material injury, by reasons of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

In accordance with 19 CFR 353.38 (1996), case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than 50 days after the publication of this preliminary determination, and rebuttal briefs, no later than 5 days after the filing of case briefs. A list of authorities used and a summary of arguments made in the briefs should accompany these briefs. Such summary should be limited to five pages total, including footnotes. We will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, time, date, and room to be determined. 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 ten 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. In accordance with 19 CFR 353.38(b) (1996), oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by August 18, 1997.

This determination is published pursuant to section 777(i) of the Act.

Dated: June 3, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–15293 Filed 6–10–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–849]

Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From The People's Republic of China

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

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

EFFECTIVE DATE: June 11, 1997.

FOR FURTHER INFORMATION CONTACT: Elizabeth Patience, Stephen Jacques, or Jean Kemp, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3793.

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 Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 353 (April 1, 1996).

Preliminary Determination

We determine preliminarily that certain cut-to-length carbon steel plate from the People's Republic of China (''PRC'') is being, or is 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 are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (61 FR 64051, December 3, 1996), the following events have occurred:

On November 27, 1997, we sent a survey to the Chinese Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'') and the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (''CCCMC'') to determine the identity of producers and exporters of subject merchandise, but we received no response.

On December 19, 1996, the United States International Trade Commission (''ITC'') issued an affirmative preliminary injury determination in this case (see ITC Investigations Nos. 731TA–753–756). The ITC found that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from the PRC of steel plate. We issued an antidumping questionnaire to the Chinese Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'') with a list of 20 possible producers of subject merchandise and requested MOFTEC to forward it to all producers/exporters of subject merchandise on December 20, 1996. We also sent courtesy copies to the 20 producers on that date. These producers were identified in Iron and Steel Works of the World, 11th edition, 1994.

The questionnaire is divided into four sections. Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. (Section B does not normally apply in antidumping proceedings involving the PRC). Section D requests information on the factors of production of the subject merchandise.

On January 10, 1997, Geneva Steel Company and Gulf States Steel Company, (petitioners) amended their petition to allege that critical circumstances existed with respect to subject merchandise.

On January 24, 1997 the following submitted their section A response: China Metallurgical Import & Export Liaoning Company (Liaoning), an exporter of subject merchandise; Wuyang Iron and Steel Company (Wuyang), which produced the merchandise sold by Liaoning; Anshan Iron and Steel Complex (AISCO), a producer of subject merchandise; Angang International Trade Corporation (Anshan International), a wholly-owned AISCO subsidiary in China with its own business license to import and export merchandise, and Sincerely Asia, Limited (SAL) a partially-owned Hong Kong affiliate of AISCO involved in sales of subject merchandise to the United States, (collectively, Anshan); Baoshan Iron & Steel Corporation (Bao), a producer of subject merchandise; Bao Steel International Trade Corporation (Bao Steel ITC), a wholly-owned subsidiary of Bao responsible for selling Bao material domestically and abroad; and Bao Steel Metals Trading Corporation (B. M. International), a partially-owned U.S. subsidiary involved in U.S. sales, (collectively

Baoshan); Wuhan Iron & Steel Company (Wuhan) a producer of subject merchandise; International Economic and Trading Corporation (IETC), a wholly-owned subsidiary responsible for exporting WISCO merchandise; Cheerwu Trader Ltd. (Cheerwu) a partially-owned Hong Kong affiliate of Wuhan involved in sales of subject merchandise to the United States (collectively, WISCO); Shanghai Pudong Iron and Steel Company (Shanghai Pudong) a producer and exporter of subject merchandise. *See* the Collapsing section of this memorandum, below. We consider Anshan, Baoshan, Liaoning, WISCO and Shanghai Pudong to be sellers of the subject merchandise during the POI.

In a letter entering notice of its appearance, Liaoning stated that it purchased and sold subject merchandise from an unaffiliated producer, Wuyang Iron and Steel Company (''Wuyang''). We therefore requested that Wuyang also respond to the Department's questionnaires. Wuyang complied with the Department's request.

On February 12 and February 14, 1997, the five exporters submitted their section C responses. On February 19 and February 20, 1997, Anshan, Baoshan, Wuyang, Shanghai Pudong, and WISCO producer/supplier factories submitted section D questionnaire responses.

On March 11, 1997, we issued a supplemental questionnaire to Liaoning and Wuyang. On March 12, 1997 we issued supplemental questionnaires to Anshan, Shanghai Pudong, and WISCO. On March 13, 1997, we issued a supplemental questionnaire to Baoshan.

We received a supplemental questionnaire response from Liaoning and Wuyang on April 9, 1997. We received supplemental questionnaire responses from Anshan, Baoshan , Shanghai Pudong and WISCO on April 14, 1997. Anshan provided corrections to minor errors in its responses on April 21, 1997, Baoshan submitted corrections on April 24, 1997 and Shanghai Pudong submitted corrections in their April 29, 1997 submission.

On May 2, 1997, we issued supplemental questionnaires requesting additional information regarding each respondent's labor consumption factors. Additionally, we requested information about Shanghai Pudong's affiliation with Shanghai No. 1 a non-exporting producer of subject merchandise which Shanghai Pudong had earlier indicated shared a common trustee, Shanghai Metallurgical Holding (Group) Co. (''Shanghai Metallurgical''). Wuyang submitted its response on May 9, 1997. The other respondents submitted their labor information on May 16, 1997. At their request, we granted Shanghai Pudong an extension, until May 23, 1997, to submit affiliation information.

On January 30, 1997, we requested publicly-available information for valuing the factors of production and for surrogate country selection. Petitioners had already provided comments on surrogate values to be used in this investigation in their petition of November 5, 1996. Respondents provided their comments on this matter on March 4, 1997. Petitioners provided further surrogate values and rebuttal to respondent's comments on April 10, 1997. On April 11, 1997, respondents objected this filing. Respondent stated that petitioners sought to insert new information on the record in an untimely fashion. We granted respondents an opportunity to submit comments on petitioners' April 10, 1997 filing. We received no response.

On March 28, 1997, we postponed the preliminary determination until not later than May 14, 1997 (62 FR 14887), because we determined this investigation to be extraordinarily complicated within the meaning of section 733(c)(1)(B)(i) of the Act.

On April 15, 1997, petitioners submitted a request that the scope of their petitions be amended to include three items—plate in coil; plate made to carbon plate specifications regardless of alloy content; and plate sold to nominal plate thicknesses whose actual thickness is slightly less than the thickness of plate but within specified thickness tolerances. With respect to plate in coil, petitioners maintain that this product has essentially the same physical characteristics and end uses as cut-to-length plate. Petitioners further claim that a post-initiation shift has occurred in the pattern of trade from cut-to-length plate to plate in coil form, and that such a development indicates that any eventual order on cut-to-length plate will be susceptible to circumvention. Petitioners submitted additional information on May 9, 1997. Respondents submitted extensive rebuttal comments on April 25, 1997, and May 30, 1997.

Because of the very recent submission of arguments on these complex and technical subjects, we were unable to fully analyze all of the relevant information on the record prior to this preliminary determination. In order to fully examine petitioners' claims, we intend to carefully examine all evidence and argument on the record regarding this matter and issue a decision as soon as possible.

On April 30, 1997 (62 FR 23433) we further postponed the preliminary determination until not later than June 3, 1997.

Scope of the Investigation

The products covered by this investigation are hot-rolled iron and non-alloy steel 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 thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this petition are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling'')—for example, products which have been bevelled or rounded at the edges. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 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. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1996, through September 30, 1996.

Non-Market-Economy Country Status

The Department has treated the PRC as a nonmarket-economy country (NME) in all past antidumping investigations and administrative reviews. *See, e.g.*, Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide); and Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China, 60 FR

22545 (May 8, 1995) (Furfuryl Alcohol). Neither respondents nor petitioners have challenged such treatment. Therefore, in accordance with section 771(18)(C) of the Act, we will continue to treat the PRC as an NME in this investigation.

Surrogate Country

When investigating imports from an NME, section 773(c)(1) of the Act directs the Department in most circumstances to base normal value (NV) on the NME producers' factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4), the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are comparable in terms of economic development to the NME country and are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Sri Lanka, Egypt and Indonesia are countries comparable to the PRC in terms of economic development. *See* Memorandum from David Mueller to Edward Yang, dated January 29, 1997.

Customarily, we select an appropriate surrogate based on the availability and reliability of data from these countries. For PRC cases, the primary surrogate has usually been India if it is a significant producer of comparable merchandise. However, the Department has determined that Indonesia also is a significant producer of comparable merchandise.

We used India as the primary surrogate country and accordingly, we have calculated NV using Indian prices to value the PRC producers' factors of production, when available and appropriate. We have obtained and relied upon publicly-available information wherever possible. Where Indian surrogate values were not available or where we considered these values to be aberrational, we have used Indonesian import prices as surrogate values. For one factor, slag, we were unable to locate an appropriate surrogate value from any of the comparable countries identified above. Therefore, we selected a U.S. slag value as the most appropriate surrogate. *See* Concurrence Memoranda.

Non-Responsive Exporters

Consistent with Department practice, we presumed that those respondents who failed to respond constitute a single enterprise, and are under common control by the PRC government. See Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China, 61 FR 19026 (April 30, 1996) (Bicycles). We applied a single antidumping deposit rate—the China-wide rate—to these exporters and all other exporters in the PRC who did not respond to our questionnaire.

Separate Rates

All of the respondents have requested separate, company-specific rates. In their questionnaire responses, respondents state that they are independent legal entities. Of the five respondents, Anshan, Baoshan, Liaoning and WISCO have reported that they are collectively-owned enterprises, registered as being ''owned by all the people'', Shanghai Pudong and Shanghai No. 1 are owned by Shanghai Metallurgical. Shanghai Metallurgical is also owned by ''all the people.'' Shanghai Pudong stated that it does not have any corporate relationship with any level of the PRC Government. As stated Silicon Carbide and Furfuryl Alcohol, ownership of a company by all the people does not require the application of a single rate. Accordingly, each of these respondents is eligible for consideration for a separate rate.

To establish whether a firm is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers) and amplified in Silicon Carbide. Under this test, the Department assigns separate rates in nonmarket-economy cases only if an exporter can affirmatively demonstrate the absence of both (1) *de jure* and (2) *de facto* governmental control over export activities. See Silicon Carbide and Furfuryl Alcohol.

1. De Jure Control

The respondents have placed on the administrative record a number of documents to demonstrate absence of *de jure* control. Respondents submitted the ''Law of the PRC on Industrial Enterprises Owned By the Whole People,'' adopted on April 13, 1988 (the Industrial Enterprises Law). The Department has previously determined that the Civil Law does not confer de jure independence on the branches of government-owned and controlled enterprises. *See Sigma Corp* v. *United States,* 890 F. Supp. 1077, 1080 (CIT 1995). However, the Industrial Enterprises Law has been analyzed by the Department in past cases and has been found to sufficiently establish an absence of *de jure* control of companies ''owned by the whole people,'' such as those participating in this case. (See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China, 60 FR 14725, 14727 (June 5, 1995); Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China, 60 FR 14725, 14727 (March 20, 1995); and Furfuryl Alcohol. The Industrial Enterprises Law provides that enterprises owned by ''the whole people'' shall make their own management decisions, be responsible for their own profits and losses, choose their own suppliers, and purchase their own goods and materials. The Regulations of the People's Republic of China for Controlling the Registration of Enterprises as Legal Persons (Legal Persons Regulations), issued on July 13, 1988 by the State Administration for Industry and Commerce of the PRC, provide that, to qualify as legal persons, companies must have the ''ability to bear civil liability independently'' and the right to control and manage their business. These regulations also state that, as an independent legal entity, a company is responsible for its own profits and losses. See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China, 60 FR 56046 (November 6, 1995).

In sum, in prior cases, the Department has analyzed the Chinese laws and regulations on the record in this case, and found that they establish an absence of de jure control. We have no new information in these proceedings which would cause us to reconsider this determination.

2. De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of

losses. See, e.g., Silicon Carbide and Furfuryl Alcohol.

Respondents have asserted the following: (1) They establish their own export prices independently of the government and without the approval of a government authority; (2) they negotiate contracts, without guidance from any governmental entities or organizations; (3) they make their own personnel decisions including the selection of management; and (4) they retain the proceeds of their export sales, use profits according to their business needs, and have the authority to obtain loans. In addition, respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. The subject merchandise appears on the ''List of Products Subject to Export Permit Administration at Different Levels'' issued by the Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'') on November 9, 1995. Respondents stated that, to the best of their knowledge, steel plate is included on the list because it is considered an important raw material for the economic development of China (e.g., for the use in the construction of basic infrastructure), and the Chinese government wishes to have a mechanism in place to ensure adequate domestic supply in the event of a shortage. Despite inclusion of the subject merchandise on this list, we have found no indication from the respondents' business licences that the issuing authority imposes any type of restriction on respondents' business (for a more complete explanation of this issue, see the Concurrence Memorandum).

Consequently, we preliminarily determine that the five responding exporters have met the criteria for the application of separate rates. We will examine this matter further at verification.

For non-responsive exporters, we preliminarily determine, as facts available, that they have not met the criteria for application of separate rates.

Facts Available: China-Wide Rate

The petition filed on November 5, 1996 identified 28 steel producers with the capacity to produce cut-to-length carbon steel plate during the POI. We received adequate responses from the five respondents identified above. We received certification of non-shipment by seven companies from the China Chamber of Commerce for Metals and Chemicals (CCCMC). Additionally, we received a letter from one respondent factory indicating shipments through parties who have not responded to the questionnaire. *See* Non-Responsive Exporters section above. All other companies did not respond to our questionnaire. Further, U.S. import statistics indicate that the total quantity and value of U.S. imports of cut-to-length carbon steel plate from the PRC is greater that the total quantity and value of plate reported by all PRC companies that submitted questionnaire responses. Given these discrepancies, we conclude that not all exporters of PRC plate responded to our questionnaire. Accordingly, we are applying a single antidumping deposit rate—the China-wide rate—to all exporters in the PRC (other than those receiving an individual rate), based on our presumption that those respondents who failed to respond constitute a single enterprise, and are under common control by the PRC government. See, e.g., Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China, 61 FR 19026 (April 30, 1996) (Bicycles).

This China-wide antidumping rate is based on 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.''

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition.

As discussed above, all PRC exporters that do not qualify for a separate rate are treated as a single enterprise. Because some exporters of the single enterprise failed to respond to the Department's requests for information, that single enterprise is considered to be uncooperative. Accordingly, consistent with section 776(b)(1) of the Act, we have applied, as total adverse facts available, the highest margin calculated for a respondent in this proceeding. Based on our comparison of the calculated margins for the other respondents in this proceeding to the average margin in the petition, we have concluded that the highest calculated margin is the most appropriate record information on which to form the basis for dumping calculations in this investigation. Accordingly, the Department has based the China-wide rate on information from respondents. In this case, the highest calculated margin is 172.20 percent.

Section 776(c) of the Act provides that where the Department relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action (SAA), accompanying the URAA clarifies that the petition is ''secondary information.'' See SAA at 870. The SAA also clarifies that ''corroborate'' means to determine that the information used has probative value. *Id.* However, where corroboration is not practicable, the Department may use uncorroborated information.

The information contained in the petition shows that petitioners calculated export price based on two methods: (1) The import values declared to the U.S. Customs Service; and (2) an average Chinese export price derived from actual U.S. selling prices of Chinese exporters, known to petitioners. Petitioners stated that in order to ensure a fair value comparison, import and export values from the same HTS categories as subject merchandise were used to calculate the export price and the factor consumption rates were used as a basis for normal value. In addition, petitioners only used those HTS categories for subject products which included only subject merchandise. Petitioners made adjustments for foreign inland freight to FAS values to derive ex factory prices. They also submitted supporting documentation including an affidavit referring to sources and how petitioners obtained information concerning adjustments and that these adjustments represented current actual charges or expenses associated with the importation and sale of cut-to-length carbon steel plate into the U.S. market.

The information in the petition with respect to the normal value (NV) is based on factors of production used by the petitioners in the production of steel plate. Petitioners submitted usage amounts for materials, labor and energy, adjusted for known differences in

production efficiencies. Petitioners submitted three cost models in the petition: (1) Basic Oxygen Furnace (BOF) Cost Model; (2) Open-Hearth Furnace Cost Model; and (3) Weighted-Average Normal Value of the BOF and Open-Hearth methods to account for differences between the production processes of petitioners and potential respondents. We determine that this information has probative value and that we have corroborated, to the extent practicable, the data contained in the petition. *See* Corroboration Memorandum.

Fair Value Comparisons

To determine whether sales of certain cut-to-length carbon steel plate from the PRC to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the ''United States Price'' and ''Normal Value'' sections of this notice.

Export Price

We based USP on export price (EP) in accordance with section 772(a) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because constructed export price methodology was not otherwise indicated. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average export prices (EPs) to the factors of production. See Company specific Calculation Memoranda, June 3,1997.

For those exporters that responded to the Department's questionnaire, we calculated EP based on prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, and foreign brokerage. *See* ''Factor Valuations'' section of this notice.

Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on the value of the factors of production reported by the factories in the PRC which produced subject merchandise for the five exporters. Where an input was sourced from a market economy and paid for in market economy currency, we have used the actual price paid for the input to calculate the factors-based NV in accordance with our practice. *See Lasko Metal Products* v. *United States* (Lasko), 437 F. 3d 1442 (Fed. Cir. 1994). Otherwise, we used publicly available information from India where possible. Where appropriate Indian values were not available, we used publicly available information from Indonesia.

Certain respondents purchase certain raw materials through affiliated parties in Hong Kong. The Hong Kong parties also receive payment, and transfer the funds to the PRC respondents, from U.S. customers for the respondents' sales of plate. The amount of funds transferred to the PRC respondents is reduced by the cost of any inputs purchased on behalf of the PRC respondents. The Hong Kong affiliates also reduce the payment by administrative costs it charges the PRC respondents. In their responses, respondents provided sample contracts for market economy purchases. They included contracts between the Hong Kong affiliates and the original raw material suppliers as well as contracts between the material suppliers and the PRC respondents. They did not provide documentation of the transactions occurring between the PRC respondents and the Hong Kong affiliates. We valued the relevant inputs at the contract, market-economy, prices provided in the responses for the preliminary determination. We will seek additional clarification of these contracts and administrative costs at verification.

Shanghai Pudong's questionnaire response indicates that, within the meaning of section 771(33) of the Act, it may be affiliated with Shanghai No. 1 based on the fact that Shanghai Metallurgical serves as ''trustee'' for both companies and thus may exercise control over the two producers. Further, because both Shanghai Pudong and Shanghai No. 1 produce subject merchandise, the Department will consider whether these two firms should be treated as a single entity (i.e., ''collapsed''). In order for the Department to treat two or more producers as a single entity, the Department relies on a test set forth in *Nihon Cement* v. *United States*, 17 CIT 400, 425 (1993). Pursuant to that test, the Department will only collapse the producers if each of these criteria are met: (1) The producers must be affiliated, (2) the producers must have production facilities for similar or identical products that would not require substantial retooling in order to restructure manufacturing priorities, and (3) there must be a significant potential for the manipulation of price or production. Because we lacked sufficient information to make the affiliation and collapsing decisions, we requested additional information from Shanghai Pudong regarding both its relationship with Shanghai No. 1 and Shanghai's No. 1's factors of production. At Shanghai Pudong's request, we granted an extension on the reporting of this information. Shanghai Pudong responded on May 23 advising that it does not control Shanghai No.1 and therefore could not obtain its factors of production. Based on the data received prior to the preliminary determination, including portions of the response regarding Shanghai No. 1, we have determined that it is not clear from the current record whether Shanghai Metallurgical controls Shanghai Pudong and Shanghai No. 1. Therefore, we will not collapse Shanghai Pudong and Shanghai No. 1 for the purposes of the preliminary determination. We will continue to examine this issue and we will verify the reported information of both Shanghai Pudong and Shanghai No. 1, and consider the information with respect to both producers for our final determination.

Four respondents identified a significant number of raw material inputs. Certain of these inputs appeared to be variations or subsets of larger inputs. We were unable to locate publicly available surrogate values for these inputs for this preliminary determination. *See* each responding firm's Calculation Memorandum. Based on the steel production process, we combined the inputs into the larger subcategories for which we have located a surrogate value in our preliminary determination. We will continue to try to locate a surrogate value for these inputs for our final determination.

Four respondents have identified a number of gases either produced and reused in the production process or purchased from outside sources for use in the production of subject merchandise. These respondents have argued that all of these gases should be treated as overhead items. Petitioners argue that these gases are direct inputs in the steelmaking process and should not be considered as overhead items. In previous cases in which the Department has used the same surrogate value, power and fuel are specifically removed from the overhead calculation so as to be treated as direct inputs. See Final Results of Antidumping Duty Administrative Review: Sebacic Acid from the PRC, 62 FR 10530, March 7, 1997. We treated these gases as direct inputs as they, in general, serve as power and fuel to the production process. We offset the cost of production by the amount of any by-product generated. This offset is based on our assumption that the by-products either are re-used as an input to the production processes or has a market for its uses. *See* Calculation Memoranda.

Factor Valuations

The selection of the surrogate values was based on the quality and contemporaneity of the data. Where possible, we attempted to value material inputs on the basis of tax-exclusive domestic prices. Where we were not able to rely on domestic prices, we used import prices to value factors. We removed from the import data import prices from countries which the Department has previously determined to be NMEs. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices (WPI), or, in the case of labor rates, consumer price indices (CPI), published in the International Monetary Fund's International Financial Statistics. For a complete analysis of surrogate values, see each company's Factors Valuation Memorandum, dated June 3, 1997.

For certain raw material surrogate values, we used values as reported in the Monthly Statistics of Foreign Trade of India, Vol. II—Imports, Directorate General of Commercial Intelligence & Statistics, Ministry of Commerce, Government of India, Calcutta. The price information from Monthly Statistics of Foreign Trade of India represents cumulative values for the period of April 1995 through January 1996. For each input value obtained from the above publication, we used the average value per one kilogram for that input from market economies. Import statistics from non-market economies were excluded in the calculation of the average value. Since the data from this publication is not contemporaneous with the POI, we adjusted material values for inflation by using WPI rate for India. We then converted each of the raw material inputs to U.S. dollars using an exchange rate conversion factor.

For certain material inputs, we were unable to obtain specific price information from India. Therefore, for these inputs, we resorted to public information from Indonesia. The values for these inputs were obtained from the publication Foreign Trade Statistics Bulletin Imports, March 1996. The price information represents cumulative values from January to March 1996. These inputs were adjusted for inflation.

Certain respondents reported the amount of slag, a by-product of the plate production process, produced in the production of subject merchandise and sold in China by some respondents. Normally, the Department offsets the calculated cost of manufacturing by the value of any by-products. The only surrogate value for slag from India or Indonesia was aberrationally high when compared to an available U.S. rate. Based on our knowledge of the steelmaking process, we know that slag is a by-product with a relatively low value (compared to the price of steel plate). We were able to locate an appropriate value for slag from the U.S. Geological Survey, Mineral Commodities Summaries from February 1997. We used the U.S. slag value for the preliminary determination. We will continue to try to locate an appropriate surrogate value from India, Indonesia, or another country at a comparable level of development for our final determination.

We were unable to locate specific surrogate values for each of the reported gases. Specifically, we were unable to locate surrogate values for the gases generated in the production facilities (*e.g.*, furnace gas). We will continue to search for surrogate values for each of the gases for the final determination. For our preliminary determination, we applied surrogate gas values for gases for which we could find a surrogate value and applied a natural gas surrogate value to the other gases for which we could not locate a value.

For certain factors for which we could not locate import values, we used values provided by petitioners which represent market values reported in the 1995–96 Annual Report for Steel Authority of India Limited (''SAIL''), a producer in India of cut-to-length carbon steel plate. We adjusted these values for inflation.

For materials purchased from market economy country suppliers that are paid for in a market economy currency and if the portion of the input from the market economy was significant, we used the actual purchase price paid during the POI as reported in the questionnaire responses. This practice is consistent with the Department's new regulations and with *Lasko*. In cases in which the same producer reported several different market economy suppliers for the same input, we used the average market economy price paid for that input.

For labor, we used the average labor cost per man-day worked for the Basic Metal and Alloys Industries as reported in the Ministry of Labour Government of India Annual Report 1994–1995. This source included in its calculation of labor values ''a sum of various components like wages and salaries; all types of bonus; money value of benefits in kind; old age benefits; maternity benefits; social security charges such as ESI compensation for injuries, family pension, lay-off/retrenchment benefits, and other group benefits.'' We applied a single labor rate for all levels of labor, *i.e.*, skilled, unskilled, and indirect labor. Accordingly, we adjusted for inflation from the time period of the information (1990–1991) to the POI using the CPI, as reported in the International Monetary Fund's International Financial Statistics. The work day in India is an eight-hour day. See Coumarin from PRC; Preliminary Determination of Sales at Less Than Fair Value, 59 FR 39727 (Aug. 4, 1994), citing to Country Reports: Human Rights Practices for 1990; Coumarin from the PRC; Final Determination of Sales at Less than Fair Value, 59 FR 66895 (Dec. 28, 1994) (Coumarin). Therefore, we then divided the surrogate value by 8 hours to arrive at an hourly wage rate. Petitioners have argued that the labor usage rates reported by respondents are abnormally low for steel production. We will carefully review the reported labor rates at verification and for our final determination.

For overhead, profit and SG&A expenses, we used information reported in the April 1995 Reserve Bank of India Bulletin. *See* Statement 1—''Combined Income, Value of Production, Expenditure and Appropriation Accounts, Industry Group-Wise, 1992–93.''

Respondents allocated a majority of the labor employed in their facilities to overhead and selling and general administrative (SG&A) tasks. Only a small percentage of the labor employed in respondents' facilities has been reported as direct costs of production and therefore included in our NV calculations. Conversely, the Indian surrogate values for overhead and SG&A do not include a separate allowance for labor. *See* Factor Valuation Memoranda. We therefore increased the surrogate overhead value to include the significant labor resources respondents allocated to overhead. *See*, Calculation Memoranda.

We included certain indirect materials as part of ''overhead expenses.'' In previous final determinations, the Department has considered inputs which ''are not direct materials consumed in the production process'' as part of factory overhead. See Brake Drums and Brake Rotors From the PRC; Notice of Preliminary Determination, 61 FR, 53190, 63196 (Oct. 10, 1996); Brake Drums and Brake Rotors From the PRC; Final Determination of Sales at Less than Fair Value, 62 FR 9154, 9160 (Feb. 24, 1997). The treatment of indirect materials as ''overhead'' is consistent with Compendium of Statements and Standards: Accounting (India).

In calculating the cost of raw material inputs in NME cases, we include an adjustment for the cost of transporting the input from the supplier to the respondent. This adjustment is based on the distance from the supplier to the producing factory and the mode of transportation; *see, e.g.,* Sulfanilic Acid from the People's Republic of China; Final Results and Partial Recission of Antidumping Duty Administrative Review, 61 Fed. Reg. 53702, 53705 (Comment 3) (October 15, 1996). We determine a value from the surrogate country based on this distance and on mode of transportation used. While all respondents provided distances for some of their inputs, only one of the respondents provided distances and mode of transportation for all material inputs. We requested this information for all inputs in our original and supplemental questionnaires. For each respondent that did not comply with our requests for this information, as to some inputs, we applied, as facts available, the highest freight cost calculated for any input of that respondent to those inputs for which we did not receive the required freight information. This presumes that the respondents chose not to provide information that would be adverse to them.

For the preliminary determination, we were unable to find specific surrogate values for a small number of inputs. Therefore, we excluded them from our calculations for the preliminary determination. We will continue to research price information for these inputs for the final determination.

Critical Circumstances

On January 10, 1997, petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to subject merchandise. In accordance with 19 C.F.R. 353.16(b)(2)(i) (1996), since these allegations were filed earlier than the deadline for the Department's preliminary determination, we must issue our preliminary critical circumstances determinations not later than the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

The statute and the Statement of Administrative Action (SAA) which accompanies the Uruguay Round Agreements Act are silent as to how we are to make a finding that there was knowledge that there was likely to be material injury. Therefore, Congress has left the method of implementing this provision to the Department's discretion.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling the plate at less than fair value, the Department normally considers margins of 15 percent or more sufficient to impute knowledge of dumping for constructed export price (CEP) sales, and margins of 25 percent or more for export price (EP) sales. *See, e.g.,* Preliminary Critical Circumstances Determination: Honey from the People's Republic of China (PRC), 60 FR 29824 (June 6, 1995) (*Honey*). Since the company specific margins for EP sales in our preliminary determination for carbon steel plate are greater than 25 percent for Anshan, Shanghai Pudong and WISCO, we have imputed knowledge of dumping. We found that Baoshan and Liaoning had margins below 25 percent. Because we found margins to be below 25 percent, we do not impute importer knowledge of dumping. Therefore for Baoshan and Liaoning, we find that critical circumstances do not exist with respect to the subject merchandise.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports during the critical circumstances period—the 90-day period beginning with the initiation of the investigation (see 19 C.F.R. 351.16(g). If, as in this case, the ITC preliminarily finds threat of material injury (*See*, Cut-to-Length Carbon Steel Plate from China, Russia, South Africa, and Ukraine, U.S. International Trade Commission, December 1996), the Department will also consider the extent of the increase in the volume of imports of the subject merchandise during the critical circumstances period and the magnitude of the margins in determining whether a reasonable basis exists to impute knowledge that material injury was likely.

In this case, imports of Chinese plate increased 29 percent in the three months following the initiation of the investigation when compared to the three months preceding initiation, or nearly two times the level of increase needed to find ''massive imports'' during the same period (*see* below). Furthermore, we have preliminarily found margins of 40.35 percent for Shanghai Pudong, 172.20 percent for Anshan and 51.70 for WISCO.

Based on the ITC's preliminary determination of threat of injury, the increase in imports noted above, and the high preliminary margins, the Department determines that there is a reasonable basis to believe or suspect that the importer knew or should have known that there was likely to be material injury by means of sales of the subject merchandise at less than fair value.

To determine whether imports were massive over a relatively short time period, the Department typically compares the import volume of the subject merchandise for the three months immediately preceding and following the initiation of the proceeding. *See* 19 C.F.R. 353.16(g). Pursuant to 19 C.F.R. 353.16(f)(2), the Department will consider an increase of 15 percent or more in the imports of the subject merchandise over the relevant period to be massive. As noted, imports of the subject merchandise increased 29 percent during the relevant period, and thus we determine that imports have been massive.

Thus, because we determine that there is a reasonable basis to believe or suspect that the importer knew or should have known that Anshan, Shanghai Pudong and WISCO were selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and that there have been massive imports of the subject merchandise over a relatively short time period, we preliminarily determine that critical circumstances exist for Anshan, Shanghai Pudong and WISCO.

For companies subject to the China-wide rate (i.e., companies which did not respond to the Department's questionnaire), we are imputing knowledge based on the China-wide rate, and determine, based on facts available, that there were massive imports of certain cut-to-length carbon steel plate by companies that did not

respond to the Department's questionnaire.

Therefore, we preliminarily determine that critical circumstances exist with regard to these companies.

Verification

As provided in section 782(i) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from Baoshan and Liaoning, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. For Anshan, Shanghai Pudong, WISCO and companies subject to the China-wide rate, we are directing Customs to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct 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 export price, 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:

Manufacturer/exporter	Weighted-average margin (percent)
Anshan (AISCO/Anshan International/Sincerely Asia Ltd) ..	172.20
Baoshan (Bao/Bao Steel International Trade Corp/Bao Steel Metals Trading Corp) ...	14.20
Liaoning	8.19
Shanghai Pudong	40.35
WISCO (Wuhan/International Economic and Trading Corp/ Cheerwu Trader Ltd).	51.70
China-wide Rate [1]	172.20

[1] The China-wide rate applies to all entries of the subject merchandise except for entries from exporters that are identified individually above.

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 the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than 50 days after the publication of this preliminary determination, and rebuttal briefs, no later than five days after the filing of case briefs. A list of authorities used and a summary of arguments made in the briefs should accompany these briefs. Such summary should be limited to five pages total, including footnotes. We will hold a public hearing, if requested within 10 days of publication of this notice, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, time, date and room to be determined. 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 ten 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. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by August 18, 1997.

This determination is published pursuant to section 733(f) of the Act.

Dated: June 3, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

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