

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 on November 14, 2001, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination by no later than 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: July 26, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-830]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Bar From Germany

**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 stainless steel bar from Germany is being, or is 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:** August 2, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Craig Matney, Meg Weems or Andrew Covington, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1778, (202) 482-2613, or (202) 482-3534, 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 ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department's") regulations are to 19 CFR part 351 (April 2000).

#### Background

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Stainless Steel Bar from France, Germany, Italy, Korea, Taiwan and the United Kingdom* (66 FR 7620, January 24, 2001) ("Initiation Notice"), as amended by *Corrections, Notice of Initiation of Antidumping Investigations: Stainless Steel Bar from France, Germany, Italy, Korea, Taiwan and the United Kingdom* (66 FR 14986, March 14, 2001)), the following events have occurred:

On January 26, 2001, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes. We received comments on our proposed matching criteria on February 8 and 9, 2001.

On February 12, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of stainless steel bar ("SSB") from Germany are materially injuring the United States industry (see ITC Investigation No. 701-TA-913-918 (Publication No. 3395)).

On February 21, 2001, we selected the four largest producers/exporters of SSB from Germany as the mandatory respondents in this proceeding. For further discussion, see Memorandum from The Team to Richard W. Moreland Re: Respondent Selection dated February 21, 2001. We subsequently issued the antidumping questionnaires to Walzwerke Einsal GmbH ("Einsal"), Edeltahl Witten-Krefeld GmbH ("EWK"), BGH Edeltahl Seigen GmbH and BGH Edeltahl Freital GmbH ("BGH"), and Krupp Edeltahlprofile GmbH ("KEP") on February 21, 2001.

On February 13, 2001, EWK requested that "tool steel" be excluded from the scope of this investigation. On February 13, 2001, BGH requested that "special quality oil field equipment steel" be excluded from the scope of this investigation. See "Scope of Investigation" section of this notice for further discussion.

In February and March 2001, the petitioners in this case (*i.e.*, Carpenter Technology Corp., Crucible Specialty Metals, Electralloy Corp., Empire Specialty Steel Inc., Slater Steels Corp., and the United Steelworkers of America) made submissions requesting that the Department require the respondents to report the actual content of the primary chemical components of SSB for each sale of SSB made during the period of investigation ("POI"). Also, in February and March 2001, the respondents in this and other concurrent SSB investigations requested that the Department deny the petitioners' request. The Department, upon consideration of the comments from all parties on this matter, issued a memorandum on April 3, 2001, indicating its decision not to require the respondents to report such information on a transaction-specific basis. However, the Department did require that respondents report certain additional information concerning SSB grades sold to the U.S. and home markets during the POI. (For details, see Memorandum from The Stainless Steel Bar Teams to Louis Apple and Susan Kuhbach, Directors, Office of AD/CVD Enforcement 1/2, dated April 3, 2001).

On March 6, 2001, Einsal requested that it be relieved from the requirement to report affiliated party resales because sales of the foreign like product to affiliated parties during the POI constituted less than five percent of total sales of the foreign like product. On April 3, 2001, we granted Einsal's request in accordance with 19 CFR 351.403(d). (See Memorandum to Richard W. Moreland, dated April 3, 2001.)

On March 21, 2001, BGH requested that it be relieved from the requirement to report affiliated party resales because sales of the foreign like product to affiliated parties during the POI constituted less than five percent of total sales of the foreign like product. On April 6, 2001, we granted BGH's request in accordance with 19 CFR 351.403(d). (See Memorandum to Richard W. Moreland, dated April 6, 2001.)

On March 21, 2001, EWK requested that it be relieved from the requirement to report affiliated party resales even though sales of the foreign like product to affiliated parties during the POI constituted more than five percent of total sales of the foreign like product. For the reasons stated in a Memorandum to Richard W. Moreland, dated May 11, 2001, we granted EWK's request.

On March 22, 2001, KEP requested that it be relieved from the requirement to report affiliated party resales even though sales of the foreign like product to affiliated parties during the POI constituted more than five percent of total sales of the foreign like product. For the reasons stated in a Memorandum to Richard W. Moreland, dated June 21, 2001, we granted KEP's request.

On April 17, 2001, BGH requested that it be allowed to report its cost data on a fiscal-year basis rather than a POI basis. For the reasons outlined in the letter dated May 2, 2001, we denied this request.

During the period March through June 2001, the Department received responses to Sections A, B, C and D of the Department's original and supplemental questionnaires from BGH, Einsal, EWK, and KEP.

On April 27, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on May 7, 2001, and postponed the preliminary determination until no later than July 26, 2001. (See *Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Stainless Steel Bar from France, Germany, Italy, Korea, Taiwan and the United Kingdom*; 66 FR 24114, May 11, 2001).

#### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2)(A) of the Act, on July 17 and 20, 2001, BGH and Einsal, and EWK and KEP, respectively, 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**, and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) BGH, Einsal, EWK, and KEP account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

#### Scope of Investigation

For purposes of this investigation, the term "stainless steel bar" includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this investigation is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the

written description of the scope of this investigation is dispositive.

In accordance with our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (see 66 FR 7620-7621). The respondents in this and the companion SSB investigations filed comments seeking to exclude certain products from the scope of these investigations. The specific products identified in their exclusion requests are:

- Stainless Steel Tool Steel
- Welding Wire
- Special-Quality Oil Field Equipment Steel ("SQOFES")
- Special Profile Wire

We have addressed these requests in the Memorandum to Susan Kubbach and Louis Apple from The Stainless Steel Bar Team, dated July 26, 2001, entitled "Scope Exclusion Requests," and the Memorandum to Louis Apple from The Stainless Steel Bar Team, dated July 26, 2001, entitled "Whether Special Profile Wire Product is Included in the Scope of the Investigation." Our conclusions are summarized below.

Regarding stainless steel tool steel, welding wire, and SQOFES, after considering the respondents' comments and the petitioners' objections to the exclusion requests, we preliminarily determine that the scope is not overly broad. Therefore, stainless steel tool steel, welding wire, and SQOFES are within the scope of these SSB investigations. In addition, we preliminarily determine that SQOFES does not constitute a separate class or kind of merchandise from SSB.

Regarding special profile wire, we have preliminarily determined that this product does not fall within the scope as it is written because its cross section is in the shape of a concave polygon. Therefore, we have not included special profile wire in these investigations.

Finally, we note that in the concurrent countervailing duty investigation of stainless steel bar from Italy, the Department preliminarily determined that hot-rolled stainless steel bar is within the scope of these investigations. (See, *Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Stainless Steel Bar from Italy*, 66 FR 30414, June 6, 2001).

#### Period of Investigation

The POI is October 1, 1999, through September 30, 2000.

### **Collapsing of Affiliated Parties**

KEP and EWK are affiliated parties within the meaning of section 771(33)(F) by virtue of their ultimate ownership by a common parent company, ThyssenKrupp AG. Section 351.401(f)(1) of the Department's regulations explains that the Department will treat affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Department concludes that there is a significant potential for the manipulation of price or production.

KEP and EWK have argued that the two entities should not be collapsed because the current overlap in their production capability is minimal, there is little overlap in the current boards of directors, and the transactions between the two companies are similar to transactions with other, non-affiliated bar producers. Furthermore, they have argued that the cost to retool either or both of the plants to substantially increase one or both of their production ranges would be extremely high. Petitioners have argued that the current overlap is significant and that the cost of retooling KEP's and/or EWK's production facilities to produce a substantially expanded product range is not significant in relation to the resources available to ThyssenKrupp AG. Additionally, petitioners contend that the overlap in the boards of directors, the transactions between the two companies, and the potential for increased interactions between the two companies at the behest of ThyssenKrupp AG provide a significant potential for manipulation of production.

In conducting this analysis of whether KEP and EWK should be treated as a single entity under section 351.401(f) of the regulations, we first observe that KEP and EWK are affiliated with each other due to the fact that they are both wholly-owned by ThyssenKrupp AG. We also observe, as a preliminary matter, that KEP and EWK are producers with production facilities for similar products. In this regard, we acknowledge that there is limited overlap between the products produced by KEP and EWK. However, the level of existing overlap means that, even with no retooling, manufacturing priorities could be restructured.

Given these preliminary findings under section 351.401(f)(1), we turn to an analysis of the significant potential for the manipulation of price or

production under section 351.401(f)(2). In conducting such an analysis, the factors the Department may consider include the level of common ownership, common managerial employees or board members on the respective boards of directors, and whether the operations of the companies are intertwined. The companies are wholly-owned by a single ultimate parent company and share two members of their respective managerial boards of directors, though KEP and EWK claim that the managerial board is not involved in the day to day operations of either firm. With regard to intertwined operations, KEP and EWK have an established relationship in which they sell each other's merchandise and purchase certain raw materials from each other and from common affiliated suppliers. In addition, by virtue of its complete ownership of the two firms, ThyssenKrupp AG potentially could dictate future production and pricing decisions and the sharing of sales information, facilities or employees.

Based on this information, we preliminarily determine that within the current production overlap there is a potential for manipulation, and that the extent of the current overlap is large enough that any manipulation could be significant. Therefore, for the preliminary determination, we have calculated a single dumping margin for KEP and EWK by weight-averaging the two firms' individually-calculated dumping margins. For the final determination, we intend to request that KEP and EWK report combined sales and cost data.

We invite comments from parties on this issue for the final determination, in particular as to whether the current production overlap provides a significant potential for price or production manipulation.

### **Fair Value Comparisons**

To determine whether sales of SSB from Germany to the United States were made at less than fair value ("LTFV"), we compared the export price ("EP") or constructed export price ("CEP") to the Normal Value ("NV"), as described in the "Export Price" and "Constructed 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 and CEPs to NVs.

### **Product Comparisons**

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents 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 respondents in the following order of importance: general type of finish; grade; remelting process; type of final finishing operation; shape; and size. With respect to grade, we matched products sold in the U.S. and home markets on the basis of the three most similar matches proposed by the respondent, where possible.

On July 11 and 13, 2001, the petitioners submitted general comments on product-matching issues for the Department's consideration in the preliminary determination. These comments were not received in time to be fully analyzed for the preliminary determination, but will be considered for the final determination.

### **Export Price**

For all respondents, we calculated EP, in accordance with section 772(a) of the Act, for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States, or to an unaffiliated purchaser for exportation to the United States, based on the facts of record. We based EP on the packed delivered price to unaffiliated purchasers in the United States. We identified the correct starting price by adding any surcharges, making adjustments for any price-billing errors and freight revenue, and making deductions for early payment discounts and rebates, where applicable. We also made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, domestic inland freight, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), and U.S. inland freight.

### **Constructed Export Price**

For KEP and EWK, we calculated CEP, in accordance with subsection

772(b) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States.

We based CEP on the packed FOB or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors and freight revenue, and made deductions for early payment discounts and rebates in order to identify the correct starting price. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight expenses, and warehousing expenses. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs and warranty expenses), inventory carrying costs, and indirect selling expenses. Where payment dates were unreported, we recalculated the credit expenses using the date of the preliminary determination in place of actual date of payment. Lastly, we made an adjustment for profit in accordance with section 772(d)(3) of the Act.

## 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.*, whether 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. Because 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.

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

The Department's standard practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are at arm's-length prices. Therefore, in accordance with that practice, we

performed an arm's-length test on each respondent's sales to affiliates as follows.

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 starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c). 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 *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 model.

### C. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of SSB in the home market were made at prices below their cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether sales were made at prices below their respective COP (*see* Initiation Notice at 66 FR 7623).

#### 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), interest expenses, and home market packing costs (*see* "Test of Home Market Sales Prices" section below for treatment of home market selling expenses). We relied on the COP data submitted by the respondents, except where noted below:

**EWK.** We adjusted EWK's reported cost of manufacture ("COM") to reflect the market price of EWK's steel scrap

purchased from an affiliate. We also adjusted EWK's reported G&A expense based on its financial statements. *See* July 26, 2001, Cost Adjustment Memorandum for EWK, for further information.

**KEP.** We adjusted KEP's reported COM to reflect the market price of KEP's nickel purchased from an affiliate. *See* July 26, 2001, Cost Adjustment Memorandum for KEP, for further information.

#### 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, billing adjustments, discounts, rebates, commissions, interest revenue, warranty expenses, other direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined whether such sales were made (1) within an extended period of time, (2) in substantial quantities, and (3) at prices which did not permit the recovery of all costs within a reasonable period of time.

#### 3. Results of the COP Test

Pursuant to section 773(b)(1), where less than 20 percent of the 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 are at prices less than the COP, we disregard those sales of that product, because 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 each of the respondent's home market sales were at prices less than the COP and, in addition, such sales were made within a reasonable period of time and did not provide for the recovery of costs. We therefore excluded these sales and used the remaining above-cost sales, if any, as the basis for determining NV, in accordance with section 773(b)(1).

### D. 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. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). 19 CFR 351.412(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 (November 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>1</sup> including selling functions,<sup>2</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>3</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 match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, 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 we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. 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).

We obtained information from each respondent regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution. Company-specific LOT findings are summarized below:

#### 1. BGH

We examined the chain of distribution and the selling activities associated with sales reported by BGH to its four channels of distribution in the home market, and where appropriate, to distinct customer categories within these channels. We found that distribution channels 1 and 2, which related to produce-to-order sales to distributors and end-users, were similar with respect to sales process, freight services, warehouse/inventory maintenance and warranty service and, therefore, constituted a distinct level of trade (LOTH 1). We found that distribution channels 3 and 4, which related to warehouse inventory sales to distributors and end-users, were similar with respect to sales process, freight services, warehouse/inventory maintenance and warranty service to constitute a distinct level of trade (LOTH 2). However, we found that LOTH 2 differed significantly from LOTH 1 with respect to freight service and warehouse/inventory maintenance. Based upon our overall analysis in the home market, we found that LOTH 1 and LOTH 2 constituted two different levels of trade.

BGH reported EP sales through two channels of distribution, produce-to-order sales to distributors (channel 1) and produce-to-order sales to end-users (channel 2). We examined the chain of distribution and the selling activities associated with sales through these channels and found them to be similar with respect to sales process, freight services, warehouse/inventory maintenance and warranty service. Therefore, we preliminarily determine that the two channels constitute a single level of trade (LOTU 1).

This EP level of trade differed considerably from LOTH 2 with respect to freight services and warehousing/inventory maintenance. However, the EP level of trade was similar to LOTH 1 with respect to sales process, freight services, warehouse/inventory maintenance and warranty service. Consequently, we matched the EP sales to sales at the same level of trade in the home market (LOTH 1). Where no matches at the same level of trade were possible, and there was a pattern of consistent price differences between different levels of trade, we matched to sales in LOTH 2 and, where appropriate, we made a level of trade adjustment. See section 773(a)(7)(A).

#### 2. Einsal

Einsal has reported two home market channels of distribution: Direct sales and consignment sales. In the home market, Einsal sells to master distributors, regional service centers, and end users. Sales to all customer categories in both these channels of distribution were similar with respect to sales process, freight services, warehouse/inventory maintenance and warranty service. Accordingly, we preliminarily determine that home market sales in these two channels of distribution to these three customer categories constitute a single level of trade.

In the U.S. market, Einsal had only EP sales. Einsal reported EP sales to master distributors and end users through only one channel of distribution, direct sales. Sales to these customer categories through this channel of distribution were similar with respect to sales process, freight services, warehouse/inventory maintenance and warranty service. Accordingly, we preliminarily find that Einsal had only one level of trade for its EP sales.

This EP level of trade was similar to that of the home market with respect to sales process, warehouse/inventory maintenance and warranty service, and differed only slightly with respect to freight and delivery. Consequently, we matched Einsal's U.S. sales to the single home market LOT. Thus, it was unnecessary to make any level-of-trade adjustment. See Section 773(a)(7)(A) of the Act.

#### 3. EWK

EWK reported two channels of distribution in the home market: (1) Mill direct sales to order (channel 1); and (2) mill sales from stock (channel 2). Both of these channels serviced all customer types (*i.e.*, affiliated and unaffiliated service centers and end users). We examined these channels and found that

<sup>1</sup> The marketing process in the United States 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 respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale occurs.

<sup>2</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 SSB selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services. Other selling functions unique to specific companies were considered, as appropriate.

<sup>3</sup> Where NV is based on 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.

they varied with respect to sales process, freight services, and warehousing/inventory maintenance. Based on our overall analysis of the home market, we preliminarily find that channel 1 and channel 2 constitute distinct levels of trade, LOTH 1 and LOTH 2, respectively.

In the U.S. market, EWK had both EP and CEP sales. EWK reported EP sales through only one channel of distribution and to one customer category, and therefore had only one level of trade for its EP sales. This EP level of trade differed considerably from the home market level of trade LOTH 2 with respect to freight services and warehouse/inventory maintenance. We found that LOTH 1 was similar to the EP level of trade with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. Consequently, we matched EWK's EP sales to sales at the same level of trade in the home market (LOTH 1). Where no matches at the same level of trade were possible, and there was a pattern of consistent price differences between different levels of trade, we matched to sales in LOTH 2 and, where appropriate, we made a level of trade adjustment. *See* section 773(a)(7)(A).

EWK's constructed CEP level of trade was its sales to its affiliated reseller and since it performed the same selling functions for all of these sales, we found that these CEP sales constitute one level of trade. This CEP level of trade differed considerably from the home market level of trade LOTH 2 with respect to sales process and inventory maintenance. We found that LOTH 1 was similar to the CEP LOT with respect to sales process, warehouse/inventory maintenance, and warranty service and differed only slightly with respect to delivery services.

Because we found the CEP LOT to be similar to home market level of trade LOTH 1, where possible, we matched CEP sales to normal value based on home market sales in LOTH 1 and made no CEP offset adjustment. Where we did not match products at the same level of trade, and there was a pattern of consistent prices differences between different levels of trade, we made a level of trade adjustment. *See* section 773(a)(7)(A). Where we did not match products at the same level of trade, and we were unable to make a level of trade adjustment because the home market level of trade was at a more advanced stage of distribution than the CEP level of trade, we made a CEP offset in accordance with section 773(a)(7)(B) of the Act.

#### 4. KEP

KEP reported two channels of distribution in the home market: (1) Mill direct sales to order (channel 1); and (2) mill sales from stock (channel 2). KEP sold to service centers and end users through both of these distribution channels. We found that channel 1 produce-to-order sales to both customer categories were similar with respect to sales process, freight services, and warehouse/inventory maintenance, and, therefore, constituted a distinct level of trade (LOTH 1). We found that distribution channel 2 sales from stock to service centers and end users were similar with respect to sales process, freight services, and warehouse/inventory maintenance, and varied only slightly with respect to warranty service, to constitute a distinct level of trade (LOTH 2). However, we found that LOTH 2 differed significantly from LOTH 1 with respect to freight services and warehouse/inventory maintenance. Based on our overall analysis of the home market, we found that LOTH 1 and LOTH 2 constituted two different levels of trade.

In the U.S. market, KEP had both EP and CEP sales. KEP reported EP sales through only one channel of distribution and to one customer category, and therefore had only one level of trade for its EP sales. This EP level of trade differed considerably from the home market level of trade LOTH 2 with respect to freight services, warehouse/inventory maintenance, and warranty service. We found that LOTH 1 was similar to the EP level of trade with respect to sales process, freight services, and warehouse/inventory maintenance, and differed only slightly with respect to warranty service. Consequently, we matched KEP's EP sales to sales at the same level of trade in the home market (LOTH 1). Where no matches at the same level of trade were possible, and there was a pattern of consistent price differences between different levels of trade, we matched to sales in LOTH 2 and, where appropriate, we made a level of trade adjustment. *See* section 773(a)(7)(A).

KEP's constructed CEP level of trade was its sales to its affiliated reseller and since it performed the same selling functions for all of these sales, we found that these CEP sales constitute one level of trade. This CEP level of trade differed from the home market level of trade LOTH 2 principally with respect to warehouse/inventory maintenance and warranty service. We found that LOTH 1 was similar to the CEP LOT with respect to delivery services and warehouse/inventory maintenance and

differed only slightly with respect to sales process.

Because we found the CEP LOT to be similar to home market level of trade LOTH 1, where possible, we matched CEP sales to normal value based on home market sales in LOTH 1 and made no CEP offset adjustment. Where we did not match products at the same level of trade, and there was a pattern of consistent prices differences between different levels of trade, we made a level of trade adjustment. *See* section 773(a)(7)(A). Where we did not match products at the same level of trade, and we were unable to make a level of trade adjustment because the home market level of trade was at a more advanced stage of distribution than the CEP level of trade, we made a CEP offset in accordance with section 773(a)(7)(B) of the Act.

#### E. 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. We identified the correct starting price by making adjustments for surcharges and billing errors, and making deductions for discounts and rebates. We also made adjustments for movement expenses, including inland freight, inland insurance and warehousing, where appropriate, under section 773(a)(6)(B)(ii). We adjusted KEP's method of allocating its reported warehousing expenses (*see* July 26, 2001 KEP Calculation Memorandum). 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. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses, interest revenue, warranties, and other direct selling expenses, as appropriate. Where payment dates were unreported, we recalculated the credit expenses using the date of the preliminary determination in place of actual date of payment. We recalculated Einsal's credit expenses based on the adjusted starting prices (*see* Einsal Calculation Memorandum dated July 26, 2001 (Einsal Calculation Memorandum)). We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset). We recalculated

Einsal's indirect selling expenses based on the adjusted starting prices (*see* Einsal Calculation Memorandum). We deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

Finally, where appropriate, we made an adjustment for differences in LOT under section 773(a)(7)(A) of the Act and 19 CFR 351.412(b)–(e).

Additionally, for comparisons to CEP sales, where appropriate, we deducted from normal value the lesser of comparison-market indirect selling expenses and indirect selling expenses deducted from CEP (the CEP offset), pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

#### 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 reported by the Dow Jones.<sup>4</sup> Einsal has demonstrated that its currency transactions on forward markets are linked to its U.S. dollar-denominated U.S. sales. Therefore, we have used the exchange rates specified in the forward sales agreements to make currency conversions for these sales, in accordance with section 773A(a).

#### Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our preliminary 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 that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price or constructed export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

| Exporter/manufacture | Weighted-average margin percentage |
|----------------------|------------------------------------|
| BGH .....            | 18.72                              |
| Einsal .....         | 6.48                               |
| EWK/KEP .....        | 21.03                              |
| All Others .....     | 17.07                              |

#### ITC Notification

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

#### Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

#### Public Comment

Case briefs for this investigation must be submitted to the Department no later than November 7, 2001. Rebuttal briefs must be filed by November 15, 2001. 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 on November 19, 2001 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination by no later than 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: July 26, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 01–19350 Filed 8–1–01; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–475–829]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Bar From Italy

**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 stainless steel bar from Italy is being, or is 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:** August 2, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jarrod Goldfeder, Melani Miller, or Anthony Grasso, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0189, (202) 482–0116, or (202) 482–3853, 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 (“URAA”). In addition, unless otherwise indicated, all citations

<sup>4</sup> We normally make 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. In this case, where home market prices, costs and expenses were reported in German marks, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales as reported by the Dow Jones because the Federal Reserve Bank does not track the mark-to-dollar exchange rate.