

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-351-834]

**Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products From Brazil**

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

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

**SUMMARY:** We preliminarily determine that certain cold-rolled carbon steel flat products from Brazil are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

**EFFECTIVE DATE:** May 9, 2002.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin or Elizabeth Eastwood, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0656 or (202) 482-3874, respectively.

**SUPPLEMENTARY INFORMATION:****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. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department's) regulations are to 19 CFR part 351 (April 2001).

**Preliminary Determination**

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

**Background**

This investigation was initiated on October 18, 2001.<sup>1</sup> See *Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 54198 (Oct. 26, 2001) (*Initiation Notice*). The following events have occurred since the initiation.

On November 13, 2001, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of certain cold-rolled carbon steel flat products from Brazil are materially injuring the United States industry (see ITC Investigation Nos. 701-TA-422-425 and 731-TA-964-983 (Publication No. 3471)).

On November 16, 2001, we selected Usinas Siderurgicas de Minas Gerais (USIMINAS) and Companhia Siderurgica Paulista (COSIPA) (collectively "USIMINAS/COSIPA") as the mandatory respondents in this proceeding.<sup>2</sup> For further discussion, see the November 16, 2001, memorandum from the Team to Louis Apple entitled, "Antidumping Duty Investigation of Cold-Rolled Carbon Steel Flat Products from Brazil—Selection of Respondents" (the respondent selection memorandum). We subsequently issued antidumping questionnaires to USIMINAS/COSIPA on November 16, 2001. We issued a corrected version of the questionnaire appendix V with revised product characteristic variables on November 26, 2001.

During the period December 2001 through April 2002, we received responses from USIMINAS/COSIPA to the Department's original and supplemental questionnaires.<sup>3</sup>

On February 7, 2002, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on February 22, 2002, and postponed the preliminary

determination until no later than April 26, 2002. See *Postponement of Preliminary Determinations of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (A-357-816), Australia (A-602-804), Belgium (A-423-811), Brazil (A-351-834), the People's Republic of China (A-570-872), France (A-427-822), Germany (A-428-834), India (A-533-826), Japan (A-588-859), Korea (A-580-848), the Netherlands (A-421-810), New Zealand (A-614-803), Russia (A-821-815), South Africa (A-791-814), Spain (A-469-812), Sweden (A-401-807), Taiwan (A-583-839), Thailand (A-549-819), Turkey (A-489-810) and Venezuela (A-307-822)*, 67 FR 8227 (Feb. 22, 2002).

**Postponement of Final Determination**

Pursuant to section 735(a)(2) of the Act, on April 5, 2002, the respondent requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**. In a request on April 19, 2002, the respondent consented to the extension of provisional measures to no longer than six months. In accordance with 19 CFR 351.210(b), because our preliminary determination is affirmative, because no compelling reasons for denial exist, and because the exporter accounts for a significant proportion of exports of subject merchandise, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Furthermore, any provisional measures imposed by this investigation have been extended from a four-month period to not more than six months.

**Scope of Investigation**

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, as well as a complete discussion of all scope exclusion requests submitted in the context of the on-going cold-rolled steel investigations, please see the "Scope Appendix" attached to the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, published concurrently with this preliminary determination.

<sup>1</sup> The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, "the petitioners").

<sup>2</sup> For purposes of this proceeding, we are treating these companies as the same entity. See the "Affiliated Respondents" section of this notice.

<sup>3</sup> The last of these responses was submitted on April 24, 2002, and consequently was received too late to use in the preliminary determination. We intend to verify this information, however, and consider it for purposes of the final determination.

### Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

### Fair Value Comparisons

To determine whether sales of certain cold-rolled carbon steel flat products from Brazil to the United States were made at LTFV, 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 compared POI weighted-average EPs to POI weighted-average NVs.

### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by USIMINAS/COSIPA in the home market during the POI that fit the description in the "Scope of Investigation" section of this notice 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 respondent in the following order of importance: hardening and tempering, painted, carbon level, quality, yield strength, minimum thickness, thickness tolerance, width, edge finish, form, temper rolling, leveling, annealing, and surface finish.

In certain instances, however, USIMINAS/COSIPA did not provide sufficient information to calculate a margin for the reported U.S. products. Specifically, USIMINAS/COSIPA did not report cost data for certain home market products, and it reported incomplete cost data for other products. 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 of the Act; (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) of the Act, the administering authority shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title.<sup>4</sup> Section 776(b) of the Act further 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.

In this case, we find that USIMINAS/COSIPA withheld cost data requested by the Department for certain products and failed to provide complete and usable cost data for others. Because: (1) We informed USIMINAS/COSIPA of the deficiencies in its data and provided it an opportunity to remedy them in a supplemental questionnaire (pursuant to section 782(d) of the Act); and (2) USIMINAS/COSIPA did not provide the information requested or provided information that was so incomplete that it could not be used (within the meaning of section 782(e) of the Act), we are resorting to facts otherwise available pursuant to section 776(a)(2)(A) of the Act. Further, the cost data that USIMINAS/COSIPA did not provide for these products was provided for numerous other products. USIMINAS/COSIPA did not indicate or explain why it was not possible to provide this information for the products in question. Therefore, we conclude that USIMINAS/COSIPA could have provided the necessary data but chose not to, thereby failing to cooperate to the best of its ability within the meaning of section 776(b) of the Act. Accordingly, we have based the margin for U.S. products which match to the products in question on adverse facts available. As adverse facts available, we

<sup>4</sup> Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority" if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information, if it can do so without undue difficulties.

have assigned the highest non-aberrational margin calculated for any other U.S. product, in accordance with our practice. *See, e.g., Static Random Access Memory Semiconductors From Taiwan; Final Results of Antidumping Duty New Shipper Review*, 65 FR 12214 (Mar. 8, 2000) and accompanying decision memorandum at *Comment 1; Final Determination of Sales at Less than Fair Value: Stainless Steel Sheet and Strip in Coils from Germany*, 64 FR 30710, 30732 (June 8, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan*, 64 FR 24329, 24361–24362 (May 6, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61747 (Nov. 19, 1997); and *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China*, 58 FR 48833, 48839 (Sept. 20, 1993). In selecting a facts available margin, we sought a margin that is sufficiently adverse so as to effectuate the purposes of the adverse facts available rule, which is to induce respondents to provide the Department with complete and accurate information in a timely manner. We also sought a margin that is indicative of USIMINAS/COSIPA's customary selling practices and is rationally related to the transactions to which the adverse facts available are being applied. To that end, we selected the highest margin for an individual product in a commercial quality that fell within the mainstream of USIMINAS/COSIPA's transactions (*i.e.*, transactions that reflect sales of products that are representative of the broader range of models used to determine normal value).

For further discussion, see the memorandum entitled "Concurrence Memorandum for the Preliminary Determination in the Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Brazil," dated April 26, 2002 (the concurrence memorandum).

### Affiliated Respondents

In the last cold-rolled investigation for Brazil, the Department treated USIMINAS and COSIPA as affiliated parties and collapsed these entities. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil*, 65 FR 5554, 5562 (Feb. 4, 2000). In the respondent selection memorandum, the Department stated that it intended to treat these companies as affiliated producers. Neither USIMINAS nor COSIPA

commented on our intention to treat them as affiliated producers. Therefore, we have continued to treat USIMINAS and COSIPA as a single entity and to calculate a single margin for them.

### Export Price

In accordance with section 772(a) of the Act, we based our calculations on EP because the subject merchandise was sold by the producer or exporter directly to the first unaffiliated purchaser in the United States prior to importation. In cases where the date of shipment preceded the date of invoice reported by USIMINAS/COSIPA, we used the date of shipment as the date of sale because the terms of sale were established on that date.

We based EP on the packed delivered prices to unaffiliated purchasers in the United States. We increased U.S. price by the amount of the export subsidy found in the companion countervailing duty investigation on certain cold-rolled carbon steel flat products from Brazil. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determinations: Certain Cold-Rolled Carbon Steel Flat Products from Brazil*, 67 FR 9652 (Mar. 4, 2002). Where appropriate, we made adjustments for discounts. We also made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. brokerage and handling, and U.S. customs duties.

For those movement expenses provided by affiliated parties, we assigned the highest amount reported for each mill because USIMINAS/COSIPA did not demonstrate that these expenses were incurred at arm's length, despite a request that it do so. In addition, for USIMINAS, we used the highest international freight amounts reported for each vessel because USIMINAS indicated in its supplemental response that these expenses do not vary by vessel. *See* the April 26, 2002, memorandum from Irina Itkin to the file entitled "Calculations Performed for Usinas Siderurgicas de Minas Gerais (USIMINAS) and Companhia Siderurgica Paulista (COSIPA) in the Preliminary Determination of the Antidumping Duty Investigation on Certain Cold-Rolled Carbon Steel Flat Products from Brazil" (the sales calculation memorandum).

### Normal Value

#### 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 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 the 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 the respondent.

#### B. Cost of Production Analysis

Based on the cost allegation submitted by the petitioners on January 22, 2002, the Department found reasonable grounds to believe or suspect that the respondent had made sales in the home market at prices below their cost of production (COP), in accordance with section 773(b)(2)(A)(i) of the Act. As a result, on February 12, 2002, the Department initiated an investigation to determine whether the respondent made home market sales during the POI at prices below their respective COPs within the meaning of section 773(b) of the Act. *See* Memorandum from LaVonne Jackson to Neal Halper, Director, Office of Accounting, entitled "Petitioners' Allegation of Sales Below the Cost of Production for Usinas Siderurgicas de Minas Gerais, SA ("USIMINAS") and Companhia Siderurgica Paulista ("COSIPA")," dated February 12, 2002.

##### 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (G&A), including interest expenses (*see* the "Test of Home Market Sales Prices" section below for the treatment of home market selling expenses). We relied on the COP data submitted by USIMINAS/COSIPA except as noted below.

1. As discussed above, we applied adverse facts available to USIMINAS's reported costs because USIMINAS disregarded the Department's instructions to report its costs based on the POI. As adverse facts available, we increased the cost of manufacture

(COM) of all products produced by USIMINAS. We based this increase on the highest percentage difference between USIMINAS's product-specific COMs and COSIPA's product-specific COMs (where COSIPA's COM exceeded USIMINAS's and where the products were produced by both USIMINAS and COSIPA).

2. We adjusted USIMINAS/COSIPA's reported COP to exclude PIS and COFINS taxes. *See* the "Calculation of Normal Value Based on Comparison Market Prices" section of this notice, below, for further discussion.

3. We adjusted USIMINAS/COSIPA's GNA expense ratio to include goodwill amortization expenses, as well as the depreciation expenses of an idled asset.

4. We adjusted USIMINAS and COSIPA's reported financial expense ratio to exclude the portion of the reported financial income offset related to long-term interest bearing assets. We based the excluded amount on the ratio of long-term interest bearing assets to total interest bearing assets.

*See* the April 26, 2002, memorandum from LaVonne Jackson to Neal Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results" referencing the Antidumping Duty Investigation of Certain Cold-Rolled Carbon-Quality Steel Products from Brazil (the cost calculation memorandum) for further discussion.

##### 2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, rebates, discounts, selling expenses, and packing expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

##### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of a respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances 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 are at prices less than the COP, we determine that in such instances the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of USIMINAS/COSIPA's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP LOT. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (Nov. 19, 1997).

In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),<sup>5</sup> including selling functions,<sup>6</sup> class of customer ("customer

category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices<sup>7</sup>), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP LOT, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.

USIMINAS/COSIPA claimed that it made home market sales at two levels of trade. We analyzed the information on the record and found that USIMINAS/COSIPA performed different marketing functions in selling to its home market customers (*i.e.*, the affiliated resellers provided many services to their customers, while the mills only provided minimal services). Therefore, we determined that USIMINAS/COSIPA made home market sales at two levels of trade.

In the United States, USIMINAS/COSIPA reported that it made EP sales at one level of trade. Our analysis showed that USIMINAS/COSIPA's EP sales were made at one level of trade and we find that these sales were made at the same level of trade as the mill direct sales in the home market. Accordingly, where possible, we matched EP sales to home market mill direct sales and made no LOT adjustment because the sales were made at the same LOT. Where we matched EP sales to affiliated reseller home market sales, we made a LOT adjustment in

accordance with section 773(a)(7)(A) of the Act because we found that there was a pattern of consistent price differences between the two home market LOTs.

For a detailed explanation of this analysis, see the concurrence memorandum.

#### D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length, adjusted for billing errors and discounts. We made deductions from the starting price for taxes in accordance with section 773(a)(6)(B)(iii) of the Act. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 18165 (April 15, 2002). We recalculated certain taxes because USIMINAS/COSIPA did not consistently report them. In addition, we disallowed an adjustment for certain discounts for USIMINAS and Rio Negro because they were not reported on a customer-specific basis as requested in our supplemental questionnaire. For further discussion, see the sales calculation memorandum.

We also made deductions for movement expenses, including inland freight (plant to distribution warehouse and plant/warehouse to customer), warehousing and inland insurance under section 773(a)(6)(B)(ii) of the Act. For those freight expenses provided by an affiliated freight supplier, we assigned the lowest reported freight expense amount because USIMINAS/COSIPA did not provide evidence that these expenses were incurred at arm's length, despite a request that it do so. See the sales calculation memorandum.

In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses (offset by interest revenue), certain warranty expenses, and commissions. We adjusted the reported credit expenses as follows: 1) for COSIPA, we assigned the negative weighted-average of the credit expenses reported in the home market sales listings for those sales which were paid in advance of shipment because COSIPA provided insufficient information to calculate the actual credit amounts; 2) for USIMINAS, Rio Negro, Fasal, and Dufer, we recalculated credit expenses using the short-term borrowing rate of COSIPA because these companies did not have short-term borrowings during the POI; and 3) for USIMINAS, we also recalculated the

<sup>5</sup> The marketing process in the United States (for EP) and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale appears to occur.

<sup>6</sup> Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common cold-rolled carbon steel flat products selling functions into six major categories: freight and delivery, advertising and sales promotion, sales and marketing support, inventory maintenance, warranty service, and technical service.

<sup>7</sup> Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

reported U.S. credit expenses using the date that the merchandise left the factory, rather than the date of the bill of lading, as the date of shipment. Regarding home market warranty expenses, USIMINAS/COSIPA based the amount of these expenses on the sales value of returned merchandise. We disallowed these expenses because USIMINAS/COSIPA also reported the resales of the returned merchandise in its home market sales listing. *See* the sales calculation memorandum. Regarding commissions, USIMINAS/COSIPA incurred commissions only in the home market. Therefore, we offset home market commissions by the lesser of the commission amount or U.S. indirect selling expenses.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. We disallowed certain packing expenses for USIMINAS/COSIPA's home market resellers because these expenses were aberrationally high in comparison to other packing expenses and were not explained by the respondent. *See* the sales calculation memorandum.

#### *E. Arm's-Length Sales*

USIMINAS/COSIPA reported sales of the foreign like product to affiliated customers. To test whether these sales to affiliated customers were made at arm's length, where possible, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, and packing. Where the price to the affiliated party was, 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. Consistent with section 351.403(c) of the Department's regulations, we excluded from our analysis those sales where the price to the affiliated parties was less than 99.5 percent of the price to the unaffiliated parties.

#### **Currency Conversion**

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

#### **Verification**

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

#### **Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from Brazil 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/manufacturer	Weighted-average margin percentage
USIMINAS/COSIPA .....	43.34
All Others .....	43.34

#### **Disclosure**

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

#### **ITC Notification**

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

#### **Public Comment**

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing

to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 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.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

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

Dated: April 26, 2002.

**Faryar Shirzad,**  
Assistant Secretary for Import  
Administration.

[FR Doc. 02-11185 Filed 5-8-02; 8:45 am]

BILLING CODE 3510-DS-P

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

[A-427-822]

#### **Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From France**

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

**ACTION:** Notice of preliminary determination of sales at not less than fair value.

**EFFECTIVE DATE:** May 9, 2002.

**FOR FURTHER INFORMATION CONTACT:** Angelica Mendoza, John Drury or Abdelali Elouaradia at (202) 482-3019, (202) 482-0195 and (202) 482-1374, respectively; AD/CVD Enforcement, Office 8, Group III, Import Administration, International Trade