a bond equal to the dumping margin, as indicated in the chart below.

These instructions suspending liquidation will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
Poland:	
Huta Ostrowiec S.A. ("Stalexport")	52.07
All Others	47.13
Indonesia:	
Sakti	71.01
Bhirma	71.01
Krakatau	71.01
Perdana	71.01
Hanil	71.01
Pulogadung	71.01
Tunggal	71.01
Master Steel	71.01
All Others	60.46
Ukraine:	
Ukraine-Wide Rate	41.69

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in these investigations in accordance with 19 CFR 351.224(b).

ITC Notification

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

Public Comment

For the investigations of steel concrete reinforcing bars from Poland, Indonesia, and Ukraine, case briefs must be submitted no later than 35 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Public versions of all comments and rebuttals should be provided to the Department and made available on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to several rebar 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 to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If these investigations proceed normally, we will make our final determinations in the investigations of steel concrete reinforcing bars from Poland, Indonesia and Ukraine no later than 75 days after the date of this preliminary determination.

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

Dated: January 16, 2001.

Troy H. Cribb,

Assistant Secretary for Import Administration.

[FR Doc. 01–2522 Filed 1–29–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–844]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Concrete Reinforcing Bars From the Republic of Korea

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

EFFECTIVE DATE: January 30, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Jeff Pedersen at (202) 482–3936 and (202) 482–4195, respectively; AD/CVD Enforcement, Office 4, 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 (2000).

Preliminary Determination

We preliminarily determine that steel concrete reinforcing bars (rebar) from the Republic of Korea (Korea) are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the **SUSPENSION OF LIQUIDATION** section of this notice.

Case History

This investigation was initiated on July 18, 2000.[1] *See Initiation of Antidumping Duty Investigations: Steel Concrete Reinforcing Bars from Austria, Belarus, Indonesia, Japan, Latvia, Moldova, the People's Republic of China, Poland, the Republic of Korea, the Russian Federation, Ukraine, and Venezuela,* 65 FR 45754 (July 25, 2000) (*Initiation Notice*). Since the initiation of these investigations, the following events have occurred.

On August 14, 2000, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to this investigation are threatening material injury or materially injuring a regional industry in the United States producing the domestic like product. *See Certain Steel Concrete Reinforcing Bars From Austria, Belarus, China, Indonesia, Japan, Korea, Latvia, Moldova, Poland, Russia, Ukraine, and Venezuela,* 65 FR 51329 (August 23, 2000). With respect to subject imports from Austria, Russia, and Venezuela, the ITC determined that imports from these countries during the period of investigation (POI) were negligible and, therefore, these investigations were terminated. The ITC also determined that there is no reasonable indication that an industry in the United States is

[1] The petitioner in these investigations is the Rebar Trade Action Coalition (RTAC), and its individual members, AmeriSteel, Auburn Steel Co., Inc., Birmingham Steel Corp., Border Steel, Inc., Marion Steel Company, Riverview Steel, and Nucor Steel and CMC Steel Group. (Auburn Steel was not a petitioner in the Indonesia case).

materially injured or threatened with material injury, by reason of subject imports from Japan. *Id.*

The Department issued antidumping questionnaires to the three mandatory respondents in Korea on August 18, 2000.[2] We received responses from two companies, Dongkuk Steel Mill Co., Ltd. (DSM) and Korea Iron & Steel Co., Ltd. (KISCO). The third respondent, Hanbo Iron & Steel Co., Ltd. (Hanbo) did not respond to our questionnaire. We confirmed with Federal Express that Hanbo did receive our questionnaire (*see* Memorandum from Jeff Pedersen to the File, dated January 16, 2001). On September 14, 2000, we notified Hanbo that we had not received its questionnaire response and that, as a result, the Department may have to rely on facts available in making our determinations in this proceeding. We issued supplemental questionnaires pertaining to sections A, B, C, and D of the antidumping questionnaire to DSM and KISCO in September, October, November, and December 2000. DSM and KISCO responded to these supplemental questionnaires in October, November, and December 2000.

DSM and KISCO requested that they not be required to report certain information requested in the questionnaires. Specifically they requested that they be permitted to exclude three types of data. First, on September 20, 2000, DSM and KISCO reported that they each purchased a small quantity of rebar from each other, which was resold to unaffiliated home market customers. DSM and KISCO also reported that they purchased a small quantity of rebar from unaffiliated suppliers, which was resold to unaffiliated home market customers. Since their accounting systems do not identify which resales of purchased rebar related to purchases from affiliated suppliers and which related to purchases from unaffiliated suppliers, DSM and KISCO stated that their accounting systems prevent them from reporting the downstream sales of rebar purchased from affiliated suppliers (*i.e.,* each other). Therefore, DSM and KISCO requested that they be allowed to report the upstream sale from DSM to KISCO, and vice versa, while being allowed to exclude the downstream sale to the unaffiliated customer.

Second, DSM and KISCO stated in their section A responses that they have not reported their home market sales of rebar purchased from unaffiliated suppliers because such rebar does not fall within the definition of the ''foreign like product.'' DSM and KISCO contend that ''foreign like product'' is defined as merchandise ''produced in the same country by the same person as the subject merchandise.'' Since they did not produce the rebar in question, DSM and KISCO did not include these home market sales in their reported sales listing.

Lastly, in the September 20, 2000, submission, KISCO requested that it be allowed to exclude certain U.S. market sales of rebar that were cut to length and then repacked in Korea by its affiliate, Pusan Steel Mill Co., Ltd. (PSM), prior to export. According to KISCO, these sales account for a tiny portion of its U.S. market sales, are not typical of KISCO's normal course of business, and would complicate the Department's dumping analysis.

On September 29, 2000, the Department issued to DSM and KISCO a supplemental questionnaire concerning these exclusion requests. We received their joint response on October 23, 2000. The information contained in this response, in addition to information contained in DSM and KISCO's responses to the antidumping questionnaire, indicated that the sales covered by these exclusion requests were not representative of normal selling behavior, were made in such small volumes that they would have an insignificant effect on the calculation, and, if not excluded, would unduly complicate the Department's analysis. Therefore, we granted the three exclusion requests discussed above. *See* Letter from Thomas F. Futtner, Acting Office Director, to DSM and KISCO, dated November 6, 2000.

On November 9, 2000, the petitioner requested a postponement of the preliminary determination in this investigation. On November 21, 2000, the Department published a **Federal Register** notice postponing the deadline for the preliminary determination until January 16, 2001. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Steel Concrete Reinforcing Bars from Belarus, Indonesia, Latvia, Moldova, the People's Republic of China, Poland, the Republic of Korea and Ukraine,* 65 FR 69909 (November 21, 2000).

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On December 28, 2000, DSM and KISCO requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. DSM and KISCO also included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting parties account for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

Period of Investigation

The POI for this investigation is April 1, 1999, through March 31, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* June 2000).

Scope of Investigations

For purposes of these investigations, the product covered is all rebar sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.,* non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

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

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits us to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. Using company-specific export data for all of 1999 and the first half of 2000, which we obtained from the American Embassy in Seoul, we found that four Korean exporters shipped rebar to the United States during that time period. Due to limited resources we determined that we could investigate only the three largest producers. *See* Memorandum from Valerie Ellis and Paige Rivas to Holly A. Kuga, Selection of Respondents, dated August 25, 2000. Therefore, we designated DSM, KISCO, and Hanbo as mandatory respondents and sent them the antidumping questionnaire. On September 18, 2000, we received section A questionnaire responses from DSM and KISCO. We did not, however, receive a response from Hanbo.

Facts Available (FA)

Section 776(a) 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.'' The statute requires that certain conditions be met before the Department may resort to the facts otherwise available. 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. Briefly, 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, 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, and the Department can use the information without undue difficulties, the statute requires it to do so.

In this proceeding, Hanbo declined to respond at all to the Department's antidumping questionnaire. Because Hanbo provided no information whatsoever, sections 782(d) and (e) of the Act are not relevant, and the Department must resort to the use of facts available for this respondent, in accordance with 776(a) of the Act. Moreover, we note that at no time did Hanbo contact the Department and state that it was having difficulty responding to the questionnaire or otherwise explain why it could not provide the requested information. Thus, we have also determined that this respondent has not cooperated to the best of its ability. Therefore, pursuant to 776(b) of the Act, we used an adverse inference in selecting a margin from the FA. As FA, the Department has applied a margin rate of 102.28 percent, the highest alleged margin for Korea in the petition. *See* Memorandum from Holly A. Kuga to Troy H. Cribb, Antidumping Investigation of Steel Concrete Reinforcing Bars From The Republic of Korea—The Use of Facts Available for Hanbo Iron & Steel Co. Ltd., and Corroboration of Secondary Information, dated January 16, 2001 (*Facts Available Memorandum*).

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No.316, 103d Cong., 2d Sess. (1994) (hereinafter, the SAA) states that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870.

In this proceeding, we considered the petition information the most appropriate record information to use to establish the dumping margins for this uncooperative respondent because, in the absence of verifiable data provided by Hanbo, the petition information is the best approximation available to the Department of Hanbo's pricing and selling behavior in the U.S. market. In accordance with section 776(c) of the Act, we sought to corroborate the data contained in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*e.g.,* import statistics and foreign market research reports). *See Initiation Notice.*

For purposes of this preliminary determination, we attempted to corroborate the information in the petition with information gathered since the initiation. We compared the export price (EP) and CV data which formed the basis for the highest margin in the petition to the price and expense data provided by DSM and KISCO during the investigation and, to the extent practicable, found that it had probative value (*see Facts Available Memorandum*).

Critical Circumstances

In the petition filed on June 28, 2000, the petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of rebar from Korea. On July 18, 2000, concurrent with the initiation of the LTFV investigations on imports of rebar from Korea and other countries, the Department announced its intention to investigate the petitioner's allegation that critical circumstances exist with respect to imports of rebar from Korea. On August 14, 2000, the ITC determined that there is a reasonable indication of material injury to a regional domestic industry from imports of rebar from Korea.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist, if: (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. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.''

Because we are not aware of any existing antidumping order in any country on rebar from Korea, we do not find a history of dumping from Korea, pursuant to section 733(e)(1)(A)(i) of the Act. Further, with respect to section 733(e)(1)(A)(i) of the Act, the magnitude of the dumping margins found in this preliminary determination with respect to DSM, Kisco, and the producers of subject merchandise in the ''all others'' category, are insufficient to conclude that the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling subject merchandise at LTFV and that there was likely to be material injury by reason of such sales.

With respect to DSM, KISCO and producers of subject merchandise in the ''all others'' category, we find (*see* below) that they do not satisfy the statutory criterion regarding massive imports necessary for an affirmative finding of critical circumstances, section 733(e)(1)(B) of the Act. Therefore, we did not address the issue of whether importers had knowledge that DSM, KISCO and the ''all others'' companies were selling the subject merchandise at less than its fair value.

As mentioned above, Hanbo was selected as a mandatory respondent in this investigation and did not respond to our antidumping questionnaire, nor provide the requested shipment data necessary for our critical circumstances analysis. On September 14, 2000, we notified Hanbo that we had not received its questionnaire response and that, as a result, the Department may have to rely on facts available in making our determinations in this proceeding. With respect to imports of subject merchandise sold by Hanbo, we have determined the preliminary dumping margin to be 102.28 percent (based on adverse facts available). This margin exceeds the 25 percent threshold used by the Department to impute knowledge that the subject merchandise was causing injury. Therefore, pursuant to section 733(e)(1)(A)(ii) of the Act, we find that there is a reasonable basis to believe or suspect that importers knew or should have known that rebar imports from Hanbo were being sold at less than fair value and there was likely to be material injury by reason of such sales.

In determining whether there are ''massive imports'' over a ''relatively short period,'' pursuant to section 733(e)(1)(B) of the Act, the Department normally compares the import volume of the subject merchandise for three months immediately preceding the filing of the petition (*i.e.,* the base period), and three months following the filing of the petition (*i.e.,* the comparison period). However, as stated in section 351.206(i) of the Department's regulations, if the Secretary finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

In this case, the petitioner argues that importers, exporters, or producers of rebar from Korea had reason to believe that an antidumping proceeding was likely before the filing of the petition. Based upon information contained in the petition, we found that press reports and published statements were sufficient to establish that, by December 1999, importers, exporters, and foreign producers knew or should have known that a proceeding was likely concerning rebar from Korea. As a result, the Department has considered whether there have been massive imports after that time, based on a comparison of periods immediately preceding and following the end of December 1999. *See* Memorandum from Tom Futtner to Holly A. Kuga, Antidumping Duty Investigation of Steel Concrete Reinforcing Bars from Korea—Preliminary Determination of Critical Circumstances (*Critical Circumstances Preliminary Determination Memorandum*), dated January 16, 2001.

In order to determine whether imports from Korea have been massive, the Department requested that DSM, KISCO and Hanbo provide their shipment data for the last three years. We note that we have collapsed DSM and KISCO into a single entity for purposes of this antidumping investigation (*see* the Collapsing section below). Therefore, we conducted our analysis on the shipment volumes from the collapsed entity DSM/KISCO. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil,* 65 FR 5554, 5561 (February 4, 2000). Based on our analysis of the shipment data reported, because imports have decreased during the comparison period, we preliminarily find that the criterion under section 733(e)(1) of the Act has not been met, *i.e.,* there have not been massive imports of rebar from DSM/KISCO over a relatively short time. *See Critical Circumstances Preliminary Determination Memorandum.* For this reason, we preliminarily determine that critical circumstances do not exist for imports of rebar produced by DSM/KISCO.

With respect to imports of this merchandise from producers in the ''all others'' category, it is the Department's normal practice to conduct its critical circumstances analysis of companies in this category based on the experience of the investigated companies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey,* (*Rebar from Turkey*) 62 FR 9737, 9741 (Mar. 4, 1997). In *Rebar from Turkey,* the Department found critical circumstances for the ''all others'' category because it found critical circumstances for three of the four companies investigated. However, as we more recently determined in *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan,* 64 FR 24329 (May 6, 1999) (*Hot-Rolled Steel from Japan*), we are concerned that literally applying that approach could produce anomalous results in certain cases. Thus, in deciding whether critical circumstances apply to companies covered by the ''all others'' rate, the Department also considers the traditional critical circumstances criteria.

In determining whether imports from the ''all others'' category have been massive, the Department followed its normal practice of conducting its critical circumstances analysis of companies in this category based on the experience of the investigated companies. In this case, we note that DSM/KISCO account for the majority of rebar exports from Korea. *See Critical Circumstances Preliminary Determination Memorandum.* For this reason, it is appropriate to extend the experience of DSM/KISCO to the ''all others'' category and determine that there have not been massive imports of rebar from the ''all others'' category over a relatively short time. Since the second

criterion under section 733(e)(1) of the Act has not been met, we find that critical circumstances do not exist for imports of rebar produced by the ''all others'' category.

With regard to Hanbo, we note that since Hanbo refused to respond to the Department's antidumping questionnaire, there is no verifiable information on the record with respect to Hanbo's export volumes. For this reason, we must use the facts available in accordance with section 776(a) of the Act in determination of whether there were massive imports of merchandise produced by Hanbo. With regard to aggregate import statistics, these data do not permit the Department to ascertain the import volumes for any individual company that failed to provide verifiable information. Nor do these data reasonably preclude an increase in shipments of 15 percent or more within a relatively short period for Hanbo. As a result, in accordance with section 776(b) of the Act, we have used an adverse inference in applying facts available, and determine that there were massive imports from Hanbo. Since we also find that, pursuant to section 733(e)(1)(A)(ii) of the Act, there is a reasonable basis to believe or suspect that importers knew or should have known that rebar imports from Hanbo were being dumped and there was likely to be material injury by reason of such sales, we preliminary determine that critical circumstances exist with respect to imports of rebar produced by Hanbo.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the Scope of Investigation section, above, and sold in Korea during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on three criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or CV: Type of steel, yield strength, and size. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Collapsing

Section 771(33)(E) of the Act provides that ''affiliated persons'' include ''any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.'' Furthermore, under section 351.401(f) of the Department's regulations, we will treat ''two or more affiliated producers as a single entity where those producers (1) have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and (2) the Secretary concludes that there is significant potential for the manipulation of price or production'' based on factors such as: (a) The level of common ownership; (b) the extent to which managerial employees or board members of one firm sit on the board of the other firm; and (c) whether operations are intertwined (*e.g.,* through sharing of sales information, involvement in production and pricing decisions, sharing facilities/employees, and/or significant transactions between the two affiliated producers).

In this case, it is undisputed that DSM owns over 5 percent of KISCO's outstanding equity. Thus, DSM and KISCO are affiliated as defined by section 771(33)(E) of the Act. Regarding the first collapsing criterion listed in section 351.401(f) of the Department's regulations, DSM and KISCO stated that both companies ''produce the same grades of rebar . . . {and} there were no grades that were produced by one company but not the other.'' In addition, both companies stated that ''there are no significant differences in the production processes used by DSM and KISCO to produce rebar.'' *See* DSM and KISCO's October 23, 2000, submission at 46 and 47. In addition, we note that DSM and KISCO's U.S. market sales of rebar (by quantity) are not large percentages of their total home market sales of rebar. For this reason, we conclude that both companies potentially have the capacity to absorb the other's export market sales, in the event they were to shift export sales to the company with a lower margin. In analyzing whether there exists the potential for manipulation of price or production, we note that in addition to DSM's direct ownership of KISCO, DSM has a significant level of indirect ownership of KISCO through the Chang family, which founded both DSM and KISCO. Concerning the extent to which DSM and KISCO have shared managerial employees and board members, we note that two of KISCO's current senior managers are former senior managers at DSM, and that one of DSM's current senior managers was a former director at KISCO. Lastly, we note that DSM and KISCO have intertwined operations because both companies sold a small amount of rebar to each other in the home market, which entailed the sharing of certain sales information, and used the same affiliated transportation company for certain home market sales.

Based on these reasons, we find that DSM and KISCO are affiliated producers with similar or identical production facilities that would not require substantial retooling of either facility in order to restructure manufacturing priorities. We also find that there exists a significant potential for the manipulation of price or production. For further discussion, *see* Decision Memorandum: Whether to Collapse Dongkuk Steel Mill Co., Ltd. and Korea Iron and Steel Co., Ltd. Into a Single Entity, dated December 5, 2000. Therefore, we have collapsed DSM and KISCO, and are treating them as a single entity (hereafter referred to as DSM/KISCO) for purposes of the preliminary determination in this antidumping investigation.

Fair Value Comparisons

To determine whether sales of rebar from Korea were made in the United States at LTFV, we compared the EP or the constructed export price (CEP) to the normal value (NV), as described in the EP and CEP and NV sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs. We compared these to weighted-average home market prices.

EP and CEP

For the price to the United States, we used, as appropriate, EP or CEP as defined in sections 772(a) and 772(b) of the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold by the exporter or producer outside the United States to an unaffiliated purchaser for exportation to the United States, before the date of importation, or to an unaffiliated purchaser for exportation to the United States.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold inside the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under subsections 772(c) and (d) of the Act.

For DSM/KISCO, we calculated EP and CEP, as appropriate, based on the packed prices charged to the first unaffiliated customer in the United States. During the POI, DSM/KISCO made both EP and CEP transactions. We

calculated an EP for sales where DSM/KISCO sold the merchandise directly to unaffiliated U.S. customers and where DSM/KISCO sold the merchandise to unaffiliated Korean companies, with knowledge that these companies in turn sold the merchandise to U.S. customers. We also calculated an EP for sales to PSM,[3] an affiliated Korean company, who in turn sold the merchandise to U.S. customers. We calculated a CEP for sales where DSM/KISCO sold the merchandise to its U.S. affiliate, Dongkuk International Inc. (DKA), who then resold the merchandise to unaffiliated U.S. customers. We also calculated a CEP for sales made by DSM/KISCO to an affiliated home market company, Dongkuk Industries Co. Ltd. (DKI), who in turn sold the merchandise to DKA, who then sold the merchandise to unaffiliated U.S. customers.

We calculated EP in accordance with section 772(c)(1)(B) of the Act, by adding, where applicable, to the starting price an amount for duty drawback. We also deducted from the starting price, where applicable, amounts for discounts and rebates. We made deductions, where applicable, from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include, where appropriate, foreign inland freight, international freight, foreign and U.S. brokerage and handling charges, insurance, U.S. duties and U.S. inland freight. We adjusted the reported credit expense to reflect a more accurate shipping period. *See* Calculation Memorandum of the Preliminary Determination for the Investigation of Dongkuk Steel Mill Co., Ltd., and Korea Iron & Steel Co., Ltd., January 16, 2001 (*Preliminary Calculation Memorandum*).

We calculated CEP, in accordance with section 772(c)(2)(A) of the Act, by adding, where applicable, to the starting price an amount for duty drawback. We also deducted from the starting price, where applicable, amounts for discounts and rebates, and movement expenses from the starting price. Movement expenses include, where appropriate, foreign inland freight, international freight, foreign and U.S. brokerage and handling charges, insurance, U.S. duties, and U.S. inland freight. In accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions and credit costs) and indirect selling expenses. We adjusted the reported credit expense to reflect a more accurate shipping period. *See Preliminary Calculation Memorandum.* Finally, in accordance with section 772(d)(3) of the Act, we made a deduction for CEP profit.

NV

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

For this investigation, we found that DSM/KISCO has a viable home market of rebar. The respondents submitted home market sales data for purposes of the calculation of NV.

In deriving NV, we made adjustments as detailed in the Calculation of NV Based on Home Market Prices and Calculation of NV Based on CV, sections below.

B. Affiliated-Party Transactions and Arm's-Length Test

During the POI, DSM sold a small amount of rebar to KISCO, who then resold the merchandise to unaffiliated home market customers. Similarly, KISCO sold a small amount of rebar to DSM, who then resold the merchandise to unaffiliated home market customers. Since we have collapsed these two companies into a single entity, we requested that DSM and KISCO remove these sales, which we considered to be inter-company sales, from their home market sales database.

During the POI, DSM/KISCO also had home market sales to other affiliated companies. Both DSM and KISCO had home market sales to DKI, an affiliated Korean company that consumed rebar in its construction division, while KISCO had home market sales to PSM, an affiliated home market company that also consumed rebar during the POI. *See* DSM/KISCO's September 18, 2000, section A response at 3. We applied the arm's-length test to sales from DSM/KISCO to these affiliated companies by comparing them to sales of identical merchandise from DSM/KISCO to unaffiliated home market customers. If these affiliated party sales satisfied the arm's-length test, we used them in our analysis. Sales to affiliated customers in the home market which were not made at arm's-length prices were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* 19 CFR 351.102.

To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all discounts and rebates, movement charges, direct selling expenses, commissions, and home market packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c) and 62 FR at 27355, *Preamble—Department's Final Antidumping Regulations* (May 19, 1997).

A. COP Analysis

On June 28, 2000, the petitioner alleged that sales of rebar in the home market of Korea were made at prices below the fully absorbed COP, and accordingly, requested that the Department conduct a country-wide sales-below-COP investigation. Based upon the comparison of the adjusted prices from the petition for the foreign like product to its COP, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of rebar manufactured in Korea were made at prices below the COP. See Initiation Notice. As a result, the Department has conducted an investigation to determine whether DSM/KISCO made sales in the home market at prices below its COP during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below.

1. Calculation of COP. In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses and interest expenses.

We relied on the COP data submitted by DSM and KISCO in their cost questionnaire responses, except, as noted below, in specific instances where the submitted costs were not appropriately quantified or valued. Since we collapsed DSM and KISCO, and are treating them as a single entity for the purposes of this antidumping investigation, we merged their

[3] Although the Department granted DSM/KISCO its exclusion request concerning its U.S. sales through PSM, DSM/KISCO reported these sales in its U.S. sales database.

separately reported cost databases into a single, combined cost database by weight-averaging DSM and KISCO's individually reported costs. We used the combined costs in our dumping analysis. *See Preliminary Calculation Memorandum.*

DSM. We adjusted DSM's G&A expense ratio to exclude gain on disposal of land, freight revenue, gain on equity method investments and gain on insurance settlement and to include donation expenses in the calculation of the G&A expense ratio.

In addition, we adjusted DSM's financial expense ratio to exclude the long-term portion of exchange gains and losses generated by foreign currency denominated debt. *See* Memorandum from Robert Greger, dated January 16, 2001.

KISCO

We adjusted KISCO's G&A expense ratio to: (1) Exclude the ''non-operating income from the gain on equity method valuation,'' from the miscellaneous gains section of KISCO's financial statement; and (2) included donation expenses in the calculation of the G&A expense ratio.

Further, we adjusted KISCO's financial expense ratio to exclude the long-term portion of exchange gains and losses generated by foreign currency denominated debt. *See* Memorandum from Michael Harrison, dated January 16, 2001.

2. Test of Home Market Sales Prices. We compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.,* a period of one year) in substantial quantities [4] and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the revised COP to the home market prices, less any applicable discounts and rebates, movement charges, selling expenses, commissions, and packing.

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

We found that, for certain models of rebar, more than 20 percent of the home market sales by DSM/KISCO were made within an extended period of time at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

1. Calculation of NV Based on Home Market Prices. We determined price-based NVs for DSM/KISCO as follows. We made adjustments for any differences in packing, and we deducted movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset).

We based home market prices on the packed prices to unaffiliated purchasers in Korea. We adjusted, where applicable, the starting price for discounts and rebates and movement expenses (foreign inland freight and warehousing). We also made COS adjustments, where applicable, by deducting direct selling expenses incurred for home market sales (credit expense and warranty). For comparisons made to EP sales, we made COS adjustments by adding U.S. direct selling expenses. For comparisons made to CEP sales, we did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

2. Calculation of NV Based on CV. Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for those models of rebar for which we could not determine the NV based on comparison-market sales, either because there were no sales of a comparable product or all sales of the comparison products failed the COP test, we based NV on CV. Since there were contemporaneous home market sales of identical merchandise for all U.S. market EP and CEP sales, we did not resort to CV in this investigation.

3. Level of Trade (LOT)/CEP Offset. In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP transactions, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

In implementing these principles in this investigation, we obtained information from the respondents about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying LOTs for EP and home market sales we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction

[4] In accordance with section 773(b)(2)(C)(i) of the Act, we determined that sales made below the COP were made in substantial quantities if the volume of such sales represented 20 percent or more of the volume of sales under consideration for the determination of NV.

of expenses pursuant to section 772(d) of the Act.

In this investigation, DSM/KISCO reported that it sold subject merchandise to three types of customers (distributors, end-users, and government entities) in the home market. Further, it indicated that, for each of the two originally reported channels of distribution, it provided the same types of selling functions (market research, price negotiations, order processing, sales calls, interactions with customers, inventory maintenance, technical advice, warranty services, Korean inland freight, and advertising) at the same levels of intensity for each of the three types of customers. Since all three types of customers received the same selling functions, at the same levels of intensity, we determine that there is a single LOT in the home market. *See* Memorandum from Ronald Trentham to Thomas F. Futtner, Level of Trade Analysis: Dongkuk Steel Mill Co., Ltd. and Korea Iron & Steel Co., Ltd. (*LOT Memorandum*), dated January 16, 2001.

DSM/KISCO also reported that it made EP and CEP sales of subject merchandise to three types of customers (Korean trading companies, U.S. distributors, and U.S. end-users) through four channels of distribution in the U.S. market. The four channels are as follows: (1) sales from DSM directly to unaffiliated U.S. distributors and end-users, (2) sales from DSM to unaffiliated Korean trading companies, who then resold the merchandise to U.S. customers,[5] (3) sales from DSM to DKA, who then resold the merchandise to unaffiliated U.S. distributors and end-users, and (4) sales from DSM to DKI, who then resold the merchandise to DKA, who then resold the merchandise to unaffiliated U.S. distributors and end-users. Further, DSM/KISCO indicated that it provided certain types of selling functions (market research, price negotiations, order processing, sales calls, interactions with customers, inventory maintenance, technical advice, warranty services, Korean inland freight, and advertising) for each of the three types of customers. We examined the types of selling functions provided in each of the four U.S. market channels of distribution, and the level of intensity with which each function is provided, and determined, based upon the selling functions performed, that EP sales and CEP sales are sold at two different LOTs, specifically, LOT1 for EP sales, and at a more remote level of selling activity, LOT2, for CEP sales. *See LOT Memorandum.* We then compared LOT1 (the LOT for EP sales) to the home market LOT and found that EP sales are provided at a different LOT than the home market sales. We also compared LOT2 (the LOT for CEP sales) to the home market and found that CEP sales are provided at the same LOT as the home market transactions. Thus, no LOT adjustment is warranted for CEP comparisons.

Section 773(7)(A)(ii) of the Act states that the Department will grant a LOT adjustment only ''if the difference in the level of trade is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different levels of trade in the country in which normal value is determined.'' Although we find that the U.S. market LOT1 (EP sales) is different from the home market LOT, we are unable to calculate ''a pattern of consistent price differences between sales at different levels of trade in the country in which normal value is determined'' because there is only one LOT in the home market. Thus, in this instance, we have also not granted DSM/KISCO a LOT adjustment to NV for EP comparisons.

Section 773(a)(7)(B) of the Act provides for a CEP offset to NV when NV is established at a more advanced LOT than the LOT of CEP. Since, in this instance, we have found that the U.S. market LOT2 (CEP sales) is the same as the home market LOT, we have not granted DSM/KISCO a CEP offset to NV. For a further discussion, *see* LOT Memorandum.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank (the Department's preferred source for exchange rates).

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determinations.

Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for Korea when we make our final determination regarding sales at LTFV in this investigation, which will be no later than 135 days after the publication of this notice in the **Federal Register**.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of rebar from Korea that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. In the case of rebar produced by Hanbo, because of our preliminary affirmative critical circumstances finding, and in accordance with section 733(e) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of rebar produced by Hanbo that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

	Margin (percent)
Manufacturer/exporter:	
Dongkuk Steel Mill Co., Ltd/ Korea Iron & Steel Co., Ltd	21.70
Hanbo Iron & Steel Co., Ltd ...	102.28
All Others	21.70

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in these investigations in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

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

[5] DSM did not report the types of U.S. customers to which the unaffiliated Korean trading companies resold the subject merchandise.

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. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one rebar case, 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 to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the final determination will be issued 135 days after the date of the publication of the preliminary determination.

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

Dated: January 16, 2001.

Troy H. Cribb,

Assistant Secretary for Import Administration.

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