

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Paper, Tabulating Machine
7530-00-800-0996
(Requirements of Burlington, New Jersey only)

NPA:

Arizona Industries for the Blind, Phoenix, Arizona
Lighthouse for the Blind, St. Louis, Missouri
Blind Work Association, Binghamton, New York
Tarrant County Association for the Blind, Fort Worth, Texas

Meal Kits

8970-01-E59-0239A
8970-01-E59-0240A
8970-01-E59-0241A
8970-01-E59-0242A
8970-01-E59-0243A
8970-01-E59-0244A
8970-01-E59-0245A

8970-01-E59-0239B
8970-01-E59-0240B
8970-01-E59-0241B
8970-01-E59-0242B
8970-01-E59-0243B
8970-01-E59-0244B
8970-01-E59-0239C
8970-01-E59-0240C
8970-01-E59-0241C
8970-01-E59-0242C
(100% of the requirement of the U.S. Property and Fiscal Officer for Louisiana, New Orleans, Louisiana)

NPA: The Meadows Center for Opportunity, Inc., Edmond, Oklahoma

Services

Grounds Maintenance, Shaw Air Force Base, South Carolina

NPA: Sumter County Disabilities and Special Needs Board, Sumter, South Carolina
Mail and Messenger Service, Security Assistance Management Directorate (SAMD), Buildings 7611, 7612 and 7613, Redstone Arsenal, Alabama

NPA: Huntsville Rehabilitation Foundation, Huntsville, Alabama
Mailroom Operation, U.S. Coast Guard Yard, 2401 Hawkins Point Road, Baltimore, Maryland

NPA: Goodwill Industries of the Chesapeake, Inc., Baltimore, Maryland

Beverly L. Milkman,

Executive Director.

[FR Doc. 99-4186 Filed 2-18-99; 8:45 am]

BILLING CODE 6353-01-U

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-846]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan

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

EFFECTIVE DATE: February 19, 1999.

FOR FURTHER INFORMATION CONTACT:

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The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition,

unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (1998).

Preliminary Determination

We preliminarily determine that Hot-Rolled Flat-Rolled Carbon-Quality Steel Products ("hot-rolled steel") from Japan is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

On October 15, 1998, the Department initiated antidumping duty investigations of imports of hot-rolled steel from Brazil, Japan, and the Russian Federation. See *Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and the Russian Federation*, 63 FR 56607 (October 22, 1998) (*Initiation*). Since the initiation of this investigation the following events have occurred:

The Department set aside a period for all interested parties to raise issues regarding product coverage. Throughout the month of November, the Department received numerous filings from respondents and other interested parties proposing amendments to the scope of these investigations. On January 6, 1999 and January 27, 1999, petitioners (Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Ispat Inland Steel, LTV Steel Company, Inc., National Steel Corporation, California Steel Industries, Gallatin Steel Company, Geneva Steel, Gulf States Steel, Inc., IPSCO Steel Inc., Steel Dynamics, Weirton Steel Corporation, the Independent Steelworkers Union, and the United Steelworkers of America) filed letters agreeing to amend the scope of these investigations to exclude those products for which Itochu International, Inc., Nippon Steel Corp., and others had requested exclusion (see Scope Memorandum to Joseph A. Spetrini, February 12, 1999).

On October 22, 1998, the Department requested comments from petitioners and respondents regarding the criteria to be used for model matching purposes. On October 22 and 27, 1998, petitioners and respondents (Companhia Siderurgica Nacional, Companhia Siderurgica Paulista, Usinas Siderurgicas de Minas Gerais, Nippon Steel Corporation, NKK Corporation, Kawasaki Steel, Sumitomo Metal Industries, Ltd., and Kobe Steel Ltd.) submitted comments on our proposed model-matching criteria.

On November 16, 1998, the United States International Trade Commission ("ITC") notified the Department of its affirmative preliminary finding of threat of material injury in this case. Additionally, on November 25, 1998, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from Japan (63 FR 65221). On October 19, 1998, the Department issued section A of an antidumping questionnaire to Nippon Steel Corporation ("NSC"), NKK Corporation ("NKK"), Kawasaki Steel Corporation ("KSC"), Sumitomo Metal Industries ("Sumitomo"), Kobe Steel, Ltd. ("Kobe"), and Nisshin Steel Co. Ltd. ("Nisshin"). On October 30, 1998, the Department issued a memorandum which identified the respondents whose sales the Department would examine for purposes of this investigation. (See Respondent Selection section, below.) As a result of this decision, on October 30, 1998, the Department issued sections B-E of an antidumping questionnaire to NSC, NKK, and KSC (the chosen "respondents"); the remaining three companies were excused from responding to the section A questionnaires the Department had sent them. Nevertheless, on November 12, 1998, Nisshin submitted a letter stating that it had not exported subject merchandise to the United States during the period of investigation ("POI").

On November 16, 1998, we received section A questionnaire responses from NSC, NKK, and KSC. Petitioners filed comments on NSC's, NKK's, and KSC's section A questionnaire responses on November 30, 1998 and December 1, 1998. We issued supplemental questionnaires for section A to NSC, NKK, and KSC on December 4, 1998. On December 11, 1998, we issued a letter to respondents informing them that the Department would consider these supplemental questions for section A to have been issued on January 4, 1999, in order to adhere to the schedule provided to all interested parties at the time of initiation. On December 21, 1998, we received responses to sections B, C, and D of the questionnaire from NSC, NKK, and KSC. Petitioners filed comments on NSC's, NKK's, and KSC's section B-D questionnaire responses on December 28, 1998. We issued supplemental questionnaires for sections B, C and D to NSC, NKK, and KSC on January 4, 1999, and received responses to these questionnaires on January 25, 1999.

In addition, on November 10, 1998, KSC requested to be excused from

responding to section E ("Further Manufacturing") of the Department's questionnaire due to certain problems associated with obtaining the requisite information. After a review of the material placed on the record, the Department instructed KSC on January 4, 1999, to respond to section E of the Department's questionnaire. However, on January 25, 1999, instead of responding to section E of the Department's questionnaire, KSC argued that it was still unable to obtain the requested information and reiterated its request to be excused from providing the further manufactured sales in the United States. With regard to NSC and NKK, although both companies were sent section E of the questionnaire, both companies responded by stating that they did not perform any further manufacturing operations on imports of subject merchandise.

In the petition filed on September 30, 1998, petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of hot-rolled steel from Brazil, Japan, and the Russian Federation. On November 23, 1998, in the investigations of Japan and the Russian Federation, the Department issued its preliminary critical circumstances determination (63 FR 65750 November 30, 1998). In these determinations, the Department preliminarily determined that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of hot-rolled steel from Japan and the Russian Federation.

Scope of Investigation

For purposes of this investigation, the products covered are certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of these investigations. Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free ("IF")) steels, high strength low alloy

("HSLA") steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of HTSUS definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below 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
0.012 percent of boron, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

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

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including *e.g.*, ASTM specifications A543, A387, A514, A517, and A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	0.90% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max

Width = 44.80 inches maximum;
Thickness = 0.063–0.198 inches;

Yield Strength = 50,000 ksi minimum;
Tensile Strength = 70,000–88,000 psi.

• Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.16%	0.70–0.90%	0.025% Max	0.006% Max	0.30–0.50%	0.50–0.70%	0.25% Max	0.20% Max
Mo							
0.21% Max							

Width = 44.80 inches maximum;
Thickness = 0.350 inches maximum;

Yield Strength = 80,000 ksi minimum;
Tensile Strength = 105,000 psi Aim.

• Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	1.30–1.80%	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max
V(wt.)	Cb						
0.10 Max	0.08% Max						

Width = 44.80 inches maximum;
Thickness = 0.350 inches maximum;

Yield Strength = 80,000 ksi minimum;
Tensile Strength = 105,000 psi Aim.

• Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.15% Max	1.40% Max	0.025% Max	0.010% Max	0.50% Max	1.00% Max	0.50% Max	0.20% Max
Nb	Ca	Al					
0.005% Min	Treated	0.01–0.07%					

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thicknesses ≤ 0.148 inches and 65,000 psi minimum for thicknesses > 0.148 inches; Tensile Strength = 80,000 psi minimum.

• Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm² and 640 N/mm² and an elongation percentage ≥ 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm² and 690 N/mm² and an elongation percentage ≥ 25 percent for thicknesses of 2mm and above.

• Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

The merchandise subject to these investigations is classified in the

Harmonized Tariff Schedule of the

United States (“HTSUS”) at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered by this investigation, including: vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90,

7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The POI is July 1, 1997 through June 30, 1998.

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. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) a sample of exporters,

producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

After consideration of the complexities expected to arise in this proceeding (with respect to each respondent) and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we found that, given our resources, we would be able to investigate the Japanese producers/exporters with the greatest export volume, as identified above. These companies accounted for more than 90 percent of all known exports of the subject merchandise during the POI. For a more detailed discussion of respondent selection in this investigation, see *Respondent Selection Memorandum*, dated October 30, 1998.

Date of Sale

For its home market and U.S. sales, NSC reported the date of shipment, NKK reported the date of shipment for home market sales, and date of invoice for U.S. sales, and KSC reported the date of invoice as the date of sale for both U.S. and home market sales. NSC, NKK, and KSC all stated that the invoice/shipment date best reflects the date on which the material terms of sale are established and that price and/or quantity can and do change between order confirmation date and invoice/shipment date. Petitioners, however, have alleged that the sales documentation provided by respondents indicates that the order confirmation date appears to be the date when the material terms of sale are set for a majority of these respondents' sales of hot-rolled steel. Given the relevance of petitioners' comments and the nature of marketing these types of made-to-order products, we determined that petitioners' claims have some merit. Consequently, on December 4, 1998, and January 4, 1999, the Department requested respondents to provide additional information concerning the nature and frequency of price and quantity changes occurring between the date of order confirmation and date of invoice. We also asked respondents to report the order confirmation date for all home market and U.S. sales and to ensure that the entire universe of sales with order or invoice dates within the POI were properly reported. On December 21, 1998 and January 25, 1999, NKK reiterated that invoice/

shipment date is the most appropriate date of sale and requested that it not have to report sales based on order confirmation date. NSC and KSC provided the requested data in accordance with the Department's instructions.

The Department is preliminarily using the dates of sales reported by each respondent (date of shipment for NSC, invoice/shipment date for NKK, and invoice date for KSC). We intend to fully examine this issue at verification, and we will incorporate our findings, as appropriate, in our analysis for the final determination. If we determine that order confirmation is the most appropriate date of sale, we may resort to facts available for the final determination to the extent that this information has not been reported by the respondents. Due to the complexity of this issue, we invite all interested parties to submit comments on this issue in accordance with the schedule set forth in this notice.

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 Japan 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 eleven characteristics to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: paint, quality, carbon content, strength, thickness, width, coiled or non-coiled, temper rolling, pickling, edge trim, and patterns. These characteristics have been weighted by the Department where appropriate. 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 in the antidumping questionnaire and reporting instructions.

Fair Value Comparisons

To determine whether sales of hot-rolled steel from Japan 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" section of this notice below, or the constructed export price ("CEP") to the NV, as described in the "Constructed Export Price" section of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs for comparison to weighted-average NVs. In accordance with section

772(a) and (c) of the Act, we calculated EP for all of NSC's sales, all of NKK's sales, and the sales KSC reported as EP sales since the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts on the record. In accordance, with section 772 (b), (c) and (d) of the Act, we calculated CEP for all of KSC's reported CEP sales as the merchandise was sold in the United States by or for the account of the producer or by a seller affiliated with the producer or exporter, before or after the date of importation.

Export Price

We based our calculation for certain sales on EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer or exporter directly to the first unaffiliated purchaser in the United States prior to importation. We calculated EP based on packed prices charged to the first unaffiliated customer in the United States.

For NSC, NKK, and KSC we made company-specific adjustments to the EP starting price, where appropriate, for the following movement expenses, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight, international freight (including ocean freight), marine insurance fees, and brokerage and handling expenses; discounts and rebates, and billing adjustments. No other adjustments were claimed or allowed.

Constructed Export Price

We calculated CEP for KSC, in accordance with section 772(b) of the Act when the first sale to an unaffiliated purchaser was made in the United States by a seller affiliated with the producer or exporter after the subject merchandise was imported into the United States.

We based CEP on the packed ex-warehouse or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made deductions from the starting price for discounts, credit, and commissions. We also made deductions for the following movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act: inland freight from plant/warehouse to port of exportation, foreign brokerage expenses, international freight (including ocean freight), marine insurance, U.S. inland freight from warehouse to the unaffiliated customer, U.S. warehouse expenses, and U.S. Customs duties. In accordance with section 772(d)(1) of the Act, we deducted selling expenses

associated with economic activities occurring in the United States, including direct selling expenses, inventory carrying costs, and other U.S. indirect selling expenses. In accordance with section 773(d)(3) of the Act, we also deducted an amount for profit. In accordance with section 772(f) of the Act, we computed profit based on total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and home market.

Although KSC performs further manufacturing on imported merchandise, KSC did not provide transaction-specific information on these sales in the United States. KSC is affiliated with two further manufacturers in the United States. With regard to further manufactured sales by its affiliate VEST Inc. ("VEST"), KSC reported that it was unable to retrieve the requested data due to difficulties with the computer system and other complications. After a review of the information on the record, the Department determined that further manufactured sales through VEST account for less than five percent of total U.S. sales. Therefore, for purposes of the preliminary results, the Department is disregarding these sales and not utilizing these transactions in its margin calculation.

With regard to KSC's further manufactured sales via its other affiliated further manufacturer, California Steel Industries, Inc. ("CSI"), KSC argued that, due to conflicts of interest, CSI was unable and unwilling to provide transaction-specific further manufacturing information. After a review of the information placed on the record, the Department determined that these sales account for a substantial portion of KSC's U.S. sales. Section 776(a)(2) of the Act provides, that if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, as provided in section 782(i), the Department shall, subject to subsection 782(d), use facts otherwise available in reaching the applicable determination. Section 776(b) of the Act provides that adverse inferences may be used where an interested party has failed to cooperate by not acting to the best of its

ability to comply with the Department's requests for information. See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (1994). In the instant case, the Department has preliminarily determined that KSC's and CSI's failure to respond to section E of the Department's questionnaire satisfies the requirements of section 776(a)(2)(A), (B), and (C), as well as section 776(b). Therefore, the Department has based its margin on adverse facts available. As facts available, we used the highest calculated margin for U.S. sales that fell within the mainstream of KSC's transactions. In selecting the adverse margin, the Department sought a margin that was indicative of KSC's customary selling practices and was rationally related to the transactions to which the adverse facts available were being applied. The selected margin is also sufficiently adverse to effectuate the statutory purpose of adverse facts available, which is to induce respondents to provide the Department with complete information in a timely manner. See *Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Italy*, 63 FR 40422, 40428, (July 29, 1998).

Section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall to the extent practicable corroborate that information from independent sources that are reasonably at their disposal. Because the information used to establish the facts available margins for KSC's further manufactured sales was information KSC submitted in the course of the investigation, rather than secondary information, no corroboration of this data is necessary.

Normal Value

After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-CV Comparison" sections of this notice.

A. 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 each 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. Since each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for all respondents. Therefore, we have based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

B. Arm's Length Test

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 discounts, rebates, billing adjustments, 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 unaffiliated parties, we determined that sales made to the affiliated party were at arm's length and used those sales in determining NV. See 19 CFR 351.403(c). 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 *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar product.

C. Downstream Sales

Pursuant to section 351.403 of the Department's regulations, the Department does not normally require the reporting of downstream sales if total sales of the foreign like product by a firm to all affiliated customers account for five percent or less of the firm's total sales of the foreign like product. In general, the Department does not believe it necessary or appropriate to require the reporting of downstream sales in all instances. Questions concerning the reporting of downstream sales are complicated, and the resolution of such questions depends on a number of considerations, including

the nature of the merchandise sold to and by the affiliate, the volume of sales to the affiliate, the levels of trade involved, and whether sales to affiliates were made at arm's length. In addition, the Department normally will not require the respondent to report the affiliate's downstream sales unless the sales to the affiliate fail the arm's length test. The Department believes that imposing the burden of reporting small numbers of downstream sales often is not warranted, and that the accuracy of determinations generally is not compromised by the absence of such sales.

In the instant case, NSC and KSC requested that they be excused from reporting a small percentage of home market downstream sales due to overwhelming burdens in obtaining the information and the fact that these downstream sales will not constitute appropriate matches for their U.S. sales of subject merchandise. After examining the data placed on the record, the Department has preliminarily determined that there are sufficient matches of sales in the home market and that the downstream sales in question account for less than three percent of each firm's total home market sales of subject merchandise. For purposes of this preliminary determination, the Department is disregarding this small percentage of downstream sales. The Department intends to thoroughly examine this issue at verification and will incorporate our findings, as appropriate in our analysis for the final determination. If we determine that these downstream sales were appropriate matches to U.S. sales, or where the data is readily available, we may resort to facts available for the final determination to the extent that this information has not been reported by the respondents.

D. Cost of Production (COP) Analysis

Based on the cost allegation submitted by petitioners in the original petition, the Department found reasonable grounds to believe or suspect that each of the respondents had made sales in the home market at prices below the cost of producing the merchandise, in accordance with section 773(b)(2)(A)(i) of the Act. As a result, the Department initiated an investigation to determine whether respondents made home market sales during the POI at prices below their respective COPs within the meaning of section 773(b) of the Act. See Initiation Notice (63 FR 56607, October 22, 1998).

We conducted the COP analysis described below.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP for hot-rolled steel based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (SG&A), interest expenses, and packing costs. We relied on the COP data submitted by each respondent in its cost questionnaire response, except, as discussed below, in specific instances where the submitted costs were not appropriately quantified or valued.

NSC

We excluded from NSC's COP and CV data the reconciliation adjustment related to differences between the control number ("CONNUM") specific cost and NSC's costs in its normal books and records.

NKK

We recalculated NKK's G&A expense rate based on NKK's company-wide G&A. Additionally we included the loss on outage for a blast furnace accident in G&A expense and the mill movement expenses in the base used for the G&A rate calculation. We disallowed NKK's adjustment for alleged double counting of certain cost of manufacturing items. Finally, we recalculated interest expense using the recalculated total cost of manufacturing for each CONNUM.

KSC

We recalculated Kawasaki's general and administrative ("G&A") expense rate by including losses on disposal of fixed assets, special retirement expenses, and past service portion of pension cost.

2. Test of Home Market Prices

We compared the weighted-average COP by CONNUM for each respondent, adjusted where appropriate (see above), to home market sales prices of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales made at prices less than 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. We compared the COP to home market prices, less any applicable movement charges and direct and indirect selling expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of

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) of the Act. In such cases, because we compared prices to weighted-average COPs for the POI, 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. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

Price-to-Price Comparisons

We performed price-to-price comparisons where there were sales of comparable merchandise in the home market that did not fail the arm's length and/or cost test. We made comparisons on an actual weight to actual weight basis. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C) of the Act. In accordance with section 773(a)(6)(A) and (B), we deducted home market packing costs and added U.S. packing costs.

NSC

We calculated NV based on prices to affiliated customers that passed the arm's length test and sales to unaffiliated home market customers. We made adjustments for physical differences in the merchandise, where necessary in accordance with 773(a)(6)(C)(ii) of the Act. We made deductions for quantity and sales promotion discounts, rebates and movement expenses. We found after reviewing the information placed on the record that NSC's reported home market freight expenses (INLFTCH) are inclusive of both affiliated and unaffiliated freight costs. The Department requested NSC to provide analyses demonstrating that expenses for freight services provided by affiliated suppliers were based on a market rate. However, NSC did not provide these comparisons. In addition, the Department was unable to determine which freight expenses were paid to affiliated or unaffiliated companies. Therefore, the Department, for this

preliminary determination has disallowed this adjustment in the home market. In addition, we made circumstance-of-sale ("COS") adjustments for differences in credit and warranty expenses, where appropriate in accordance with 773(a)(6)(C)(iii) of the Act. In our NV calculations, we did not use a certain portion of NSC's reported downstream sales because the sales by NSC to its affiliated reseller passed the arm's length test (see Arm's Length Test section, above).

NKK

We calculated NV based on prices to affiliated customers that passed the arm's length test and sales to unaffiliated home market customers. We made adjustments for physical differences in the merchandise, where necessary. We made deductions for quantity and sales promotion discounts, rebates, billing adjustments, direct selling, and movement expenses. In addition, we made COS adjustments for differences in credit and warranty expenses, where appropriate in accordance with section 773(a)(6)(C)(iii). In our NV calculations, we did not use a certain portion of NKK's reported downstream sales because the sales by NKK to its affiliated reseller passed the arm's length test (see Arm's Length Test section, above).

KSC

We calculated NV based on prices to affiliated customers that passed the arm's length test and on sales to unaffiliated home market customers. We made adjustments for physical differences in the merchandise, where necessary. We made deductions for quantity and sales promotion discounts, rebates and movement expenses, direct selling expenses, and processing fees. In addition, we made COS adjustments for differences in credit and warranty expenses, where appropriate in accordance with section 776(a)(6)(C)(iii). In our NV calculations, we did not use a certain portion of KSC's reported downstream sales because the sales by KSC to its affiliated reseller passed the arm's length test (see Arm's Length Test section, above).

Level of Trade

In accordance with section 773(a)(1)(B)(i) 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 CV, that of the sales from which we derive SG&A and profit. For

EP, the LOT is also the level of the starting price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed export sale from the exporter to the affiliated importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, 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. Finally, 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 differences in the levels between NV and CEP sales 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 this investigation, no respondent requested a LOT adjustment; however, KSC requested a CEP offset. To determine whether a LOT adjustment was necessary, in accordance with principles discussed above, we examined information regarding the distribution systems in both the United States and Japanese markets, including the selling functions, classes of customer and selling expenses for each respondent. Results of the LOT analysis for each respondent are summarized below. For a complete discussion and the results of the LOT analysis, please see the Department's memorandum on *Level of Trade*, dated February 12, 1999.

NSC

In the home market, NSC sold to unaffiliated and affiliated trading companies and to end-users. In the U.S. market, NSC sold only to trading companies and reported all sales on an EP basis. Based on our analysis we find that NSC performed essentially the same level of selling functions for all three groups of sales.

NSC claims that there is no difference in the selling functions between the home market and U.S. channels of distribution. When comparing NSC's U.S. sales to its home market sales, we found that NSC performed essentially the same level of selling functions in both the United States and home

market. Based on our examination of the information on the record, we agree with NSC that it sold merchandise at the same LOT in the home market and the U.S. market. Therefore, we have not made a LOT adjustment because all price comparisons are at the same LOT and an adjustment pursuant to section 773(a)(7)(A) of the Act is not appropriate.

NKK

In the home market, NKK sold to unaffiliated and affiliated trading companies and to end-users. NKK reported its sales to unaffiliated trading companies and end-users as the same level of trade. NKK performed essentially the same level of selling functions for all three types of home market sales. Therefore, we find that there is one level of trade in the home market. In the U.S. market, NKK sold only to unaffiliated trading companies.

NKK claims that there are differences in the selling functions between the home market and U.S. channels of distribution and therefore its home market and U.S. sales should be considered made at different levels of trade. When comparing NKK's U.S. sales to its home market sales, we found that NKK provided different levels of selling functions with respect to its U.S. and home market sales. For example, NKK provided different levels of promotion, technical advice, warranty, financing, delivery, and inventory and warehousing services in the U.S. and in Japan. Based on our examination of the information on the record, we preliminarily determine that NKK sold merchandise at one LOT in the home market and a different LOT in the U.S. market. However, after a review of the data on the record, we do not have information which would allow us to examine pricing patterns between the relevant levels of trade based on respondent's sales of subject merchandise in the home market or other record information on which such an analysis could be based. Therefore, we do not have an appropriate basis upon which to determine a LOT adjustment. As a result, we have not made a LOT adjustment. For a complete discussion of LOT, please see the Department's memorandum on *Level of Trade*, dated February 12, 1999.

KSC

KSC stated that it sold subject merchandise through five channels of trade during the period of investigation, three in the home market, and two in the United States. KSC's U.S. sales were made to unaffiliated trading companies and reported as EP sales, or through its

U.S. affiliate, Kawasho International, and reported as CEP sales. Its three home market channels of trade involved sales to unaffiliated trading companies; sales to unaffiliated end-users; and sales through its affiliated reseller, Kawasho. For the last group of sales, the Department conducted its LOT analysis based on Kawasho's sales to the first unaffiliated customer.

The Department first examined whether any differences existed with respect to the selling functions performed by KSC in making sales to its three types of home market customers. The information on the record indicates that there is a difference between the selling functions performed in selling to end-users, directly or via affiliated trading companies, as compared to the other home market channel of trade. Therefore, using the information on the record, the Department preliminarily determined that KSC sells at two levels of trade in the home market.

Regarding KSC's U.S. EP sales, the Department found that evidence existed to differentiate the selling functions between sales made to unaffiliated trading companies for sales to the United States and sales made at the two different levels of trade in the home market. Based upon our analysis, we found a difference in the selling functions performed on EP sales as compared to sales at each of the two distinct levels of trade in the home market. Therefore, the Department preliminarily determined that the information on the record justifies treating KSC's EP sales as having been made at a different LOT from the two home market levels of trade. However, we do not have information which would allow us to determine whether there is a pattern of consistent price differences between the relevant LOTs in the home market. Therefore, we do not have an appropriate basis to determine a LOT adjustment.

Regarding KSC's U.S. CEP sales, we examined the selling functions performed by KSC in the home market in making sales to the two levels of trade, and the selling functions performed by KSC in making sales to its affiliate, Kawasho International, in the United States. For these CEP sales we determined that fewer and different selling functions were performed in making CEP sales to Kawasho International than in making sales at any of the two home market LOTs. Therefore, information on the record justifies treating CEP sales and the two groups of home market sales as having been made at different levels of trade.

We next examined whether a LOT adjustment was appropriate when KSC's

CEP sales are compared to the home market levels of trade. The Department makes this adjustment when it is demonstrated that a difference in LOTs affects price comparability. However, where the available data do not provide an appropriate basis upon which to determine a LOT adjustment, and where the NV is established at a LOT that is at a more advanced stage of distribution than the LOT of the CEP transactions, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). In the instant case, we were unable to quantify the LOT adjustment in accordance with section 773(a)(7)(A) of the Act, as we found that none of the LOTs in the home market matched the LOT of the CEP transactions. Because of this, we were unable to calculate a LOT adjustment. Instead, because we determined that all of KSC's home market sales were made at levels of trade more advanced than the LOT of KSC's U.S. sales, we granted a CEP offset and applied this to comparisons between KSC's CEP sales and all HM sales.

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, in accordance with section 773A(a) of the Act.

Facts Available

Section 776(a)(2) of the Act provides, that if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, as provided in section 782(i), the Department shall, subject to subsection 782(d), use facts otherwise available in reaching the applicable determination.

Section 776(b) of the Act provides that adverse inferences may be used when an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also*, Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (1994). In the instant case, the Department determined that the failure of KSC and its U.S. affiliate to respond to section E of the Department's questionnaire satisfies the requirements of section 776(a)(2)(A), (B), and (C). Therefore, in accordance with the statutory requirements, the Department

applied adverse facts available. As adverse facts available we used the highest calculated dumping margin found for any individual product (*i.e.*, CONNUM) as the dumping margin for all sales via KSC's affiliated further manufacturer.

The Department also used facts available in determining the margins for certain U.S. sales by NSC. NSC reported the majority of U.S. sales on an actual weight basis. In addition, it reported all comparable merchandise in the home market on an actual weight basis. However, it reported a small quantity of U.S. sales on a theoretical weight basis. Due to the fact that NSC did not provide conversion factors for these U.S. sales upon the Department's request, we preliminarily assigned the highest calculated margin by CONNUM as facts available for these transactions. In addition, NSC did not provide full costs for certain CONNUMs.

Section 776(b) of the Act provides that adverse inferences may be used where an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also*, Statement of Administrative Action (SAA) accompanying the URAA, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (1994). As facts available, we used the highest calculated margin for U.S. sales that fell within the mainstream of NSC's and KSC's transactions. In selecting the adverse margin, the Department sought a margin that was indicative of NSC's and KSC's customary selling practices and was rationally related to the transactions to which the adverse facts available were being applied. The selected margin is also sufficiently adverse to effectuate the statutory purpose of adverse facts available, which is to induce respondents to provide the Department with complete information in a timely manner. *See* Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Italy, 63 FR 40422, 40428, (July 29, 1998).

NKK reported all its U.S. and home market sales on an actual weight basis, with the exception of less than one percent of home market sales. Although the Department requested conversion factors for these transactions, NKK refused to provide conversion factors for these sales. Therefore, for purposes of the preliminary determination, we used adverse facts available as the adjusted price for these transactions used in calculating NV. As adverse facts available for each CONNUM we assigned the highest calculated adjusted price for that CONNUM to the relevant transactions within that CONNUM.

All Others Rate

Recognizing the impracticality of examining all producers and exporters in all cases (see SAA at 873), section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, we have preliminarily assigned to all other exporters of Japanese hot-rolled steel, an "all others" margin that is the weighted average of the margins calculated for NSC, NKK and KSC.

Verification

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

Critical Circumstances

The Department notes that it will request company specific export information from NSC, NKK, and KSC, for our final determination. We invite interested parties to comment on the issue of critical circumstances, and we will consider these comments and the company specific data in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise 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 U.S. Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin (percent)
Nippon Steel Corporation	25.14
NKK Corporation	30.63
Kawasaki Steel Corporation	67.59
All Others	35.06

International Trade Commission (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 imports of hot-rolled steel are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This 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, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location 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 date of 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. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c). If this investigation proceeds normally, we will make our final determination no later than April 28, 1999.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: February 12, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-4196 Filed 2-18-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-828]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil

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

EFFECTIVE DATE: February 19, 1999.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips (Companhia Siderúrgica Nacional or "CSN"), Barbara Chaves or Samantha Denenberg (Usinas Siderúrgicas de Minas Gerais and Companhia Siderúrgica Paulista or "USIMINAS/COSIPA"), or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0193, (202) 482-0414, (202) 482-1386, and (202) 482-3833, respectively.

The Applicable Statute

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

Preliminary Determination

The Department preliminarily determines that hot-rolled flat-rolled carbon-quality steel products ("hot-rolled steel") from Brazil are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Period of Investigation

The period of investigation (POI) is July 1, 1997 through June 30, 1998.

Case History

On October 15, 1998, the Department initiated antidumping duty