Disclosure

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

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, pursuant to section 735(b)(3) of the Act, the ITC will determine within 75 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

All parties will be notified of the specific schedule for submission of case and rebuttal briefs. In general, case briefs for this investigation must be submitted to the Department no later than one week after the issuance of the verification report. Rebuttal briefs must be filed within five days after the deadline date for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Public versions of all comments and rebuttals should be provided to the Department and made available on diskette.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, 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 specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

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

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

Dated: April 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–11191 Filed 5–8–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–872]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From the People's Republic of China

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

ACTION: Notice of preliminary determination in the less-than-fair-value investigation of certain cold-rolled carbon steel flat products from the People's Republic of China.

SUMMARY: The Department of Commerce (''the Department'') has preliminarily determined that imports of certain cold-rolled carbon steel flat products (''cold-rolled steel'') from the People's Republic of China (''PRC'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV'').

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy at 202–482–0165 or Stephen Shin at 202–482–0413, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

Background

On October 18, 2001, the Department initiated antidumping duty investigations to determine whether imports of cold-rolled steel from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela are being, or are likely to be, sold in the United States at LTFV. See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, 66 FR 54198 (October 26, 2001) (''Initiation Notice''). The petitioners in the concurrent antidumping duty investigations are Bethlehem Steel Corporation, National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel LLC, WCI Steel, Inc., and Weirton Steel Corporation. LTV Steel Company, Inc. is no longer an active petitioner in these investigations.[1]

On November 19, 2001, the International Trade Commission (''ITC'') published its determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of cold-rolled steel from all of these countries. See Certain Cold-Rolled Carbon Steel Products From Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, 66 FR 57985 (November 19, 2001).

On October 26, 2001, the Department sent letters requesting the quantity and value of shipments of subject merchandise exported to the United States during the period January 1, 2001, through June 30, 2001, to the Embassy of the People's Republic of China, Sichuan Chuaton Changcheng Special Steel Group Co. Ltd., Laiwu Steel Group Ltd., Wuhan Iron and Steel Group Co., Benxi Iron and Steel Co., Shanghai Baosteel Group Corp. (''Baosteel''), and Shanghai Pudong Iron and Steel Group Co., Ltd. On November 8, 2001, Baosteel submitted quantity and value information. We received no other responses to this request.

On November 23, 2001, Pangang Group International Economic & Trading Corp. (''Pangang'') submitted a letter which requested that it be treated as a respondent in this investigation. On

[1] Effective January 1, 2002, the party previously known as ''United States LLC'' changed its name to ''United States Steel Corporation.''

November 27, 2001, the Department issued its antidumping questionnaire to the Government of the PRC and issued courtesy copies to the six exporters/ producers identified in the petition and to Pangang. The Department only received a response to its questionnaire from Pangang. On December 18, 2001, Baosteel submitted a letter to the Department which stated that it was not going to participate in the instant investigation.

On February 22, 2002, the Department postponed the preliminary determination in this investigation to April 26, 2002. See Postponement of Preliminary Determinations of Antidumping Duty Investigations; Certain Cold-Rolled Carbon Steel Flat Products from Argentina, et al., 67 FR 8227 (February 26, 2002).

Scope of Investigation

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

Period of Investigation

The period of investigation (''POI'') for this investigation corresponds to the two most recent fiscal quarters prior to the filing of the petition, i.e., January 1, 2001 through June 30, 2001.

Critical Circumstances

On November 29, 2001, and December 7, 2001, four of the petitioners in the investigation (Nucor Corporation, Steel Dynamics Inc., WCI Steel Inc., and Weirton Steel Company) submitted an allegation of critical circumstances with respect to imports of cold-rolled steel from the PRC and requested an expedited decision in the matter. On April 10, 2002, the Department issued its preliminary affirmative determination that critical circumstances exist with respect to imports of cold-rolled steel from the PRC. See Memorandum to Faryar Shirzad from Joseph A. Spetrini: Preliminary Affirmative Determinations of Critical Circumstances (April 10, 2002); and Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation, 67 FR 19157 (April 18, 2002) (''Critical Circumstances Notice'').

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy (''NME'') country in all past antidumping investigations. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China, 65 FR 33805 (May 25, 2000); Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China, 65 FR 19873 (April 13, 2000); Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from the People's Republic of China, 66 FR 49632 (September 28, 2001) (''Hot-Rolled Steel from the PRC''). This NME designation remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. No party has sought revocation of the NME status in this investigation. Therefore, in accordance with section 771(18)(C) of the Act, we will continue to treat the PRC as a NME country.

When the Department is investigating imports from a NME, section 773(c)(1) of the Act directs us to base the normal value (''NV'') on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the ''Normal Value'' section, below. Furthermore, no interested party has requested that we treat the cold-rolled steel industry in the PRC as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, preliminarily we have continued to treat the PRC as a NME.

Separate Rates

In a NME proceeding, the Department presumes that all companies within the country are subject to governmental control, and assigns separate rates only if the respondent demonstrates the absence of both de jure and de facto governmental control over export activities. See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China, 61 FR 19026, 19027 (April 30, 1996). Pangang has provided the requested company-specific separate-rates information and has indicated that there is no element of government ownership or control. Based on Pangang's claim, we considered whether it is eligible for a separate rate.

The Department's separate-rate test is unconcerned, in general, with macroeconomic/ border-type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value, 62 FR 61754, 61757 (November 19, 1997); Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 61276, 61279 (November 17, 1997); and Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value, 60 FR 14725, 14726 (March 20, 1995).

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), as modified by Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (''Silicon Carbide''). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the NME respondents can demonstrate the absence of both de jure and de facto governmental control over export activities. See Silicon Carbide and Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China, 60 FR 22545 (May 8, 1998).

1. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (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.

Pangang has placed on the record a number of documents to demonstrate the absence of de jure control, including the ''Company Law of the People's Republic of China.'' In prior cases, the Department has analyzed this law and

found that it establishes an absence of de jure control. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China, 60 FR 54472, 54474 (October 24, 1995). We have no information in this proceeding which would cause us to reconsider this determination.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) Whether the export prices 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 its 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.

As stated in previous cases, there is some evidence that certain enactments of the central government of the PRC have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See Silicon Carbide. Therefore, the Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Pangang asserted the following: (1) There is no government participation in setting export prices; (2) its managers have authority to bind sales contracts; (3) it does not have to notify any government authorities of its management selection, and (4) there are no restrictions on the use of its export revenue and it is responsible for financing it own losses. Additionally, Pangang's questionnaire response does not suggest that pricing is coordinated among exporters. Furthermore, our analysis of Pangang's questionnaire response reveals no other information indicating government control. Therefore, based on the information provided, we preliminarily determine that there is an absence of de facto governmental control of Pangang's export functions. Consequently, we preliminarily determine that the respondent has met the criteria for the application of a separate rate.

The PRC-Wide Rate

In NME cases, it is the Department's policy to assume that all exporters located in the NME comprise a single exporter under common control, the ''NME entity.'' This presumption can be rebutted. The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate. All exporters were given the opportunity to respond to the Department's questionnaire. As explained above, we received a timely Section A response from Pangang. Our review of U.S. import statistics, however, reveals that Pangang did not account for all imports of subject merchandise into the United States from the PRC. One producer/exporter of the subject merchandise, Baosteel, reported quantity and value information, but later submitted a letter to the Department announcing its intent not to participate in the investigation. We received no responses from other exporters to whom we sent requests for information. For this reason, we preliminarily determine that the majority of PRC exporters of cold-rolled steel failed to respond to our questionnaire. Consequently, we are applying adverse facts available (see below) to determine the single antidumping rate—the PRC-wide rate—applicable to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the PRC government. See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China, 65 FR 25706, 25707 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from Pangang.

Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. As explained above, the majority of exporters of the subject merchandise failed to respond to the Department's request for information. The failure of theses exporters to respond also significantly impede this proceeding. Pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have used total facts available for the PRC-wide rate because these entities did not respond.

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 facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (''SAA'') accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, ''affirmative evidence of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27340 (May 19, 1997). The complete failure of these exporters to respond to the Department's requests for information constitutes a failure to cooperate to the best of their ability. In regard to Baosteel, though the company initially provided quantity and value information, the company subsequently indicated in a December 18, 2001 letter to the Department that it would not participate in the investigation. This conduct constitutes a failure of Baosteel to cooperate to the best of its ability. Therefore, pursuant to section 776(b) of the Act, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. However, section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy

itself that the secondary information to be used has probative value. Id. As noted in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

For our preliminary determination, as adverse facts available, we have used the highest rate calculated for a respondent, *i.e.*, the rate calculated for Pangang. In an investigation, if the Department chooses as facts available a calculated dumping margin of another respondent, the Department will consider information reasonably at its disposal as to whether there are circumstances that would indicate that using that rate is appropriate. Where circumstances indicate that the selected margin may not be appropriate, the Department will attempt to find a more appropriate basis for facts available. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (the Department disregarded the highest margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this investigation, there is no indication that Pangang's calculated margin is inappropriate to use as adverse facts available.

Accordingly, for the preliminary determination, the PRC-wide rate is 129.85 percent. Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final determination for the purpose of determining the most appropriate final PRC-wide margin.

Fair Value Comparisons

To determine whether sales of cold-rolled steel to the United States by Pangang were made at less than fair value, we compared export price (''EP'') to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs. We calculated weighted-average NVs.

Export Price

In accordance with section 772(a) of the Act, we used EP because the subject merchandise was sold directly to unaffiliated purchasers outside of the United States, with the knowledge that the final destination of the subject merchandise was the United States. Pangang claimed that sales to the United States went through either of two channels of trade. In the first channel, Pangang sold directly to the unaffiliated U.S. importer. In the second channel, Pangang sold through another unaffiliated party to the U.S. importer. Pangang claims that in the second channel, the U.S. importer pays the other party, who then pays Pangang. For both channels of trade, we used the price of Pangang's first sale to an unaffiliated party in, or for exportation to, the United States. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NVs. We calculated EP based on prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and brokerage and handling. Because certain domestic charges, such as those for foreign inland freight and brokerage and handling, were provided by NME companies, we valued those charges based on surrogate rates from India. See the Factors-of-Production Valuation Memorandum to Edward Yang through James Doyle from Carrie Blozy and Stephen Shin, dated April 26, 2002 (''FOP Memorandum'').

Normal Value

1. Surrogate Country

When the Department is investigating imports from a NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, 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 at a level of economic development comparable to the NME country and are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are countries comparable to the PRC in terms of economic development. See Memorandum from Jeffrey May to James Doyle, dated December 12, 2001. Customarily, we select an appropriate surrogate based on the availability and reliability of data from these countries. For PRC cases, the primary surrogate has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. We used India as the primary surrogate country and, accordingly, we have calculated NV using Indian prices to value the PRC producer's factors of production, when available and appropriate. We have obtained and relied upon publicly available information wherever possible. See FOP Memorandum. In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in this antidumping investigation, interested parties may submit publicly available information to value the factors of production within 40 days after the date of publication of this preliminary determination.

2. Factors of Production

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from a NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. See 773(c) of the Act. We used factors of production, reported by Pangang, for materials, energy, labor, by-products, and packing. We valued all the input factors using publicly available published information, as discussed in the ''Surrogate Country'' and ''Factor Valuations'' sections of this notice. In accordance with 19 CFR 351.408(c)(1), when a producer sources an input from a market economy and pays for it in market-economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. See also Lasko Metal Products v. United States, 437 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (''Lasko''). Therefore, when Pangang had market-economy inputs and paid for these inputs in a market-economy currency, we used the actual prices paid for those inputs in our calculations.

3. Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by

Pangang for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted imported input prices by including freight costs to make them delivered prices. For a detailed description of all surrogate values used for the respondent, see FOP Memorandum.

We added to Indian import surrogate values a surrogate freight cost using the shorter of (a) the reported distance from the domestic supplier to the factory, or (b) the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision in Sigma Corporation v. United States, 117 F. 3d 1401, 1407–08 (Fed. Cir. 1997).

For those Indian Rupee values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics for India. For those U.S. dollar-denominated values not contemporaneous with the POI, we adjusted for inflation using producer price indices published in the International Monetary Fund's International Financial Statistics for the United States.

Although surrogate-value data based on *Monthly Trade Statistics of Foreign Trade of India*—Volume II—Imports (''Indian Import Statistics'') were provided by Pangang, we relied on more contemporaneous Indian Import Statistics (time period: April 2000 through March 2001), where available. Except as noted below, we valued raw-material inputs using the weighted-average unit import values derived from the Indian Import Statistics. When Indian Import Statistics from a contemporaneous period were not available, we used Indian Import Statistics from an earlier period.

Pangang reported that it self-produced all of its own electricity as well as the industrial gases argon, nitrogen and oxygen, which are used in the manufacture of the subject merchandise. In the antidumping investigation of hot-rolled carbon steel flat products from the PRC, the Department valued certain self-produced energy components (electricity, argon, oxygen, and nitrogen) through surrogate valuation as a finished product, rather than valuing the inputs consumed in generating each individual energy component. This was based on the fact that the financial statement of the sole surrogate company indicated that the surrogate company purchased a large portion of the inputs in question and did not appear to self-produce any of the inputs. Therefore, the valuation of the inputs consumed in generating each individual energy component would lead to mathematically incorrect results. See Hot-Rolled Steel from the PRC and accompanying Issues and Decision Memorandum at Comment 2. The Department has followed the approach established in Hot-Rolled Steel from the PRC regarding the valuation of certain self-produced energy inputs.

In its April 10, 2002, submission, Pangang argued that each of the inputs used for producing electricity, argon, nitrogen, and oxygen must be valued separately to reflect the actual production process of the subject merchandise. Pangang maintained that valuation of the finished self-produced input will significantly overstate the cost of producing the input as many of the inputs into the self-produced input are by-products or surplus inputs. Finally, Pangang argued that the reasons for using surrogate valuation to value electricity, argon, nitrogen, and oxygen in Hot-Rolled Steel from the PRC and structural steel beams from the PRC (see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From The People's Republic of China, 66 FR 67197, 67201 (December 28, 2001) (''Structural Steel Beams from the PRC'')) do not apply in the present case. Pangang stated that because its power facilities were established decades ago, Pangang has not experienced large capital costs associated with its energy production during the POI. Pangang also asserted that to reject the use of its factors of production would amount to facts available.

In this case, as explained below, to value overhead, selling general and administrative (''SG&A''), interest, and profit, we are relying on the 2000–2001 financial statements of Steel Authority of India Limited (''SAIL'') and TATA Steel (''TATA''), both of whom are Indian integrated steel producers of cold-rolled steel. The financial statements of both companies do not indicate that either self-produce argon, nitrogen, and oxygen. However, they do indicate that during the 2000–2001 financial year SAIL and TATA self-produced approximately 60 and 54 percent, respectively, of the electricity they consumed. See SAIL's financial statements at page 53 (Form A), which is attached to the FOP memorandum at Exhibit 7, and TATA's financial statements at page 14 (Form A), which is attached to petitioners' April 9, 2002, submission at Exhibit 2. For purposes of the preliminary determination we are continuing to follow our practice in Hot-Rolled Steel from the PRC and Structural Steel Beams from the PRC, and are valuing self-produced electricity, argon, nitrogen, and oxygen as finished-products, rather than valuing factor inputs going into the production of these inputs. Although the record evidence indicates that SAIL and TATA self-produced 60 and 54 percent, respectively, of their electricity, we find that potential distortion exists as Pangang self-produces all of its electricity as well as its argon, nitrogen, and oxygen. As we explained in Structural Steel Beams from the PRC, ''the respondent's methodology would add needless complications to our calculation of NV and lead to potentially erroneous results.''

As the basis for valuing electricity, we have relied on the 1997 data published in the International Energy Agency's publication, *Energy Prices and Taxes, Third Quarter, 2000*, and adjusted the amount for inflation. As the basis for valuing argon, nitrogen, and oxygen, we have relied on October 1996 price information from Bhoruka Gases Limited, an Indian manufacturer of industrial gases, and adjusted the amount for inflation.

Pangang reported that it purchased iron ore fines and lumps from market-economy suppliers during the POI. The Department used the weighted-average price reported by Pangang.

We valued all inputs for packing using the average-unit values derived from the Indian Import Statistics.

We used Indian transport information to value transport for raw materials. For all instances in which respondent reported delivery by truck, to calculate domestic inland freight (truck), we used a price quote obtained by the Department from an Indian trucking company for transporting materials between Mumbai and Coimbatore (1265 kilometers). We converted the Indian Rupee value to U.S. dollars and adjusted for inflation through the POI. Similarly, for domestic inland freight (rail), we used a freight rate as quoted from Indian Railway Conference Association price lists.

To value factory overhead, SG&A expenses, interest, and profit, we used financial ratios based on 2000–2001 financial information from two Indian integrated steel producers of cold-rolled steel, SAIL and TATA. In their March 26, 2001, surrogate value submission, Pangang argued that the Department should determine overhead, SG&A, and profit based on data from the Reserve Bank of India, which represents

financial data from 947 private limited companies from the Indian metals and chemical industries. Pangang claimed that the Department should rely on the Reserve Bank data because the financial statistics of a single company will not approximate the experience of Pangang in this case as Pangang is a member of the fully integrated group of companies, which not only produces the subject merchandise, but also produces and sells a range of other chemical and steel products and provides services. In their April 9, 2002, surrogate value submission, petitioners argued that the Department should rely on the most contemporaneous information available for TATA. In the investigation of cut-to-length carbon steel plate from the PRC, the Department determined not to use data from the Reserve Bank of India, explaining, ''it is the Department's preference to base SG&A and profit ratios on data from actual producers of subject merchandise in the surrogate country.'' See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China, 62 FR 61964, 61969, 61970 (November 20, 1997). In their April 18, 2002 submission, the respondent argued that because TATA undertook significant capital investments during the fiscal 2000–2001 year, TATA's financial ratios are not indicative of Pangang's experience. Therefore, Pangang argued that the Department should disregard TATA's financial data.

In addition to the two potential surrogates the parties placed on the record (i.e., TATA and the Reserve Bank of Indian data), the Department located another surrogate, SAIL , and placed its financial information on the record as well. Thus, we have on the record of the investigation financial statements of two Indian producers of cold-rolled steel (i.e., SAIL and TATA). Moreover, like Pangang, both SAIL and TATA are integrated steel producers that are members of a group of companies which produce products in addition to producing the subject merchandise. See FOP Memorandum for a copy of the 2000–2001 financial information for the companies included within the SAIL and TATA Steel Groups. Because the Department prefers to base financial ratios on multiple producers from a contemporaneous period, the Department has calculated a simple average of the financial ratios of SAIL and TATA. See Brake Rotors From the People's Republic of China: Preliminary Results of Third New Shipper Review and Preliminary Results and Partial Rescission of Second Antidumping Duty Administrative Review, 64 FR 73007, 73011 (December 29, 1999). As in Hot-Rolled Steel from the PRC, we used information from TATA from profit. See the Hot-Rolled Factors-of-Production Valuation Memorandum to Edward Yang through James Doyle from Carrie Blozy, Catherine Bertrand and Doreen Chen, dated September 28, 2001.

For labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate at the Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in September 2001 (see *http://ia.ita.doc.gov/wages*). The source of the wage rate data on the Import Administration's web site is the 2000 Year Book of Labour Statistics, International Labor Organization (Geneva: 2000), Chapter 5B: Wages in Manufacturing.

For the by-products, steel slag and iron slag, we used U.S. domestic prices as surrogate values. In previous cases, the Department has determined not to value slag based on Indian Import Statistics because we found that the Indian import values were unusually high compared to the price of the subject merchandise. See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China, 66 FR 22183, 22191 (May 3, 2001) (''Hot-Rolled from the PRC Prelim''); Hot-Rolled Steel from the PRC; and Structural Steel Beams from the PRC. Consistent with these prior determinations, for purposes of the preliminary determination, the Department is valuing steel slag and iron slag based on values for slag from the U.S. Geological Survey *Minerals, Commodities Summaries* from 1998. We adjusted the value for inflation using the U.S. producer price index.

To value the by-products coke oven gas and steam, we: (1) Noted the BTU equivalent of coke oven gas or steam; (2) obtained a ratio of coke oven gas or steam to the BTU equivalent of natural gas; and (3) multiplied this ratio by the surrogate value of natural gas, which was taken from the 1999 financial report of EOG Resources, Inc. This natural gas value was also used in the investigation of hot-rolled steel from the PRC. See Hot Rolled Steel from the PRC Prelim.

We are not granting offsets for the recoveries of hot-rolled steel products and cold-rolled steel products for purposes of the preliminary determination. In its March 12, 2002, supplemental questionnaire response, Pangang explained that inferior steel products, which include hot-rolled and cold-rolled products, ''are those steels in good steel quality but which sizes do not meet client needs.'' We find that inferior hot-rolled and cold-rolled steel products represent sales of non-prime or secondary finished product and hence cannot be classified as by-products as they are more properly considered home market sales of hot-rolled and cold-rolled steel.

Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for the PRC when we make our final determination regarding sales at LTFV in this investigation, which, unless postponed, will be no later than 75 days after the publication of this notice in the **Federal Register**.

Suspension of Liquidation

Because of our preliminary affirmative critical circumstances finding, we are directing Customs to suspend liquidation of all entries of cold-rolled steel from the PRC entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date on which this notice is published in the **Federal Register**. See Critical Circumstances Notice. We are instructing Customs to require a cash deposit or the posting of a bond equal to the estimated preliminary dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

We determine that the following percentage weighted-average margins exist for the POI:

COLD-ROLLED FLAT CARBON STEEL FLAT PRODUCTS

Producer/Manufacturer/Exporter	Weighted-average margin (percent)
Pangang	129.85
PRC-Wide Rate	129.85

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/manufacturers that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of cold-rolled steel from the PRC are materially

injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than 50 days after the date of publication of this notice, and rebuttal briefs no later than 55 days after the date of publication of this notice. Rebuttal briefs must be limited to the issues raised in the case briefs. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held fifty-seven days after publication of this notice, at the U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). We will make our final determination, unless postponed, no later than 75 days after this preliminary determination.

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

Dated: April 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–11192 Filed 5–8–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–815]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From the Russian Federation

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

ACTION: Notice of preliminary determination of the less-than-fair-value investigation of certain cold-rolled carbon steel flat products from the Russian Federation.

SUMMARY: The Department of Commerce (''Commerce'') has preliminarily determined that imports of certain cold-rolled carbon steel flat products (''cold-rolled steel'') from the Russian Federation (''Russia'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV'').

EFFECTIVE DATE: May 9, 2002.

FOR FURTHER INFORMATION CONTACT: Juanita H. Chen 202–482–0409 or Aishe Allen at 202–482–0172, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 C.F.R. Part 351 (2001).

Background

On October 18, 2001, the Department initiated antidumping duty investigations to determine whether imports of cold-rolled steel from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela are being, or are likely to be, sold in the United States at LTFV. See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, 66 FR 54198 (October 26, 2001) (''Initiation Notice''). The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (''Petitioners'').[1]

On November 13, 2001, the International Trade Commission (''ITC'') preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of cold-rolled steel from all of these countries. See Certain Cold-Rolled Carbon Steel Products From Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, 66 FR 57985 (November 19, 2001).

On November 23, 2001, the Department issued its respondent selection memorandum, selecting JSC Severstal (''Severstal'') as the sole mandatory respondent to be investigated. See Memorandum from James C. Doyle to Edward C. Yang: Selection of Respondents, at 2 (November 23, 2001) (''Respondent Selection Memo''). On November 27, 2001, the Department issued its antidumping questionnaire to Severstal and to the Government of the Russian Federation (''GOR''). The Department received no responses to the questionnaire. See Memorandum to The File from Juanita H. Chen: Failure of Respondent JSC Severstal to Respond to Questionnaire (February 4, 2002) (''Failure to Respond Memo'').

On February 7, 2002, three of the petitioners requested that the Department postpone the preliminary determination by fifty days. See Letter to the Department from Bethlehem Steel Corporation, National Steel Corp., and United States Steel Corporation (February 7, 2002). On February 22, 2002, the Department postponed the preliminary determination in this investigation to April 26, 2002. See Postponement of Preliminary Determinations of Antidumping Duty Investigations: Certain Cold-Rolled

[1] Effective January 1, 2002, the party previously known as ''United States Steel LLC'' changed its name to ''United States Steel Corporation.'' See letter from Skadden, Arps, Slate, Meagher & Flom LLP (February 1, 2002).