

the increase in imports was not greater than 15 percent with respect to Gunawan and Jaya Pari. We also considered U.S. Customs data on overall imports from Indonesia of the products at issue. Based on our review of Gunawan's and Jaya Pari's data on massive imports and the U.S. Customs import data, we find that imports from all non-investigated exporters (*i.e.*, "all others") were also not massive during the relevant comparison periods. Given these factors, the Department determines that there are no critical circumstances with regard to "all other" imports of CTL Plate from Indonesia (*see Steel Sheet and Strip in Coils from Japan* at 64 FR 30585).

#### Currency Conversion

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 certified by the Federal Reserve Bank.

#### Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.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, 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:

Exporter/manufacture	Weighted-average margin percentage
Gunawan Dianjaya Steel/PT Jaya Pari Steel Corporation .....	32.20
PT Krakatau Steel .....	35.01
All Others .....	32.20

#### 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 or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than August 25, 1999, and rebuttal briefs no later than September 1, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary 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 case or rebuttal briefs. Tentatively, the hearing will be held on September 9, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 75 days after the date of this preliminary determination.

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

Dated: July 19, 1999.

**Robert S. LaRussa,**  
Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-475-826]

#### Preliminary Determinations of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products From Italy

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

**EFFECTIVE DATE:** July 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Howard Smith or Maisha Cryor, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5193 or (202) 482-5841, respectively.

#### The Applicable Statute

Unless otherwise indicated, all citations to the statute are reference 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 references are made to the Department's regulations at 19 CFR Part 351 (1998).

#### Preliminary Determination

We preliminarily determine that certain cut-to-length carbon-quality steel plate products ("CTL plate") from Italy are being, or are likely to be, sold 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

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from Czech Republic, France, India, Italy, Japan, Republic of Korea, and Former Yugoslav Republic of Macedonia*, 64 FR 12959 (March 16, 1999) ("Initiation Notice"), the following events have occurred:

In their petition, the petitioners<sup>1</sup> identified Ferriera Siderscal SpA ("FS"), ILVA SpA ("ILVA"), Palini & Bertoli SpA ("P&B"), and Siderurgica Villalvernia SpA ("SV"), as possible exporters of CTL plate from Italy. On March 15, 1999, we requested data on all producers and exporters of the subject merchandise during the period of investigation ("POI") from the U.S. embassy in Rome. The U.S. embassy informed us that only ILVA and P&B are manufacturers and exporters to the United States of carbon steel plate. Based on this information, and information contained in the petition, the Department issued antidumping questionnaires to ILVA and P&B in March 1999. According to the U.S.

<sup>1</sup> The petitioners are Bethlehem Steel Corporation, Gulf States Steel, Inc., PPSCO Steel Inc., the United Steelworkers of America, and the U.S. Steel Group (a unit of USX Corporation).

embassy, SV closed its mill in 1995 and FS is only a manufacturer of cold finished bars and hot-rolled billets and bars. However, based upon information contained in the petition, the Department also issued antidumping questionnaires to FS and SV in March 1999.<sup>2</sup>

On March 26, 1999, ILVA requested that it be excused from reporting certain home market sales of foreign like product. Specifically, ILVA sought to be excused from reporting all home market sales of CTL plate produced from plate-in-coil as well as affiliated resellers' sales of quarto plate (universal mill plate). Because ILVA only sold quarto plate in the United States, it maintained that it should not be required to report home market sales of CTL plate produced from coil since the Department would not compare such sales to ILVA's U.S. sales for purposes of calculating a dumping margin. Furthermore, ILVA claimed that its affiliated resellers' sales of quarto plate constituted an insignificant percentage of its total home market sales of foreign like product and, thus, it should be excused from reporting these downstream sales. On May 3, 1999, the Department denied ILVA's requests with one exception. Based on ILVA's relationship with one affiliated reseller, the nature of which is proprietary, the Department allowed ILVA to report sales of foreign like product to the reseller, rather than sales by the reseller.

On May 17, 1999, ILVA further requested that it be excused from reporting home market sales of certain products that are commercially identified as bar products. However, the Department found these products to be within the scope of the current CTL investigations and, thus, required ILVA to report all of its home market sales of such products. For further information regarding this issue, see the "Scope Comments" x section of this notice.

In April 1999, the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination in this case (see Investigation No. 731-TA-815-822). In April and May 1999, The Department received a response to all applicable

sections of the questionnaire from ILVA and P&B. On March 28, 1999, and May 3, 1999, respectively, SV and FS submitted letters to the Department stating that they did not produce the merchandise under investigation, nor did they export such merchandise to the United States. In letter dated May 14, 1999, the Department informed FS and SV that their claims are subject to verification and that if the Department finds that they should have responded to the antidumping questionnaire, the Department would rely on facts available in making its determination with respect to FS and/or SV.

We issued supplemental questionnaires for Sections A, B, C and D to ILVA and P&B in May and June 1999 and received responses to these questionnaires along with revised home market and U.S. sales listings in June 1999.

In June and July 1999, the petitioners submitted comments for the Department's consideration in its preliminary determination. Also, in July 1999, ILVA submitted sales and cost listings containing additional information requested by the Department.

#### *Partial Facts Available*

Section 776(a)(2) of the Act provides that "if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title."

Section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

The Department resorted to the use of facts available in adjusting the reported cost of certain affiliated supplier inputs under the "transactions-disregarded" and the "major input rule" of section 773(f)(2) & (3) of the Act. For a detailed discussion of this topic see the "Cost of Production Analysis—Calculation of COP" section of this notice.

#### *Scope of Investigation*

The products covered by the scope of this investigation are certain hot-rolled

carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but no exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 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 0.41 percent of titanium, or 0.15 of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

<sup>2</sup> Section A of the questionnaire requested general information concerning the company's corporate structure, business practices, and sales and production of the merchandise under investigation. Section B and C of the questionnaire requested home market sales listings and U.S. sales listings. Section D of the questionnaire requested information regarding the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E of the questionnaire requested information regarding the cost of further manufacture or assembly performed in the United States.

(2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (i.e., USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to these investigations is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.90.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

#### Scope Comments

As stated in our notice of initiation, we set aside a period for parties to raise issues regarding product coverage. In particular, we sought comments on the specific levels of alloying elements set out in the description above, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage. On March 29, 1999, Usinor, a respondent in the French antidumping and countervailing duty investigations and Dongkuk Steel Mill Co., Ltd. and Pohang Iron and Steel Co., Ltd., respondents in the Korean antidumping and countervailing duty investigations (collectively "the Korean respondents"), filed comments regarding the scope of the investigations on CTL plate and the Department's model matching criteria. On April 14, 1999, the petitioners filed comments regarding Usinor's and the Korean respondents' comments regarding model matching. In addition, on May 17, 1999, ILVA SpA ("ILVA"), a respondent in the Italian antidumping and countervailing duty investigations, requested guidance on whether certain products are within the scope of these investigations.

Usinor requested that the Department modify the scope to exclude: (1) plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4" or thicker and which is certified for use in

high-pressure, nuclear or other technical applications; and (3) floor plate (i.e. plate with "patterns in relief") made from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

The Department has not modified the scope of these investigations because the current language reflects the product coverage requested by the petitioners, and Usinor's products meet the product description. With respect to Usinor's clarification request, we do not agree that the scope language requires further elucidation with respect to product coverage under the HTSUS. As indicated in the scope section of every Department antidumping and countervailing duty proceeding, the HTSUS subheadings are provided for convenience and Customs purposes only; the written description of the merchandise under investigation or review is dispositive.

The Korean respondents requested confirmation whether the maximum alloy percentages listed in the scope language are definitive with respect to covered HSLA steels.

At this time, no party has presented any evidence to suggest that these maximum alloy percentages are inappropriate. Therefore, we have not adjusted the scope language. As in all proceedings, questions as to whether or not a specific product is covered by the scope and, hence, must be reported, should be timely raised with Department officials.

ILVA requested guidance on whether certain merchandise produced from billets is within the scope of the current CTL plate investigations. According to ILVA, the billets are converted into wide flats and bar products (a type of long products). ILVA notes that one of the long products, when rolled, has a thickness range that falls within the scope of these investigations. However, according to ILVA, the greatest possible width of these long products would only slightly overlap the narrowest category of width covered by the scope of the investigations. Finally, ILVA states that these products have different production processes and properties than merchandise covered by the scope of the investigations, and therefore are not covered by the scope of the investigations.

As ILVA itself acknowledges, the particular products in question appear to fall within the parameters of the scope and, therefore, we are preliminary treating them as covered merchandise for purposes of these investigations.

#### Period of Investigation

The POI is January 1, 1998, through December 31, 1998.

#### Fair Value Comparisons

To determine whether sales of CTL plate from Italy to the United States were made at less than fair value, we compared the export price ("EP") to the Normal value ("NV"), as described, in the "Export Price" and "Normal Value" sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by ILVA and P&B covered by the description in the "Scope of Investigation" section, above and sold in Italy during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance (which are identified in Appendix V of the questionnaire: painting, quality, grade specification, heat treatment, normal thickness, nominal width, patterns in relief, and descaling).

In addition, we compared U.S. sales of prime merchandise only with home market sales of prime merchandise. Because neither ILVA nor P&B sold non-prime merchandise in the United States during the POI, we did not use home market sales of non-prime merchandise in our product comparisons, (see *Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Sweden*, 63 FR 40449, 40450 (July 29, 1998) ("SSWR")).

#### Level of Trade

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 level of trade ("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 constructed value ("CV"), that of the sales from which we derive

selling, general and administrative ("SG&A") expenses and profit. With respect to U.S. price and EP transactions, the LOT is also the level of the starting-price sale, which is usually from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP 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 an LOT adjustment under section 773(a)(7)(A) of the Act.

P&B reported home market sales to three customer categories through one channel of distribution. For its U.S. sales, P&B reported EP sales to one customer category through one channel of distribution. ILVA reported home market sales to two customer categories through four channels of distribution. For its U.S. sales, ILVA reported EP sales to two customer categories through one channel of distribution. In their responses, neither ILVA nor P&B claimed that their sales to home market customers were made at a different LOT than their sales to U.S. customers. Therefore, neither company claimed a LOT adjustment.

In determining whether separate LOTs actually existed in the home market and U.S. market for each respondent, we examined whether the respondent's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions. Based on an analysis of the selling functions performed in the home market channel of distribution, we find that each respondent's home market sales comprise a single LOT. In analyzing each company's selling activities for EP sales, we noted that the sales involved basically the same selling functions as those associated with the home market LOT described above. Therefore, based upon this conclusion, we have determined that the LOT for each respondent's EP sales is the same as that of its home market sales. See the July 19, 1999, memoranda to the file regarding *Palini and Bertoli (P&B): Level of Trade Analysis*, and *Ilva SpA (ILVA): Level of Trade Analysis*.

#### Export Price

ILVA and P&B reported as EP transactions their sales of subject

merchandise sold to unaffiliated U.S. customers prior to importation.

We calculated EP, in accordance with section 772(a) of the Act, because the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted, based on the facts of record. We based EP on the price to unaffiliated purchasers in the United States. We made deductions to the starting price for billing adjustments and, in accordance with section 772(c)(2)(A) of the Act, movement expenses. Movement expenses included, where appropriate, foreign inland freight, foreign brokerage and handling charges, ocean freight, and marine insurance.

#### Normal Value

After testing (1) home market viability, (2) whether sales to affiliates were at arm's-length prices, and (3) whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-CV Comparisons" sections of this notice.

#### 1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for each respondent.

#### 2. Affiliated-Party Transactions and Arm's-Length Test

Both respondents reported home market sales to affiliated parties. Therefore, we have applied the arm's-length test to these sales by comparing them to sales of identical merchandise from the respondent to its 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 not made at arm's-length prices (if any) 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 prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and 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). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis (see, e.g., *SSWR* at 63 FR 40451). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

#### 3. Cost of Production Analysis

In their petition, the petitioners submitted an allegation pursuant to section 773(b) of the Act that ILVA and P&B made sales in the home market at less than the cost of production ("COP"). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that each Italian exporter sold CTL plate in the home market at prices less than the COP. Accordingly, we initiated COP investigations with respect to the two Italian exporters to determine whether sales were made at prices below the COP pursuant to section 773(b) of the Act (see *Initiation Notice* at 64 FR 12959, 12963).

We conducted the COP analysis as described below.

#### A. Calculation of COP

In accordance with section 773(b)(3) of the Act, for each respondent we calculated COP based on the sum of the respondent's materials and fabrication cost for the foreign like product, plus an amount for home market SG&A, interest expenses, and packing costs.

Except for the following adjustments to ILVA's costs reported by the respondents' to calculate COP:

1. During the POI, ILVA produced slabs which it sold to its wholly owned subsidiary, ILVA Lamiere e Tubi S.p.A. (ILT). ILT rolled the slabs into quarto plate to ILVA. During the POI, ILT only sold quarto plate to ILVA, which resold

the plate to affiliated and unaffiliated customers in the U.S. and home markets. For cost reporting purposes, ILVA treated itself and ILT as one company and thus reported ILT's rolling cost as part of the COP. Because ILVA "collapsed" itself with ILT it did not value the inputs that it purchased from ILT in accordance with section 773(f)(2) of the Act or use the major input rule of section 773(f)(3) of the Act. Section 351.401(f) of the Department's regulations stipulates that the Department will treat two or more affiliated producers as a single entity where, among other things, the department concludes there is a significant potential for the manipulation of price or production in order to evade antidumping duties. However, in the instant situation, based upon the information on the record, the details of which are proprietary, the Department has preliminarily determined that it is not appropriate to collapse ILVA and ILT because there is not a significant potential for the manipulation of price or production in order to evade antidumping duties. See *ILVA Collapsing Memorandum* (July 19, 1999). Because the Department has not collapsed ILVA and ILT, and the rolling performed by ILT is a major input to the production of plate sold by ILVA, the major input rule should be applied to value the input that ILVA obtained from ILT (see *Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 64 FR 6615, 6621 (February 10, 1999)). The major input rule of section 773(f)(3) of the Act provides that the Department may value inputs obtained from affiliated parties at the highest of the transfer price, market price, or the affiliated supplier's costs. The petitioners' maintain that the major input rule should be used to value the slabs that ILT purchased from ILVA. However, the Department has treated ILVA as the producer and viewed ILT as an affiliate who provides services to the producer. Thus, the Department used the major input rule to value the rolling services provided by ILT, but found no basis to apply it in valuing the slabs produced by ILVA. In the absence of a market price or a transfer price for rolling slabs, for this preliminary determination, the Department has constructed a transfer price by increasing the reported rolling costs for quarto plate by ILT's general and administrative (G&A) expenses and profit.

2. ILVA included ILT's G&A expenses in its reported G&A expense because it treated ILVA and ILT as one entity for

cost reporting purposes. Because the Department has treated ILVA and ILT as separate entities, the Department reduced ILVA's reported G&A expense by the amount of ILT's G&A expenses included therein.

3. The Department excluded extraordinary gains and losses from ILVA's reported G&A expenses because ILVA failed to adequately explain how these expenses were related to its operations.

4. ILVA uses iron pellets to produce the merchandise under investigation. During the POI, ILVA purchased iron pellets from two suppliers, one of which ILVA identified as an affiliated party. In order to satisfy the requirements of section 773(f)(2) of the Act (transactions between affiliated parties disregarded), ILVA compared the price that it paid to purchase iron pellets from the affiliated party to the price that it paid to purchase iron pellets from the "unaffiliated" supplier. However, the record shows that ILVA and the "unaffiliated" supplier jointly own and control the affiliated supplier. Therefore, in accordance with section 771(33)(F) of the Act, the Department has preliminarily determined that ILVA and the supplier which ILVA identified as an unaffiliated party (*i.e.*, the joint venture partner) are in fact affiliated, pursuant to section 771(33)(F). Furthermore, the iron pellets ILVA purchased from its joint venture partner were in fact produced by ILA's affiliated supplier. Thus, for all these transactions, ILVA purchased iron pellets, either directly or indirectly, from its affiliated supplier. Therefore, we have preliminarily determined to disregard these sales, unless ILVA can show that such sales reflect market value as required under section 773(f)(2). In the absence of such evidence, for the preliminary determination, the Department has adjusted the cost of iron pellets included in the reported costs using the information available as to what the price of iron pellets would have been if the iron pellets had been purchased from parties who are not affiliated with ILVA, in accordance with section 773(f)(2). For this preliminary determination, as facts available for this information, we used the weighted-average Italian import values of iron ore as provided by the petitioners in their July 8, 1999 submission.

5. The Department reduced ILVA's reported costs for models sold in the United States by the cost of foreign transportation and port loading expenses for U.S. sales, which were reclassified as movement expenses.

## B. Test of Home Market Sales Prices

We compared the weighted-average COP figures to home market sale prices 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. In determining whether to disregard home market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses.

## C. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of respondent's sales of a given product were at prices below 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) of the Act. In such cases, we also determined that such sales were not made at prices which 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 grades of CTL plate, 20 percent or more of ILVA's and P&B home market sales within an extended period of time were at prices below the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used for remaining sales as the basis for determining NV if such sales existed, in accordance with section 773(b)(1) of the Act.

## Price-to-Price Comparisons

We calculated NV based on delivered prices to unaffiliated customers to prices to affiliated customers that we determined to be at arm's length prices. We made adjustments, where appropriate, from the starting price for discounts and rebates, billing adjustments, inland freight, shipping revenue, freight insurance, and

warehousing expenses. We made adjustments for differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale involving imputed credit expenses (less interest revenue) warranties and commissions, where appropriate. We also made adjustments 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), pursuant to 19 CFR 351.410(e). Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act. In both its narrative response to the Department's questionnaire and in its home market sales listing, P&B described the terms of certain home market sales as F.O.B. plant. However, P&B reported freight expenses for these sales in its home market sales database. For home market sales transactions where this discrepancy occurs, we did not reduce P&B's home market sales price by the reported freight expense.

#### *Currency Conversion*

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determined a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) of the Act directs the Department to allow 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see *Policy Bulletin 96-1: Currency Conversions* 61 FR 9434 (March 9, 1996).) The use of an adjustment period was not warranted in this case because of lira did not undergo a sustained movement.

#### *Verification*

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

#### *Suspension of Liquidation*

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after 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 EP, 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:

Exporter/manufacture	Weighted-average margin percentage
ILVA SpA .....	3.67
Palini & Bertoli SpA .....	6.35
All Others .....	5.78

#### *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 or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than August 25, 1999, and rebuttal briefs no later than September 1, 1999. A list of authorities used and executive summary of issues should accompany any briefs submitted to the Department. Such summary 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 case or rebuttal briefs. Tentatively, the hearing will be held on September 10, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and

place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 75 days after the date of this preliminary determination.

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

Dated: July 19, 1999.

**Robert S. LaRussa,**  
Assistant Secretary for Import  
Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-847]

### Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products From Japan

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

**EFFECTIVE DATE:** July 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mark Manning or Wendy J. Frankel, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3936 or (202) 482-5849, respectively.

#### **The Applicable Statute**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all references are made to the Department's regulations at 19 CFR Part 351 (1998).

#### **Preliminary Determination**

We preliminarily determine that certain cut-to-length carbon-quality steel