

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-823-808]

Preliminary Determination of Sales at Less Than Fair Value; Certain Cut-to-Length Carbon Steel Plate from Ukraine

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

ACTION: Notice of preliminary determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: June 11, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan, Eugenia Chu, or Yuri Beyzarov, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-0193, (202) 482-3964, or (202) 482-2243, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as codified at 19 CFR part 353 (April 1, 1996).

Preliminary Determination

We determine preliminarily that certain cut-to-length carbon steel plate from Ukraine 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 are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation (61 FR 64051, December 3, 1996), the following events have occurred:

On December 19, 1996, the United States International Trade Commission (ITC) issued an affirmative preliminary determination in this case (see ITC Investigations Nos. 731-TA-753-756). The ITC found that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Ukraine of certain cut-to-length carbon steel plate.

The Department issued its antidumping questionnaires to the

Embassy of Ukraine on December 20, 1996, and requested the Embassy to forward the documents to all Ukrainian producers/exporters of certain cut-to-length carbon steel plate, as well as to manufacturers who produced the subject merchandise for companies who were engaged in exporting subject merchandise to the United States during the period of investigation. We requested the Embassy to inform these companies that they must respond by the due dates. We also sent courtesy copies to the companies whose names and complete addresses had been identified in the petition.

On January 10, 1997, the Department conducted a questionnaire presentation in Kiev, Ukraine. Attending the presentation were officials from the Ukrainian Ministry of Foreign Economic Relations, the Ministry of Industry, and potential producers/exporters of carbon steel plate.

Also on January 10, 1997, Geneva Steel Company and Gulf States Steel Company (petitioners), alleged that critical circumstances exist with respect to imports of certain cut-to-length carbon steel plate from Ukraine. This issue is addressed in the "Preliminary Determination of Critical Circumstances" section of this notice.

On February 6, 1997, the Department provided interested parties with the opportunity to submit published, publicly available information for the Department to consider when valuing the factors of production and for surrogate country selection. We received comments from interested parties on February 27, 1997.

In February and March 1997, three Ukrainian companies submitted responses to sections A, C, and D of the questionnaire. These companies are: (1) Alchevsk Iron and Steel Works (Alchevsk); (2) Azovstal Iron and Steel Works (Azovstal); and (3) Ilyich Iron and Steel Works (Ilyich). All three are Ukrainian producers/exporters of subject merchandise. We issued supplemental questionnaires to these respondent companies on March 7, 1997.

After receiving complete questionnaire responses from the three Ukrainian companies on April 4, 7, and 11, 1997, we determined that one of the responding companies, Alchevsk, did not sell subject merchandise to the United States during the POI. Therefore, since Alchevsk is not a respondent, we need not reach the issue of whether it is entitled to a separate rate. For more details, see Treatment of Sales Outside the POI Memorandum, dated May 30, 1997.

Both Azovstal and Ilyich reported that they sold all subject merchandise through trading companies. In light of this fact, the Department concluded that clarification was required as to whether these resellers sold additional subject merchandise (unreported by the respondents) to the United States. Therefore, in March 1997, we also issued trading company questionnaires to respondents' resellers. We received responses in March and April 1997. These responses supported the information submitted by Azovstal and Ilyich regarding their total quantity of sales made to the United States through the trading companies.

Also on March 25, 1997, in response to the Ukrainian government's comments, dated February 13, 1997, on Ukraine's nonmarket economy (NME) status, the Department issued the Ukrainian government a questionnaire to clarify whether Ukraine's NME status should be revoked. We received these responses on May 1, 1997. This issue is addressed in the "Nonmarket Economy Country Status" section of this notice.

Except for the companies identified above, none of the other companies served with a questionnaire responded to the Department's original questionnaire.

On April 15, 1997, petitioners submitted a request that the scope of their petitions be amended to include three items—plate in coil; plate made to carbon plate specifications regardless of alloy content; and plate sold to nominal plate thicknesses whose actual thickness is slightly less than the thickness of plate but within specified thickness tolerances. With respect to plate in coil, petitioners maintain that this product has essentially the same physical characteristics and end uses as cut-to-length plate. Petitioners further claim that a post-initiation shift has occurred in the pattern of trade from cut-to-length plate to plate in coil form, and that such a development indicates that any eventual order on cut-to-length plate will be susceptible to circumvention. Petitioners submitted additional information on May 9, 1997. Respondents submitted extensive rebuttal comments on April 25, 1997, and May 30, 1997.

Because of the very recent submission of arguments on these complex and technical subjects, we were unable to fully analyze all of the relevant information on the record prior to this preliminary determination. In order to fully examine petitioners' claims, we intend to carefully examine all evidence and argument on the record regarding this matter and issue a decision as soon as possible.

On April 30, 1997 (62 FR 23433) we further postponed the preliminary determination until not later than June 3, 1997.

Scope of the Investigation

The products covered by this investigation are hot-rolled iron and non-alloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this petition are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been bevelled or rounded at the edges. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1996 through September 30, 1996.

Nonmarket Economy Country Status

The Department has treated Ukraine as a nonmarket economy country (NME) in all past antidumping investigations and administrative reviews (see, e.g., Final Determination of Sales at Less Than Fair Value: Ferrosilicon From Kazakhstan and Ukraine, 58 FR 13050 (March 9, 1993); Final Determination of Sales at Less Than Fair Value:

Silicomanganese From Ukraine, 59 FR 62711 (December 6, 1994); and Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Ukraine, 60 FR 16432 (March 30, 1995)). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act). The Government of Ukraine has requested that the Department examine Ukraine's designation as an NME in this investigation. The Department is currently reviewing all information submitted by the Ukrainian government and will take into consideration the comments of all interested parties. However, for this preliminary determination, the Department will continue to treat Ukraine as an NME.

Surrogate Country

When the Department is investigating imports from an NME, section 773(c) of the Act directs the Department in most circumstances to base normal value (NV) on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered appropriate by the Department. In accordance with section 773(c)(4), the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are comparable in terms of economic development to the NME country and are significant producers of comparable merchandise. The sources of individual factor prices are discussed under the NV section below.

The Department has determined that Tunisia, Peru, Poland, Venezuela, Brazil, South Africa, and Turkey are countries comparable to Ukraine in terms of overall economic development. See Policy Memorandum, dated January 29, 1997.

According to the available information on the record, we have determined that Brazil is an appropriate surrogate because it is at a comparable level of economic development and is a significant producer of comparable merchandise. Furthermore, there is a wide array of publicly available information for Brazil. Accordingly, we have calculated NV using Brazilian prices to value the Ukrainian producers' factors of production, when available and where appropriate. We have obtained and relied upon publicly available information wherever possible.

Separate Rates

The Department presumes that a single dumping margin is appropriate for all exporters in a non-market

economy country. The Department may, however, consider requests for a separate rate from an individual exporter. See Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994). Each of the participating respondent exporters has requested a separate, company-specific rate. During the POI, both Azovstal and Ilyich were owned by leaseholders' organizations.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers). Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. For a complete analysis of separate rates, see Separate Rates Memorandum, dated June 3, 1997.

1. Absence of De Jure Control

An individual company may be considered for separate rates if it meets the following *de jure* criteria: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. The respondents have placed on the administrative record a number of submissions to demonstrate absence of *de jure* control. These documents include laws, regulations, and provisions enacted by the central government of Ukraine, which demonstrate a significant degree of deregulation of Ukrainian business activity, as well as deregulation of Ukrainian export activity.

Broadly speaking, the evidence on the record indicates that the Government of Ukraine has instituted wide-ranging legal reforms toward about a more market-based economy. To do so, the government has attempted to devolve *de jure* governmental control over some state-owned enterprises through the privatization process and most business activities of non-state-owned enterprises. Because the government has now created a right of ownership of business enterprises for private persons and collectives, leaseholding societies, such as Azovstal and Ilyich, formerly state-owned and operated, are now

distinct legal entities. In general, this ownership right allows non-state-owned business enterprises to freely engage in economic activity, negotiate and sign contracts, and independently develop business plans. Collectives, like the leaseholding societies of Azovstal and Ilyich, can independently select management through elections by the workers collective and can exercise control and direction over the general director through a contract between the enterprise and the general director. Enterprises can have their own bank account, and, after taxes, it appears that non-state-owned enterprises can keep the profits from their sales, and engage in foreign economic activity, generally, without government interference. Although certain categories of goods are subject to mandatory export controls, including registration of export contracts and obligatory minimum prices, respondents' shipments of subject merchandise to the United States during the POI were not subject to mandatory pricing. Although the companies indicated they must register their export contracts, it appears to have been more geared to monitoring/statistical purposes.

2. Absence of De Facto Control

The Department considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) Whether the export prices ("EP") are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

Each respondent exporter has asserted, and supported on the record, the following: (1) It sets its own export prices; (2) it negotiates contracts without guidance from any governmental bodies; (3) it makes its own personnel decisions with regard to selection of management through elections by the members of the leaseholding societies, and the General Director and his appointed Deputies have authority to negotiate and enter into contracts on behalf of the enterprise; and (4) it has separate bank accounts and retains the proceeds of its export sales (although 50 percent of foreign currency earnings must be converted into Ukrainian currency),

uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. In addition, respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters.

Thus, it appears that in fact the operation of these laws did provide Azovstal and Ilyich the ability to protect their rights to autonomy in regard to the actual negotiation of export prices, retention and disposition of profits, selection of management and setting of labor rates, and negotiation of contracts, including export contracts. This information supports a preliminary finding that there is a de facto absence of governmental control of the export functions of these companies.

Consequently, we determine preliminarily that both of the participating producers/exporters meet the criteria for application of separate rates.

Ukraine-Wide Rate

U.S. import statistics indicate that the total quantity and value of U.S. imports of certain cut-to-length carbon steel plate from Ukraine is greater than the total quantity and value of steel plate reported by all Ukrainian companies that submitted responses. Given this discrepancy, we conclude that not all exporters of Ukrainian certain cut-to-length carbon steel plate responded to our questionnaire. Accordingly, we are applying a single antidumping deposit rate—the Ukraine-wide rate—to all exporters in Ukraine (other than the two named above as receiving separate rates), based on our presumption that those respondents who failed to respond constitute a single enterprise, and are under common control by the Ukraine government. See, e.g., Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China, 61 FR 19026 (April 30, 1996).

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

applicable determination under this title."

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including the information drawn from the petition.

As discussed above, all Ukrainian exporters that do not qualify for a separate rate are treated as a single enterprise. Because some exporters of the single enterprise failed to respond to the Department's requests for information, that single enterprise is considered to be uncooperative. In such situations, the Department generally selects as total facts available either the higher of the average of the margin from the petition or the highest rate calculated for a respondent in the proceeding. In the present case, the average margin in the petition is higher than the calculated rate. Accordingly, the Department has based the Ukraine-wide rate on information in the petition. In this case, the average petition rate is 237.91 percent.

Section 776(c) of the Act provides that where the Department relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources reasonable at the Department's disposal. The Statement of Administrative Action (SAA), accompanying the URAA clarifies that the petition is "secondary information" and that "corroborate" means to determine that the information used has probative value. See SAA at 870.

In accordance with section 776(c) of the Act, we corroborated the margins in the petition to the extent practicable. The information contained in the petition shows that petitioners calculated export price based on two methods: (1) The import values declared to the U.S. Customs Service; and (2) an average export price derived from actual U.S. selling prices known to petitioners. We compared the starting prices used by petitioners less the importer mark-ups against prices derived from U.S. import statistics and found that the two sets of prices were consistent. We also compared the movement charges used in the petition with the surrogate values used by the Department in its margin calculations and found them to be consistent.

The information in the petition with respect to the normal value (NV) is based on factors of production used by the petitioners in the production of steel plate. Petitioners submitted usage amounts for materials, labor and energy, adjusted for known differences in production efficiencies. Petitioners submitted three cost models in the petition: (1) Basic Oxygen Furnace (BOF) Cost Model; (2) Open-Hearth Furnace Cost Model; and (3) Weighted Average Normal Value of the BOF and Open-Hearth methods to account for differences between the production processes of petitioners and potential respondents.

The margins in the petition ranged from 201.61 to 274.82 percent obtained by comparing the normal values to the export price developed from customs values and to export prices developed from actual U.S. price quotes. For each method, petitioners submitted estimated dumping margins for the BOF method, the open-hearth method and a weighted average of the two. See Corroboration Memorandum, dated June 3, 1997.

Fair Value Comparisons

To determine whether certain cut-to-length carbon steel plate from Ukraine sold to the United States by the Ukrainian exporters receiving separate rates was made at less than fair value, we compared the EP to the NV, as specified in the "Export Price" and "Normal Value" sections of this notice.

Export Price

For both Azovstal and Ilyich, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price (CEP) methodology was not otherwise indicated. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the product-specific average normal value.

We made company-specific adjustments as follows:

1. Azovstal

We calculated EP based on packed, FOB or CPT prices to the port of loading on Ukrainian territory. We made deductions from the starting price, where appropriate, for brokerage and handling. However, because these services were provided by the Ukrainian port facility, these services were assigned a surrogate value where available from publicly available published data from Brazil, the surrogate country which we are using to

value factors of production. See Factors Memorandum, dated June 3, 1997.

2. Ilyich

We calculated EP based on packed, FOB prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for brokerage and handling. However, because these services were provided by the Ukrainian port facility, these services were assigned a surrogate value where available from Brazilian publicly available published data.

Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the factories in the Ukraine which produced the carbon steel plate sold by the two respondents. We valued all the input factors using publicly available information as discussed in the Surrogate Country section of this notice.

Factor Valuations

The selection of the surrogate values was based on the quality and contemporaneity of the data. Where possible, we attempted to value material inputs on the basis of tax-exclusive domestic prices in the surrogate country. Where we were not able to rely on domestic prices, we used import prices to value factors. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices or, in the case of labor rates, consumer price indices, published in the International Monetary Fund's International Financial Statistics. For a complete analysis of surrogate values, see Factors Memorandum, dated June 3, 1997.

To value coal, coke, anthracite, ferro alloys, aluminum, pellets, ferro-manganese, lime, black oil, and scrap (not all materials were used for both companies) we used public information from the latest data published by the United Nations for 1996 (Commodity Trade Statistics 1994, 3 Brazil Rev. 1995, at 19). For iron, we used information in a 1996 Brazilian publication, *Siderurgia no Mundo*. For manganese ore, we relied on public information from the financial statements of Usinas Sidergicas de Minas Gerais S. and Companhia Siderurgica de Tubarao, two Brazilian steel companies. For limestone, we used information from Commodity Trade Statistics 1993, Brazil Rev. 3, United Nations, 1994.

For natural gas, we relied on public information reported in the Brazilian

publication of *Diario Oficial* No. 180, September 27, 1995. For electricity, we relied upon public information from *Revista Energetica*, Year 19, No. 1, Jan-Apr 1995.

To value skilled labor, we used the County Reports on Human Rights Practices for 1996, from the U.S. Department of State. For unskilled labor, we relied on data documented for unskilled labor obtained from a U.S. Department of Commerce cable dated October 1994. To value overhead, SG&A, and profit, we relied on financial statements of Usinas Sidergicas de Minas Gerais S. and Companhia Siderurgica de Tubarao, two Brazilian steel companies. To value brokerage, we relied on public data from Case No. A-351-817, Cut-to-Length Plate from Brazil, Usiminas, Section C Response at Exh. 6, dated November 21, 1996.

Preliminary Determination of Critical Circumstances

On January 10, 1997, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of certain cut-to-length carbon steel plate. In accordance with 19 C.F.R. 353.16(b)(2)(i) (1996), since these allegations were filed earlier than the deadline for the Department's preliminary determination, we must issue our preliminary critical circumstances determinations not later than the preliminary determination.

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

The statute and the Statement of Administrative Action which accompanies the Uruguay Round Agreements Act (SAA) are silent as to how we are to make a finding that there was knowledge that there was likely to be material injury. Therefore, Congress has left the method of implementing this provision to the Department's discretion.

In determining whether there is a reasonable basis to believe or suspect

that an importer knew or should have known that the exporter was selling the plate at less than fair value, the Department normally considers margins of 15 percent or more sufficient to impute knowledge of dumping for constructed export price (CEP) sales, and margins of 25 percent or more for export price (EP) sales. See, e.g., Preliminary Critical Circumstances Determination: Honey from the People's Republic of China (PRC), 60 FR 29824 (June 6, 1995) (*Honey*). Since the company specific margins for EP sales in our preliminary determination for carbon steel plate are greater than 25 percent for Azovstal and Ilyich, we have imputed knowledge of dumping.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports during the critical circumstances period—the 90-day period beginning with the initiation of the investigation (see 19 CFR 353.16(g)). If, as in this case, the ITC preliminarily finds threat of material injury (See Cut-to-Length Carbon Steel Plate from China, Russia, South Africa, and Ukraine, U.S. International Trade Commission, December 1996), the Department will also consider the extent of the increase in the volume of imports of the subject merchandise during the critical circumstances period and the magnitude of the margins in determining whether a reasonable basis exists to impute knowledge that material injury was likely.

In this case, imports of Ukrainian plate increased 45 percent in the three months following the initiation of the investigation when compared to the three months immediately preceding initiation, or three times the level of increase needed to find “massive imports” during the same period (see below). Furthermore, we have preliminarily found margins of 99.59 percent for Azovstal and 176.76 percent for Ilyich.

Based on the ITC's preliminary determination of threat of injury, the increase in imports noted above, and the high preliminary margins, the Department determines that there is a reasonable basis to believe or suspect that the importer knew or should have

known that there was likely to be material injury by means of sales of the subject merchandise at less than fair value.

To determine whether imports were massive over a relatively short time period, the Department typically compares the import volume of the subject merchandise for the three months immediately preceding and following the initiation of the proceeding. See 19 CFR 353.16(g). Pursuant to 19 CFR 353.16(f)(2), the Department will consider an increase of 15 percent or more in the imports of the subject merchandise over the relevant period to be massive.

As noted, imports of the subject merchandise increased 45 percent during the relevant period, and thus we determine that imports have been massive.

Thus, because we determine that there is a reasonable basis to believe or suspect that the importer knew or should have known that Ukrainian exporters were selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and that there have been massive imports of the subject merchandise over a relatively short time period, we preliminarily determine that critical circumstances exist for Avostal and Ilyich.

For companies subject to the Ukraine-wide rate (i.e., companies which did not respond to the Department's questionnaire), we are imputing knowledge based on the Ukraine-wide rate, and determine, based on facts available, that there were massive imports of certain cut-to-length carbon steel plate by companies that did not respond to the Department's questionnaire. Therefore, we preliminarily determine that critical circumstances exist with regard to these companies.

We find that critical circumstances exist for cut-to-length carbon steel plate sales by all Ukrainian exporters.

Verification

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

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject from Ukraine, that are entered, or withdrawn from warehouse, for consumption on or after the date ninety days prior to the date of publication of this notice in the **Federal Register**. We will instruct Customs Service to require a cash deposit or the

posting of a bond equal to the weighted-average amount by which the normal value exceeds the EP, as indicated below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Azovstal	99.59
Ilyich	176.76
Ukraine-wide rate	237.91

Ukraine-Wide Rate

A Ukraine-wide rate has been assigned to certain cut-to-length carbon steel plate based on the average margin contained in the petition, as amended by the Department. The Ukraine-wide rate applies to all entries of subject merchandise except for entries from exporters/producers that are identified individually above.

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 the domestic industry in the United States is materially injured, or threatened with material injury, by reasons of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

In accordance with 19 CFR 353.38 (1996), case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than 50 days after the publication of this preliminary determination, and rebuttal briefs, no later than five days after the filing of case briefs. A list of authorities used and a summary of arguments made in the briefs should accompany these briefs. Such summary should be limited to five pages total, including footnotes. We will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, time, date, and room to be determined. 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 ten 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. In accordance with 19 CFR 353.38(b)(1996), oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by August 18, 1997.

This determination is published pursuant to section 777(i) of the Act.

Dated: June 3, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97-15291 Filed 6-10-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-794-804]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Certain Cut-to-Length Carbon Steel Plate from South Africa

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

ACTION: Notice of preliminary determination of sales at less than fair value and postponement of final determination.

EFFECTIVE DATE: June 11, 1997.

FOR FURTHER INFORMATION CONTACT: Charles Rast, or Robin Gray, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-5811, or (202) 482-0196, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are in reference to the regulations, codified at 19 CFR part 353, as they existed on April 1, 1996.

Preliminary Determination

We determine preliminarily that certain cut-to-length carbon steel plate from South Africa 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 are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation (61 FR 64051, December 3, 1996), the following events have occurred:

On December 19, 1996, the United States International Trade Commission (ITC) issued an affirmative preliminary determination in this case (see ITC Investigations Nos. 731-TA-753-756). The ITC found that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from South Africa of certain cut-to-length carbon steel plate.

On December 20, 1996, the Department issued its antidumping questionnaires to the following companies identified by petitioners as possible exporters of the subject merchandise: Iscor Limited (Iscore) and Highveld Steel and Vanadium Corporation Limited (Highveld). The questionnaire is divided into four sections. Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production (COP) of the foreign like product and constructed value (CV) of the subject merchandise.

The Department conducted questionnaire presentations at Iscore on January 21-22, 1997, and at Highveld on January 23-24, 1997.

In February 1997, Iscore and Highveld submitted responses to sections A, B, and C of the questionnaire. We issued supplemental questionnaires to the respondents in March 1997, and received supplemental questionnaire responses from both companies in April 1997.

On February 12, 1997, Highveld requested that the Department use actual unadjusted daily exchange rates when performing currency conversions because of depreciation of the South African rand relative to the U.S. dollar during the POI. Petitioners objected to Highveld's request on February 24,

1997, arguing that Highveld failed to demonstrate that proper grounds exist for the Department to consider the fluctuation in the rand during the POI. On March 5, 1997, Highveld responded to petitioners' rebuttal. (See currency conversion section below.)

On March 28, 1997, we postponed the preliminary determination until not later than May 14, 1997 (62 FR 14887), because we determined this investigation to be extraordinarily complicated within the meaning of section 733(c)(1)(B) of the Act.

On March 31, 1997, petitioners alleged that both Highveld and Iscore had made sales in the home market at prices that were below the cost of production (COP), pursuant to section 773(b) of the Act. On April 9, 1997, the Department requested that petitioners provide additional information regarding their allegation on Iscore. The petitioners supplied the requested supplemental information on April 11, 1997. After analyzing petitioners' allegations, the Department determined that there were reasonable grounds to believe or suspect that Highveld and Iscore had made home market sales at prices below the cost of production. On May 1, 1997, the Department initiated a COP investigation of Highveld. On May 7, 1997, the Department initiated a COP investigation of Iscore. (See memorandum from Linda Ludwig to Richard O. Weible dated May 1, 1997, and May 7, 1997, respectively, on file in the Central Records Unit, Room B-099 of the Department of Commerce.)

As a result of the Department's initiation of cost of production investigations, the Department requested, on May 1, 1997 and May 7, 1997, respectively, that Highveld and Iscore answer Section D of the original questionnaire. The Department extended Highveld's and Iscore's time to respond to Section D of the questionnaire to May 30, 1997 and June 4, 1997, respectively. Accordingly, we are not able to include a COP analysis in our preliminary determination. We will analyze the respondents' COP and CV data for our final determination.

On April 15, 1997, petitioners submitted a request that the scope of their petitions be amended to include three items—plate in coil; plate made to carbon plate specifications regardless of alloy content; and plate sold to nominal plate thicknesses whose actual thickness is slightly less than the thickness of plate but within specified thickness tolerances. With respect to plate in coil, petitioners maintain that this product has essentially the same physical characteristics and end uses as cut-to-length plate. Petitioners further