and Nippon combined represented over 60 percent of the imports during the POI. Due to limited resources, we determined that we could

only investigate these two largest producers/exporters. Therefore, we designated Kawasaki and Nippon as the mandatory respondents. See *Memorandum to Barbara Tillman from the Team, Regarding Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Japan; Selection of Mandatory Respondents* (December 17, 2001) (*Respondent Selection Memo*).

Period of Investigation

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

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, 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 requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

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

On November 20, 2001, the Department issued Section A of the antidumping questionnaires to

Kawasaki and Nippon. The Section A response was due on December 11, 2001. We issued Sections B-E on December 17, 2001, to both companies with a due date of January 21, 2002, and a supplemental to Kawasaki on its Section A response on January 4, 2002, with a due date of January 18, 2002. Furthermore, we granted an extension until December 18, 2001, to Kawasaki to submit its Section A response, the only extension request we received from either of these two parties. Nevertheless, Kawasaki responded only to Section A of our antidumping questionnaire, and Nippon failed to respond to any part of the questionnaire. As stated in the *Respondent Selection Memo*, the Department found that Kawasaki and Nippon were the largest producers/exporters of subject merchandise during the POI and, therefore, designated them as mandatory respondents. See *Respondent Selection Memo*. In addition, the Department informed both companies that it would attempt to accommodate any difficulties that they had in answering the questionnaire. The Department also informed both companies that failure to submit the requested information by the date specified might result in use of FA.

Although we informed both companies that we would attempt to accommodate any difficulties that they had in answering the questionnaire, only Kawasaki submitted an extension request, and only for the original Section A response. Neither party made any additional contact with the Department to request an extension, or to suggest any alternative methods of providing the requested information that would accommodate any difficulties they might have experienced, or expected to experience, in responding to the questionnaires.

As described above, Kawasaki and Nippon failed to provide full responses to the Department's questionnaire despite the Department's willingness to accommodate their difficulties. Because they failed to provide the necessary information requested by the Department, pursuant to section 776(a)(2)(B) of the Act, we have applied the FA to determine their dumping margins.

2. Selection of Adverse FA (AFA)

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. See, *e.g.*, *Certain Welded Carbon Steel Pipes and*

Tubes From Thailand: Final Results of Antidumping Duty Administrative Review, 62 FR 53808, 53819–20 (October 16, 1997). Kawasaki and Nippon were notified twice in the Department's questionnaires that failure to submit the requested information by the date specified might result in use of FA. As described above, Kawasaki and Nippon failed to contact the Department to express any difficulties they might have been experiencing or to suggest how we might accommodate them in overcoming these difficulties, with the exception of Kawasaki's single extension request, which we granted. As a general matter, it is reasonable for the Department to assume that Kawasaki and Nippon possessed the records necessary for this investigation, and that by not supplying the information the Department requested, they failed to cooperate to the best of their ability. As both companies failed to cooperate to the best of their ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As AFA, we have used 115.22 percent, the highest rate derived from the petition. 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 *Japan 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 a sales offer obtained by petitioners and documented in the petition. We compared price quotes for two different products contained in the offer with contemporaneous, average per-unit customs import values (AUV) for the two ten-digit HTSUS categories matching the two products. We noted that the U.S. price quotes were well within the range of the AUVs reported by U.S. Customs. The petition also contained public U.S. Customs data supporting the conclusion that these two products accounted for a substantial share (over 40 percent) of the products sold by Japan in the United States during the POI and, thus, are representative of Japanese imports as a whole. The petition also contains current, supporting documentation for adjustments made to EP, including U.S. customs data used to calculate the cost of international freight and the amount of customs duties.

b. Normal Value (NV)

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 adjustment to NV.

With respect to NV, the petitioners also provided information demonstrating reasonable grounds to believe or suspect that sales of cold-rolled steel in the home market were made at prices below the cost of production (COP) within the meaning of section 773(b) of the Act. COP consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, and packing. The

petitioners calculated COM based on their own production experience, adjusted, using publicly available data, for known differences between costs incurred to produce cold-rolled carbon steel flat products in the United States and Japan. To calculate SG&A, the petitioners relied upon amounts reported in a Japanese company's unconsolidated 2001 financial statements. For interest expense, the petitioners used the Japanese company's consolidated 2001 financial statements. Because the Japanese home market price in the petition of cold-rolled steel products was below the COP, the petitioners also based NV 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 and SG&A expenses used to compute home market COP, and included an amount for profit. For profit, the petitioners relied upon amounts reported in the Japanese steel producer's unconsolidated 2001 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 affidavit provided by the U.S. surrogate. Where applicable, we corroborated the 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 respondents 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 Kawasaki and Nippon, the Department decided to apply the CV margin rate of 115.22 percent, which is the highest estimated dumping margin calculated by the petitioners in 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 in the petition, which is 112.56 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 from Japan 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)
Kawasaki Steel Corporation	115.22
Nippon Steel Corporation	115.22
All Others	112.56

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 any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination in the investigation of cold-rolled steel from Japan 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-580-848]

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

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

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that certain cold-rolled carbon steel flat products ("cold-rolled steel") from Korea are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination.

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Ledgerwood or Mark Young, AD/CVD Enforcement Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3836 or (202) 482-6397, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

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

Case History

On October 18, 2001, the Department initiated antidumping duty investigations on cold-rolled steel (*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*).