at 8. We based the value of freight by rail on public information used in the August 31, 1999 analysis memorandum for the preliminary results of the 1997–1998 administrative review of titanium sponge from Kazakhstan. *Id.; see also* Titanium Sponge From the Republic of Kazakhstan, 64 FR 48793, 48795 (September 8, 1999) (prelim. results). To value overhead, selling, general and administrative expenses, and profit, we used public information reported in the 1998 financial statements of Alexandria National Iron & Steel Co. (''ANS Steel''), an Egyptian producer of hot-rolled steel. *See* Factor Valuation Memo, at 8–9. While we could not determine a complete value for overhead using ANS Steel's financial statements, we could determine a value for depreciation, a part of overhead, and have used this value for overhead.

For each of the surrogate values selected for use in the Department's calculations, we adjusted the values for inflation using appropriate price index inflators when those values were not from a period concurrent with the POI. *See* Factor Valuation Memo, at 2.

Verification

As provided in section 782(i)(1) of the Act, we will verify all appropriate information relied upon in making our final determination.

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the U.S. Customs Service (''Customs'') to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct Customs to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percent
OJSC Ispat Karmet	239.57
Kazakhstan-Wide	239.57

Disclosure

The Department will disclose calculations performed, within five days of the date of publication of this notice, to the parties in this investigation, in accordance with section 351.224(b) of the Department's regulations.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our affirmative determination of sales at LTFV. As 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 imports of hot-rolled steel from Kazakhstan are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than 50 days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the time limit for filing the case brief, pursuant to section 351.309(c) and (d) of the Department's regulations. 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.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in the case or rebuttal briefs. Tentatively, any hearing will be held 57 days after publication of this notice at the U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice, pursuant to section 351.310(c) of the Department's regulations. 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. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief, pursuant to section 351.310(c) of the Department's regulations.

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of this preliminary determination (*i.e.* July 9, 2001).

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 23, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–10850 Filed 5–2–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–809]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from South Africa

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

EFFECTIVE DATE: May 3, 2001.

FOR FURTHER INFORMATION CONTACT: Doug Campau or Maureen Flannery at (202) 482–1395 or (202) 482–3020, respectively; Office of Antidumping/Countervailing Duty 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 the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2000).

Preliminary Determination

We preliminarily determine that certain hot-rolled carbon steel flat products (HR products) from South Africa are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margin of sales at LTFV is shown in the

''Suspension of Liquidation'' section of this notice.

Case History

On December 4, 2000, the Department initiated antidumping investigations of HR products from Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine. *See Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Carbon Steel Flat Products from Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine,* 65 FR 77568 (December 12, 2000) (*Initiation Notice*). The petitioners in this investigation are Bethlehem Steel Corporation, Gallatin Steel Company, IPSCO Steel Inc., LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., U.S. Steel Group (a unit of USX Corporation), Weirton Steel Corporation, and the Independent Steelworkers Union (petitioners). Since the initiation of this investigation the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage (*see Initiation Notice* at 77568). We received no comments from any parties in this investigation. The Department did, however, receive comments regarding product coverage in the investigation of HR products from the Netherlands. In that investigation, we received comments regarding product coverage as follows: from Duracell Global Business Management Group on December 11, 2000; from Energizer on December 15, 2000; from Bouffard Metal Goods Inc. and Truelove & MacLean, Inc. on December 18, 2000; from the Corus Group plc., which includes Corus Steel USA (CSUSA) and Corus Staal BV (Corus Staal), and Thomas Steel Strip on December 26, 2000; and from Rayovac Corporation on March 12, 2001.

On December 22, 2000, the Department issued a letter to interested parties in all of the concurrent HR products antidumping investigations, providing an opportunity to comment on the Department's proposed model matching characteristics and hierarchy. Comments were submitted by petitioners (January 5, 2001); Corus, respondent in the Netherlands investigation (January 3, 2001); Iscor Limited (Iscor), respondent in the South Africa investigation (January 3, 2001); and Zaporozhstal Iron & Steel Works (Zaporozhstal), respondent in the Ukraine investigation (January 3, 2001). Petitioners agreed with the Department's proposed characteristics and hierarchy of characteristics. Corus suggested adding a product characteristic to distinguish prime merchandise from non-prime merchandise. Neither Iscor nor Zaporozhstal proposed any changes to either the list of product characteristics proposed by the Department or the hierarchy of those product characteristics, but provided information relating to their own products that was not relevant in the context of determining what information to include in the Department's questionnaires. For purposes of the questionnaires subsequently issued by the Department to the respondents, no changes were made to the product characteristics or the hierarchy of those characteristics from those originally proposed by the Department in its December 22, 2000 letter. With respect to Corus' request, the additional product characteristic suggested by Corus, to distinguish prime merchandise from non-prime merchandise, is unnecessary. The Department already asks respondents to distinguish prime from non-prime merchandise in field number 2.2, ''Prime vs. Secondary Merchandise.'' See the Department's Antidumping Duty Questionnaire, at B–7 and C–7 (January 4, 2001).

On December 28, 2000, the United States International Trade Commission (ITC) notified the Department of its affirmative preliminary injury determination on imports of subject merchandise from Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine. On January 4, 2001, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the merchandise under investigation from these countries. *See ITC Preliminary Notice of Determination for Hot-Rolled Steel Products from Argentina, China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine,* 66 FR 805, 802 (January 4, 2001).

On January 4, 2001, the Department issued sections A–E of its antidumping duty questionnaire[1] to Highveld Steel and Vanadium Corporation Limited (Highveld), Saldanha Steel Limited (Saldanha), and Iscor. On January 25, 2001, Saldanha and Iscor submitted letters to the Department indicating that they would not be responding to the Department's questionnaires. On January 26, 2001—one day after the due date of January 25, 2001—the Department received Highveld's response to Section A of its antidumping duty questionnaire. Highveld's section A response was not appropriately filed with the Department's Central Records Unit, did not include relevant case information in the upper right-hand corner of the first page as prescribed by section 351.303(d)(2) of the Department's regulations, and did not contain a request for proprietary treatment of business proprietary information, though certain information was bracketed. Furthermore, no public version was submitted, and neither version was served on the petitioners. On February 2, 2001, the Department sent a letter to Highveld addressing these deficiencies, asking Highveld to re-file its section A response—revised to comply with the Department's requirements—by no later than February 6, 2001, and warning Highveld that its failure to comply could result in rejection of its section A response. This letter was accompanied by a copy of the Department's regulations for the submission of documents to the record. Also on February 2, 2001, at Highveld's request, the Department approved an extension of the deadline for submitting the section B, C, and D questionnaire responses to February 26, 2001.

On February 6, 2001—twelve days after the original due date of January 25, 2001—the Department received the public version of Highveld's response to Section A of its antidumping duty questionnaire, along with the revised proprietary version. There was substantial improper use of bracketing in both the proprietary and public versions of this response (*e.g.,* single brackets around public information, double brackets used inappropriately numerous times, triple brackets used numerous times, and bracketed information not summarized or ranged in the public version). On February 9, 2001, the Department held a teleconference with Highveld to address

[1] 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.

these issues, and asked Highveld to re-file the entire narrative portion of its submissions—revised to comply with the Department's requirements—along with any revised exhibits (*see Memorandum to the File, ''Telephone Conference with Highveld Official,''* dated Feburary 12, 2001). In this teleconference, the Department again warned Highveld that its failure to comply could result in the rejection of its submissions. On February 12, 2001, the Department sent Highveld a letter reiterating what was discussed in the February 9, 2001 teleconference. On February 16, 2001, the Department faxed to Highveld a copy of those portions of its regulations addressing the procedures for proper bracketing, filing and treatment of proprietary information subject to administrative protective order (APO). Also on February 16, 2001, at Highveld's request, the Department approved an extension of the deadline for submitting the second revised version of the section A questionnaire response to February 21, 2001.

On February 23, 2001—two days after the due date of February 21, 2001—the Department received the second revised versions of Highveld's public and proprietary responses to the Section A antidumping duty questionnaire. The second revised public version still did not contain a request for proprietary treatment of business proprietary information as required by the Department's APO regulations.

On February 26, 2001, the Department received the narrative portions of Highveld's responses for sections B, C, and D. Highveld again failed to serve the petitioners with copies of its submission to the Department. Highveld also failed to properly submit any of the required home market sales, U.S. sales, or cost of production data to either the Department or to the petitioners. Highveld submitted a floppy diskette containing no files of any kind, and then sent its sales and cost data sets—to the Department only—via electronic mail (*see Memorandum to the File, ''Compilation of Electronic Mail Correspondence with Highveld Officials,''* dated April 23, 2001). In analyzing these data sets, the Department discovered that Highveld failed to report any data for twelve different types of expenses for the majority of its U.S. sales. The fields for which this data was not reported were international freight (INTNFRU), marine insurance (MARNINU), U.S. inland freight from port to warehouse (INLFPWU), U.S. warehousing expense (USWAREHU), U.S. inland freight from warehouse to unaffiliated customer (INLFWCU), U.S. inland insurance (USINSURU), other U.S. transportation expense (USOTHTRU), U.S. customs duty (USDUTYU), commissions (COMMU), indirect selling expenses incurred in country of manufacture (INDIRSU), inventory carrying costs incurred in the United States (INVCARU), and U.S. repacking cost (REPACKU). In the narrative responses for each of the twelve missing sales expenses, Highveld simply stated that the subject data had to be supplied by an affiliated U.S. reseller. Highveld also failed to provide unique product costs that account for cost differences related to the physical characteristics defined by the Department. In the narrative response related to CONNUM-specific costs, Highveld merely stated that it does not account for costs in this manner.

On February 27, 2001, the Department sent a letter to Highveld, via electronic mail, asking Highveld to confirm that it has served the sections B, C, and D submissions on all parties to the proceeding. Highveld responded, via electronic mail, that because the shipment to the petitioners was so large, it would take extra time to arrive via express mail. The Department subsequently learned—through its own inquiries with the involved express mail company—that the sections B, C, and D submissions were shipped late.

On March 8, 2001, the Department issued a supplemental questionnaire for Highveld's Section A response. On March 12, 2001, petitioners submitted comments on Highveld's sections B, C, and D responses. On March 15, 2001, the Department issued a supplemental questionnaire for Highveld's sections B, C, and D responses, along with several additional questions for Highveld's section A response. In this questionnaire, we asked Highveld to report data for the twelve expenses missing from the majority of its U.S. sales observations. We also repeated our instruction to Highveld to report CONNUM-specific cost information that accounts for cost differences for each of the physical characteristics defined by the Department. These instructions directed Highveld to rely not only on its existing financial and cost accounting records, but on any other information which would allow it to calculate a reasonable allocation of its costs. On March 16, 2001—eighteen days after the original due date of February 26, 2001—the Department finally received a properly submitted copy of Highveld's required home market sales, U.S. sales, and COP data.

On March 26, 2001, at Highveld's request, the Department approved an extension of the deadline for submitting the supplemental questionnaire response for sections B and C to March 29, 2001. Also on March 26, 2001, the Department received Highveld's response to the Department's section A supplemental questionnaire, issued on March 8, 2001. Again, Highveld failed to timely serve either proprietary or public versions of its response on the petitioners. The public version of this submission was withheld from the record as a consequence of the following APO deficiencies: (1) it contained bracketed information that had not been blacked out; (2) bracketed information was not summarized or ranged; and (3) relevant case information was not included in the upper right-hand corner of the first page as prescribed by section 351.303(d)(2) of the Department's regulations. On March 29, 2001, the Department issued a second supplemental questionnaire for sections B and C. On March 30, 2001, the Department sent a letter to Highveld addressing the deficiencies of Highveld's supplemental section A questionnaire response submitted on March 26, 2001, asking Highveld to re-file its supplemental section A response—revised to comply with the Department's requirements—by no later than April 3, 2001. This letter also warned Highveld that if it failed to provide accurately the information requested within the time provided, the Department might be required to base its findings on the facts available, and that if Highveld failed to cooperate with the Department by not acting to the best of its ability to comply with a request for information, the Department could use information adverse to Highveld's interest in conducting its analysis.

Also on March 30, 2001—one day after the due date of March 29, 2001—the Department received the narrative portions of Highveld's response to the section B and C portions of the supplemental questionnaire issued on March 15, 2001. Highveld again failed to submit the required home market or U.S. sales data to either the Department or the petitioners. On April 2, 2001—three days after the due date of March 30, 2001—the Department received the narrative portions of Highveld's response to the section D portion of the supplemental questionnaire issued on March 15, 2001 (Supplemental D response). Highveld again failed to submit the required cost of production data to either the Department or the petitioners. Furthermore, in its narrative response, Highveld indicated that its cost of production data set would not include the unique product costs

requested in the Department's March 15, 2001 supplemental questionnaire. The only explanation offered by Highveld was that it does not account for cost in this manner. Highveld failed to offer any explanation as to why it did not calculate appropriate cost differences for the physical characteristics defined by the Department as instructed in the Department's supplemental questionnaire.

On April 2, 2001, the Department contacted Highveld's staff person by telephone to inquire as to the location of the revised data sets which should have accompanied Highveld's narrative responses to the supplemental questionnaire for sections B, C, and D. Highveld's staff person indicated that the revised data sets would be submitted with its response to the Department's second supplemental questionnaire for sections B and C issued on March 29, 2001 (*see Memorandum to the File, ''Telephone Conference with Highveld Official,''* dated April 3, 2001).

On April 6—three days after the due date of April 3, 2001—the Department received the revised portions of Highveld's response to the section A supplemental questionnaire issued on March 8, 2001. Also on April 6, the Department received Highveld's revised data sets which should have accompanied Highveld's narrative responses to the supplemental questionnaire for sections B, C, and D, originally due on March 29 (sections B and C) and 30 (section D), 2001. Both the sales and cost of production data sets contained major deficiencies which the Department—in its March 29, 2001 supplemental questionnaire—had specifically asked Highveld to remedy. Specifically, Highveld again failed to report data for the twelve expenses missing from the majority of its U.S. sales observations, and failed to assign a control number for each unique product in the sales data sets, as requested in the Department's March 15, 2001 supplemental questionnaire. Furthermore, Highveld's COP data set did not include the unique product costs requested in the Department's March 15, 2001 supplemental questionnaire. Finally, on April 6—one day after the due date of April 5, 2001—the Department received Highveld's response to the Department's second supplemental questionnaire for sections B and C issued on March 29, 2001. In this response, Highveld indicated that the data for the twelve expenses missing from the majority of its U.S. sales had to be supplied by an affiliated U.S. reseller, and that they would be made available during verification.

On April 10, 2001, we sent a second supplemental questionnaire to Highveld asking it to resubmit its cost data in accordance with the Department's instructions by April 24, 2001. On April 17, 2001, we sent Highveld a letter requiring that it submit, by April 27, 2001, certain information that was missing from its sections B & C response.

Period of Investigation

The Period of Investigation (POI) is October 1, 1999 through September 30, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., November 2000), and is in accordance with our regulations. *See* section 351.204(b)(1) of the Department's regulations.

Scope of Investigation

For purposes of this investigation, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (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 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation. Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of these investigations, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

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

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, e.g., ASTM specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron and Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this investigation is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90,

7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon steel flat products covered by this investigation, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

Facts Available (FA)

Highveld

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 and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

In this case, Highveld failed, within the meaning of section 776(a)(2)(B) of the Act, to provide requested information in the form and manner requested. Notably, Highveld failed, in its original section C response, to report any data for international freight (INTNFRU), marine insurance (MARNINU), U.S. inland freight from port to warehouse (INLFPWU), U.S. warehousing expense (USWAREHU), U.S. inland freight from warehouse to unaffiliated customer (INLFWCU), U.S. inland insurance (USINSURU), other U.S. transportation expense (USOTHTRU), U.S. customs duty (USDUTYU), commissions (COMMU), indirect selling expenses incurred in country of manufacture (INDIRSU), inventory carrying costs incurred in the United States (INVCARU), and U.S. repacking cost (REPACKU), for the majority of its U.S. sales. These expenses are essential to the Department's calculation of U.S. price. Depending on the type, these expenses are used to adjust the reported starting sale price for each observation in the U.S. sales data set. Without data for these expenses, it is impossible for the Department to calculate U.S. prices from starting sales prices. We issued Highveld a supplemental questionnaire requesting that it correct these deficiencies, but it failed to do so. Highveld responded that it did not have this information, that such information must be supplied by an affiliated reseller in the United States, and that the information would be provided at verification. Highveld offered no reason as to why the data was not being provided within the deadlines provided by the Department, nor did it offer or suggest any alternative format for providing the needed information. Furthermore, Highveld failed to report the sales price from its U.S. affiliate to the first unaffilited customer for these sales. As this data is missing from the majority of Highveld's reported U.S. sales, it is impossible for the Department to calculate U.S. prices for the majority of Highveld's U.S. sales. Highveld's failure to provide the requested sales data thus renders its U.S. sales response unusable for this preliminary determination.

Highveld also failed, in its original and supplemental section D responses, to provide unique product costs that account for cost differences related to the physical characteristics defined by the Department. Highveld instead reported its costs by steel grade, differentiating those costs only by grade. That methodology does not provide product-specific COP information, nor does it provide the Department with information to calculate a difference in merchandise (DIFMER) adjustment to account for differences in physical characteristics beyond product grade when comparing sales of similar merchandise. Without product-specific COPs, we are unable to determine whether sales of the subject merchandise were made at less than COP as directed by section 773(b)(1) of the Act. As a result, we have no way of knowing whether to disregard certain sales from the calculation of normal value (NV) for falling below COP or whether to disregard all sales of the subject merchandise and base NV on CV. Furthermore, in accordance with section 773(a)(6)(C)(ii) of the Act, when comparing United States sales with home market sales, we may determine that the merchandise sold in the United States does not have the same physical characteristics as the merchandise sold in the home market and that those differences have an effect on prices. In such instances, we are required to make reasonable allowances for these differences (''DIFMER'') in calculating NV. Without the ability to make the appropriate DIFMER adjustment, it is impossible for us to appropriately calculate NV. Thus, without product-specific COP information, and information necessary for calculating a DIFMER adjustment, we are unable to determine the appropriate basis for NV or to calculate NV. As noted in the *Case History* section above, we issued Highveld a supplemental questionnaire on March 15, 2001, requesting that it correct these deficiencies, but it failed to do so. Instead, Highveld stated simply that it does not account for cost in this manner. Highveld's failure to provide the requested data renders its cost response unusable for this preliminary determination.

As also noted in detail in the *Case History* section above, Highveld failed, within the meaning of section 776(a)(2)(B) of the Act, to provide requested information prior to several deadlines for the submission of such information, or in the form and manner requested. Highveld's questionnaire responses were often fraught with APO formatting deficiencies, including improper bracketing of proprietary information, improper labeling of documents containing proprietary information, and missing language concerning the release of proprietary information under APO. Furthermore, the majority of Highveld's questionnaire responses were submitted after the applicable deadlines. In such cases, the Department received Highveld's submissions anywhere from one to eighteen days late. Notably, Highveld's sales and cost data sets—which are absolutely crucial for the Department's analysis—were submitted eighteen days late for the initial sections B, C, & D response, eight days late for the supplemental sections B & C response, and seven days late for the supplemental section D response. These responses and accompanying data were similarly served late on the petitioners.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so

inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority'' if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information, if it can do so without undue difficulty.

As noted above, Highveld failed, on numerous occasions, to provide its questionnaire responses to the Department or other parties to this proceeding by the applicable deadlines, in the form and manner requested. As noted in the *Case History* section above, the Department provided Highveld with numerous opportunities to remedy or explain major deficiencies in its submissions. To this end, the Department issued several supplemental questionnaires, allowed Highveld several chances to revise and resubmit documents in order that such documents might comply with the Department's regulations governing formatting and filing requirements, sent Highveld multiple letters, facsimiles, and electronic mail explaining and re-explaining the Department's concerns over the deficiencies in Highveld's submissions, held a teleconference to explain the Department's concerns over the deficiencies in Highveld's submissions, sent Highveld copies of relevant regulations and guidelines for the submission of documents to the record, and granted Highveld several extensions to deadlines for its submissions. Despite all of this, Highveld has continued to submit its responses after applicable deadlines. This pattern has significantly impeded the Department's ability to conduct a timely analysis, limiting the Department's ability to issue supplemental questionnaires to address questions and deficiencies related to Highveld's submissions. It has also made it virtually impossible for the petitioners or other interested parties to submit comments on Highveld's responses in a timely manner, so that such comments might be given appropriate consideration in the Department's analyses. Moreover, as discussed above, Highveld has also failed to remedy the major substantive deficiencies in its U.S. sales and COP data sets, leaving the data sets so incomplete that they cannot be used to calculate a preliminary margin for Highveld. Consequently, we are disregarding Highveld's sales and COP data in our analysis.

In light of Highveld's failure to provide requested information necessary to calculate dumping margins in this case, in accordance with section 776(a) of the Act, we are forced to resort to total facts available for this preliminary determination.

According to section 776(b) of the Act, 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 the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27340 (May 19, 1997) (Final Rule).

In this case, we have determined that Highveld has not acted to the best of its ability in responding to the Department's request for complete U.S. sales data, including data for the twelve expenses missing from the majority of Highveld's U.S. sales observations. As noted in the *Case History* section above, we repeated our request for such data in a supplemental questionnaire, but Highveld failed to provide it. Highveld's explanation was that it did not have this information, that such information must be supplied by an affiliated reseller in the United States, and that the information would be provided at verification. It is Highveld's responsibility to ensure that all information essential to the Department's analyses of Highveld's U.S. sales is provided to the Department, regardless of whether such information must be supplied by an affiliated reseller in the United States. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip from Mexico,* 64 FR 30790, 30803 (June 8, 1999). It is also Highveld's responsibility to notify the Department, in writing, within fourteen days if it expects to have difficulties in submitting such information in accordance with section 782(c)(1) of the Act, and to suggest alternative forms in which it could submit the information. Highveld made no such notification, nor suggested any alternative reporting methodologies.

We have also determined that Highveld has not acted to the best of its ability in responding to the Department's request for product-specific cost information that takes into account physical differences between the products. As noted in the *Case History* section above, in our supplemental questionnaire, dated March 15, 2001, we repeated our instruction to Highveld to report product-specific cost information that accounts for cost differences for each of the physical characteristics. These instructions directed Highveld to rely not only on its existing financial and cost accounting records, but on any other information which would allow it to calculate a reasonable allocation of its costs. It is standard procedure for the Department to request product-specific cost data and we routinely receive such information from respondents. In the Department's experience, companies have information which allows them to calculate a reasonable estimate of the costs to make a given product, as such cost information is necessary to determine whether it is profitable to make the product. Even if a company does not identify product-specific costs in its normal financial and cost accounting records, it should be able to make reasonable allocations of its costs among distinct products through the use of other product and production information. Highveld failed to offer any explanation as to why it did not make such reasonable allocations.

Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a ''full explanation and suggested alternative forms.'' In response to our requests for product-specific cost data, Highveld simply stated that it does not account for cost in this manner. (*See* Supplemental D response.) Cooperation in an antidumping investigation requires more than a simple statement that a respondent cannot provide certain information from its previously prepared records; the burden to establish that it has acted to the best of its ability rests upon the respondent. As

noted above, to meet that burden a respondent must explain what steps it has taken to comply with the information request, and propose alternative methodologies for getting the necessary information. *See Allied-Signal Aerospace* v. *United States,* 996 F.2d 1185, 1192 (Fed. Cir. 1993). Highveld has failed to do either.

Moreover, we find that Highveld's claim that it is unable to provide cost information in the manner requested by the Department to be inconsistent with its other statements and information on the record of this case. For example, Highveld closely tracks actual production for yield purposes and for purposes of identifying particular coils for warehouse identification, as is evidenced by the yield information maintained by the company and the identifying tags affixed to each finished product. Highveld also has budgets, manufacturing standards, and engineering standards for specific products listed in the company's product brochure. Highveld likely develops production plans involving the identification of certain products as produced from certain raw materials on certain production lines using specific engineering standards. Further, to maintain International Organization for Standardization (ISO) certification, we believe that Highveld must maintain contemporaneous records of production and processes to insure the quality of the products it produces. While certain of Highveld's records do not contain the information requested on separate product costs, the company could have developed a reasonable allocation methodology to allocate costs to products on a control number (CONNUM)-specific basis using the company's normal cost accounting records as a starting point. The Department requested that Highveld look beyond its financial and cost accounting records and select from a variety of available data using, for example, engineering standards, direct labor hours, machine hours, or budgeting systems for allocating costs to products on a CONNUM-specific basis. Highveld failed to develop any system to allocate costs according to these criteria.

Given (i) Highveld's repeated failure to provide data for twelve expenses for the majority of its U.S. sales observations; and (ii) Highveld's repeated failure to provide product-specific cost data that takes into account physical differences in the product or to provide any meaningful explanation of why such data could not be provided, we preliminarily determine that Highveld did not cooperate to the best of its ability. Accordingly, we have used an adverse inference in selecting the facts available to determine Highveld's margin.

Iscor/Saldanha

In this proceeding, Saldanha and Iscor declined to respond to the Department's antidumping questionnaire. Because Saldanha and Iscor provided no information, sections 782(d) and (e) of the Act are not relevant, and the Department must resort to the use of facts available for these respondents, in accordance with 776(a) of the Act.

Furthermore, as Iscor and Saldanha declined to respond to the Department's antidumping questionnaire, we preliminarily determine that both companies failed to cooperate to the best of their abilities within the meaning of section 776(b) of the Act. Accordingly, we have used an adverse inference in selecting the facts available to determine the appropriate margin for Iscor and Saldanha.

Corroboration

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The SAA accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994), states that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870. In this proceeding, we considered the petition as the most appropriate information on the record upon which to base the dumping calculation. In accordance with section 776(c) of the Act, we sought to corroborate the data contained in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information (*e.g.,* import statistics, cost data and foreign market research reports) was available for this purpose. *See Initiation Notice,* at 77571. For purposes of the preliminary determination, we attempted to further corroborate the information in the petition. To the extent practicable, we reexamined the export price, home market price, and CV data provided for the margin calculations in the petition in light of information obtained during the investigation, and found that it has probative value (*see Memorandum to the File, ''Corroboration of Secondary Information,''* dated April 23, 2001). As adverse facts available, we have preliminarily assigned Highveld, Iscor and Saldanha the rate of 9.28 percent—the margin calculated from the petition and used for initiation.

Affiliation

In accordance with section 771(33)(E) of the Act, the Department considers affiliated any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization. In the contemporaneous countervailing duty investigation of HR products from South Africa, the Department noted that respondent Iscor controls 50 percent of the voting ownership in respondent Saldanha. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products from South Africa,* 66 FR 20261 (April 20, 2001). Consequently, and in accordance with section 771(33)(E) of the Act, we conclude that these companies are affiliated for purposes of this proceeding.

Collapsing

Section 351.401(f)(1) of the Department's regulations provides that two or more affiliated producers will be treated as a single entity in an antidumping proceeding if: (i) the producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (ii) the Department concludes that there is a significant potential for the manipulation of price or production. Section 351.401(f)(2) of the Department's regulations provides that in identifying a significant potential for the manipulation of price or production, the factors the Department may consider include: (i) the level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

We have analyzed these criteria with respect to Iscor and Saldanha. According to information available on the public record of the contemporaneous countervailing duty investigation of HR products from South Africa, Iscor is a 50 percent shareholder in Saldanha, and is in a position to

exercise control of Saldanha's assets. Furthermore, both companies produce the subject merchandise. *See* the public version of *Memo to File, ''Cross-Ownership of Iscor, Ltd., in Saldanha Steel Ltd.,''* dated April 13, 2001 (case number C–791–810), which has been placed on the record of this investigation. In light of these facts, and because Iscor's and Saldanha's refusal to cooperate in this investigation has impeded our analysis of this issue, the Department infers that there is significant potential for the manipulation of prices or production between these two companies within the meaning of section 351.401(f)(2) of the Department's regulations. Thus, we preliminarily determine, in accordance with 351.401(f)(1) of the Department's regulations, that Saldanha and Iscor should be treated as a single entity for purposes of this antidumping proceeding, and have determined one dumping margin for this single entity.

Verification

In accordance with section 782(i) of the Act, we intend to verify information to be used in making our final determination.

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 margins, 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. This provision contemplates that we weight-average margins other than facts available margins to establish the ''all others'' rate. Where the data do not permit weight-averaging such rates, the SAA, at 873, provides that we may use other reasonable methods. Because the petition contained only an estimated price-to-CV dumping margin, which the Department adjusted for purposes of initiation, there are no additional estimated margins available with which to create the ''all others'' rate. Therefore, we applied the published margin of 9.28 percent as the ''all others'' rate.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct the Customs Service to suspend liquidation of all entries of HR products from South Africa that are entered, or withdrawn from warehouse, for consumption on or after the date of publication in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin indicated in the chart below. This suspension of liquidation will remain in effect until further notice. The preliminary weighted-average dumping margins are as follows:

	Margin (percent)
Exporter/Manufacturer:	
Highveld	9.28
Iscor/Saldanha	9.28
All Others	9.28

ITC Notification

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

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. 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.

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. In the event that the Department receives requests for hearings from parties to several HR products cases, the Department may schedule a single hearing to encompass all those cases. 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 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 no later than 75 days after the date of this preliminary determination.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 23, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–10851 Filed 5–2–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–814]

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

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

EFFECTIVE DATE: May 3, 2001.

FOR FURTHER INFORMATION CONTACT: Constance Handley or Charles Riggle at (202) 482–0631 and (202) 482–0650, respectively; AD/CVD, Enforcement, Office 5, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

Preliminary Determination

We preliminarily determine that certain hot-rolled carbon steel flat products (HRS) from Argentina are being, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of