

under this category is for the fees Kawasaki paid to a service provider rather than a rebate Kawasaki paid to its customers. We made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses, advertising, warranty expenses, technical service expenses, and the above-referenced fee. Finally, 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.

#### Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) of the Act directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see *Policy Bulletin 96-1: Currency Conversions* (61 FR 9434, March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the yen did not undergo a sustained movement.

#### Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

#### Suspension of Liquidation

In April 1999, the Department made an early determination of critical circumstances with respect to imports of subject merchandise from Japan. See *Preliminary Determination of Critical Circumstances: Certain Cut-To-Length Carbon-Quality Steel Plate From Japan* (April 26, 1999), 64 FR 2025. Thus, in accordance with section 733(e)(2) of the

Act, the Department will direct the U.S. Customs Service to suspend liquidation of all entries of CTL plate from Japan, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination of sales at LTFV.

We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

| Exporter/manufacturer                | Weighted-average margin percentage |
|--------------------------------------|------------------------------------|
| Kawasaki Steel Corporation           | 11.70                              |
| Kobe Steel, Ltd .....                | 59.12                              |
| Nippon Steel Corporation .....       | 59.12                              |
| NKK Corporation .....                | 59.12                              |
| Sumitomo Metal Industries, Ltd ..... | 59.12                              |
| All Others .....                     | 11.70                              |

#### 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.

#### Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than August 25, 1999, and rebuttal briefs no later than September 1, 1999. 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 on September 13, 1999, time and room to be determined, 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 75 days after the date of this preliminary determination.

This determination is issued and published pursuant to sections 733(d) and 777(i)(1) of the Act.

Dated: July 19, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 99-19304 Filed 7-28-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-836]

### Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea

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

**EFFECTIVE DATE:** July 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Frank Thomson or Howard Smith, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4793, or (202) 482-5193, respectively.

#### The Applicable Statute

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

#### Preliminary Determination

We preliminarily determine that certain cut-to-length carbon-quality steel plate products ("CTL plate") from the Republic of Korea ("Korea") are being, or are likely to be, sold in the United

States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from Czech Republic, France, India, Korea, Italy, Japan, Republic of Korea, and Former Yugoslav Republic of Macedonia* (64 FR 12959, March 16, 1999)) ("Initiation Notice"), the following events have occurred:

In their petition, the petitioners<sup>1</sup> identified Daekyung Corporation ("Daekyung"), Dongkuk Steel Mill Co., Ltd ("Dongkuk"), Korea Iron & Steel ("KISCO"), and Pohang Iron & Steel Co., Ltd ("POSCO") as possible exporters of CTL plate from Korea. We requested on March 12, 1999, data on all producers and exporters of the subject merchandise during the period of investigation ("POI") from the U.S. Embassy in Seoul. Based on information contained in the petition and received from the Embassy, the Department issued antidumping questionnaires to Daekyung, Dongkuk, KISCO, and POSCO on March 17, 1999.<sup>2</sup>

In April 1999, the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination in this case (see ITC Investigation No. 731-TA-815-822).

On April 27, 1999, POSCO and Dongkuk submitted responses to section A of the questionnaire. On May 5, 1999, Daekyung submitted a letter to the Department stating that it did not export the subject merchandise to the United States during the POI, with a request that it be excluded from further participation in the investigation. We subsequently informed Daekyung that these facts are subject to verification. POSCO and Dongkuk submitted responses to sections B and C on May

11, 1999, and responses to section D on May 14, 1999.

Petitioners filed comments on POSCO's section A through D responses on May 20, 1999, and May 28, 1999, and on Dongkuk's section A response on May 20, 1999 and on Dongkuk's sections B through D on May 27, 1999.

On May 28, 1999, we issued supplemental questionnaires for sections A, B, and C to POSCO and Dongkuk, and for section D to POSCO and Dongkuk on June 8, and 3, 1999 respectively. POSCO responded to our May 28, 1999, supplemental questionnaire on June 22, 1999; Dongkuk responded to our May 28, 1999, supplemental questionnaire on June 22, 1999 and on June 29 for the Section D supplemental questionnaire. Petitioners commented on POSCO's and Dongkuk's supplemental questionnaire on June 30, 1999. On July 2, 1999 we issued an additional supplemental questionnaire to POSCO.

In letters dated June 2, 8, and 14, 1999, Dongkuk requested that it be excused from reporting sales for its affiliate Korean Iron & Steel Co. Ltd. ("KISCO"). Dongkuk stated that KISCO had ceased production of subject merchandise early in the POI and had only an insignificant quantity of home market sales, and no U.S. sales of subject merchandise. Dongkuk argued that the Department should not collapse Dongkuk and KISCO. On June 4, 1999 petitioners argued that the Department should collapse Dongkuk and KISCO and require that its sales and costs be reported. On June 24, 1999, for the reasons outlined in its letters, we granted Dongkuk's request to be excused from reporting KISCO's sales and cost.

On June 11, 1999 we instructed POSCO to report downstream sales through five of its affiliated resellers. POSCO, in its Section A response and in subsequent submissions dated May 17, and June 1, 1999, had requested to be excused from reporting any sales through affiliated resellers. After reviewing certain supplemental information provided by POSCO, we selected the five resellers identified in the June 11, 1999 letter, and requested POSCO to provide a questionnaire response for these affiliated resellers. See *Affiliated Reseller Sales* section below.

#### Scope of Investigation

The products covered by the scope of this investigation are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal

or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS

<sup>1</sup> The petitioners are Bethlehem Steel Corporation, Gulf States Steel, Inc., IPSCO Steel Inc., Tuscaloosa Steel Corporation, United Steelworkers of America, and the U.S. Steel Group (a unit of USX Corporation).

<sup>2</sup> Section A of the questionnaire requested general information concerning the company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of that merchandise in all markets. Sections B and C of the questionnaire requested home market sales listings and U.S. sales listings. Section D of the questionnaire requested information regarding the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E of the questionnaire requested information regarding the cost of further manufacture or assembly performed in the United States.

AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to these investigations is classified in the HTSUS under subheadings:

7208.40.3030, 7208.40.3060,  
7208.51.0030, 7208.51.0045,  
7208.51.0060, 7208.52.0000,  
7208.53.0000, 7208.90.0000,  
7210.70.3000, 7210.90.9000,  
7211.13.0000, 7211.14.0030,  
7211.14.0045, 7211.90.0000,  
7212.40.1000, 7212.40.5000,  
7212.50.0000, 7225.40.3050,  
7225.40.7000, 7225.50.6000,  
7225.99.0090, 7226.91.5000,  
7226.91.7000, 7226.91.8000,  
7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

#### *Scope Comments*

As stated in our notice of initiation, we set aside a period for parties to raise issues regarding product coverage. In particular, we sought comments on the specific levels of alloying elements set out in the description below, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage.

On March 29, 1999, Usinor, a respondent in the French antidumping and countervailing duty investigations and Dongkuk Steel Mill Co., Ltd. and Pohang Iron and Steel Co., Ltd., respondents in the Korean antidumping and countervailing duty investigations (collectively the Korean respondents), filed comments regarding the scope of the investigations on CTL plate and the Department's model matching criteria. On April 14, 1999, the petitioners filed comments regarding Usinor's and the Korean respondents' comments regarding model matching. In addition, on May 17, 1999, ILVA S.p.A. (ILVA), a respondent in the Italian antidumping and countervailing duty investigations, requested guidance on whether certain products are within the scope of these investigations.

Usinor requested that the Department modify the scope to exclude: (1) Plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4" or thicker and which is certified for use in high-pressure, nuclear or other technical applications; and (3) floor plate (*i.e.*, plate with "patterns in relief") made

from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

The Department has not modified the scope of these investigations because the current language reflects the product coverage requested by the petitioners, and Usinor's products meet the product description. With respect to Usinor's clarification request, we do not agree that the scope language requires further elucidation with respect to product coverage under the HTSUS. As indicated in the scope section of every Department antidumping and countervailing duty proceeding, the HTSUS subheadings are provided for convenience and Customs purposes only; the written description of the merchandise under investigation or review is dispositive.

The Korean respondents requested confirmation whether the maximum alloy percentages listed in the scope language are definitive with respect to covered HSLA steels.

At this time, no party has presented any evidence to suggest that these maximum alloy percentages are inappropriate. Therefore, we have not adjusted the scope language. As in all proceedings, questions as to whether or not a specific product is covered by the scope and, hence, must be reported, should be timely raised with Department officials.

ILVA requested guidance on whether certain merchandise produced from billets is within the scope of the current CTL plate investigations. According to ILVA, the billets are converted into wide flats and bar products (a type of long product). ILVA notes that one of the long products, when rolled, has a thickness range that falls within the scope of these investigations. However, according to ILVA, the greatest possible width of these long products would only slightly overlap the narrowest category of width covered by the scope of the investigations. Finally, ILVA states that these products have different production processes and properties than merchandise covered by the scope of the investigations and therefore are not covered by the scope of the investigations.

As ILVA itself acknowledges, the particular products in question appear to fall within the parameters of the scope and, therefore, we are preliminarily treating them as covered merchandise.

#### *Period of Investigation*

The POI is January 1, 1998, through December 31, 1998.

#### *Fair Value Comparisons*

To determine whether sales of CTL plate from Korea to the United States were made at less than fair value, 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 calculated weighted-average EPs and CEPs for comparison to weighted-average NVs.

#### *Product Comparisons*

In accordance with section 771(16) of the Act, we considered all products produced by POSCO and Dongkuk covered by the description in the "Scope of Investigation" section, above, and sold in Korea during the POI 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 there were no sales of identical merchandise in the home market made in the ordinary course of trade, 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 (which are identified in Appendix V of the questionnaire): painting, quality, grade specification, heat treatment, nominal thickness, nominal width, patterns in relief, and descaling.

Because respondents had no sales of non-prime merchandise in the United States during the POI, we did not use home market sales of non-prime merchandise in our product comparisons (*see, e.g., Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Sweden* (63 FR 40449, 40450, July 29, 1998) ("SSWR")).

#### *Level of Trade*

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value ("CV"), that of the sales from which we derive

selling, general and administrative ("SG&A") expenses and profit. With respect to U.S. sales and EP transactions, the LOT is the level of the starting price sale, which is usually from the exporter to the importer. For CEP, the LOT is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

#### POSCO

POSCO reported that it sells at the same LOT in both markets. In order to determine whether NV was established at a different LOT than EP sales, we examined stages in the marketing process and selling functions along the chains of distribution between POSCO and its home market and U.S. customers. Based on our analysis of the chains of distribution and selling functions performed for EP sales in the U.S. market, we preliminarily determine that POSCO and its subsidiaries POSCO Steel Sales and Service Co., Ltd. ("POSTEEL") and POSAM (for EP sales) provided a sufficiently similar degree of services on sales to all channels of distribution, and that the sales made to the United States constitute one LOT.

Based on a comparison of the selling activities performed in the U.S. market to the selling activities in the home market, we preliminarily determine that there is not a significant difference in the selling functions performed in both markets. Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) of the Act is warranted. *See LOT Memo* dated July

19, 1999. *See also Affiliated Reseller Sales* section below.

#### Dongkuk

In the home market, Dongkuk reported one channel of distribution involving sales to distributors and affiliated and unaffiliated end-users. Dongkuk reported few selling activities for its home market sales. We examined the selling functions and found no appreciable difference between types of customers. Because there are no appreciable differences between the selling functions on sales made to different customers in the home market, sales to these customers represent a similar stage of marketing. Therefore, we preliminarily conclude that all Dongkuk's sales to end-users constitute one LOT in the home market.

For its EP and CEP sales in the U.S. market, Dongkuk reported four sales channels: (1) Dongkuk's sales through Dongkuk Industries Co., Ltd. ("DKI"), Dongkuk's affiliated trading company in Korea, to Dongkuk International, Inc. (DKA), Dongkuk's affiliate located in the United States, to unaffiliated customers; (2) Dongkuk's sales through DKI, to unaffiliated customers; (3) Dongkuk's sales to DKA, to an unaffiliated customer; and (4) Dongkuk's sales to an unaffiliated customer. We examined the selling functions performed for each of the four U.S. sales channels. These selling functions included freight and delivery arrangements, credit services, and post-sale warehousing. With the exception of freight and delivery arrangements for sales in channel 1, selling functions performed in the four sales channels were identical. Thus, sales to these customer categories represent a similar stage of marketing. Therefore, we preliminarily determine that the sales made to the United States constitute one LOT.

Further, because we preliminarily conclude that the U.S. LOT and the home market LOT included similar selling functions, we conclude that these sales are made at the same LOT. Therefore, a LOT adjustment for Dongkuk is not appropriate.

#### Export Price and Constructed Export Price

The Department considers several factors in making its determination concerning whether sales made prior to importation through a U.S. affiliate to an unaffiliated customer in the United States are EP sales. These factors are: (1) whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer without being introduced into the physical inventory of the affiliated selling agent;

(2) whether this is the customary commercial channels between the parties involved; and (3) whether the functions of the U.S. sales affiliates are limited to those of a "processor of sales-related documentation" and a "communication link" with the unrelated U.S. buyer. Where the factors indicate that the activities of the U.S. sales affiliate are ancillary to the sale, we treat the transactions as EP sales. Where the U.S. sales affiliate has a significant role in the sales process, we treat the transactions as CEP sales (e.g. *See Certain Cut-to-Length Carbon Steel Plate from Germany: Final Results of Antidumping Administrative Review*, 62 FR 18389, 18391 (April 15, 1997); *Mitsubishi Heavy Industries versus United States*, Slip Op. 98-82 at 6 (CIT, June 23, 1998)).

#### POSCO

POSCO reported four channels of distribution for U.S. sales. In channel 1 POSCO sold the subject merchandise directly to the United States. In channel 4 POSCO sold the subject merchandise directly to unaffiliated Korean trading companies for resale of subject merchandise to the United States. In channel 2, POSTEEL, which is POSCO's affiliated trading company, sold to a U.S. customer with the assistance of another affiliate, POA. In channel 3, POSTEEL sold to a U.S. customer through its U.S. affiliate POSAM. We classified the sales made through channel 2 as EP sales, since POA had no involvement in the selling process.

In channel 3, the U.S. affiliate, POSAM, was involved in all the sales made to unaffiliated U.S. customers. POSCO reported these sales as EP transactions in its responses. However, because POSAM is involved in the U.S. selling activities for these sales to some degree, we examined whether these sales should be properly classified as EP or CEP transactions.

We examine several factors to determine whether sales made prior to importation through an affiliated sales agent to an unaffiliated customer in the United States are EP sales. Based on our review of the selling activities of POSCO's U.S. affiliate, we preliminarily determine that EP is appropriate for POSTEEL's sales to the United States through POSAM. The customary commercial channel between POSCO and its unaffiliated customers is that POSCO ships the EP merchandise directly to the unaffiliated U.S. customers without having the merchandise enter into the inventory of the U.S. affiliates, and the U.S. affiliates' activities are limited to that of a "processor of sales-related

documentation" and a "communication link" with the unaffiliated U.S. buyers. Accordingly, for purposes of the preliminary determination, we are treating the sales in question as EP transactions. We will examine this issue further at verification.

We calculated EP in accordance with section 772(a) of the Act. We based EP on the relevant terms of delivery price to unaffiliated purchasers in the United States. We made deductions to the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling charges, ocean freight, U.S. brokerage and wharfage charges and U.S. Customs duty, where appropriate. Finally, we added to the U.S. price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act.

#### *Dongkuk*

For U.S. sales channels two and four, which are defined in the *Level of Trade* section above, we based our calculation on EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer or exporter to the first unaffiliated purchaser in the United States prior to importation, and CEP methodology was not otherwise indicated. For U.S. sales channels one and three, which are defined in the *Level of Trade* section above, we based our calculation on CEP, in accordance with section 772(b) of the Act, because the merchandise was sold by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

We have preliminarily determined that the affiliated purchaser in the United States, Dongkuk International, Inc. (DKA), did more than merely act as a "processor of sales-related documentation and a communication link with the unrelated U.S. buyer." (i.e., channels 1 and 3 sales) Where a U.S. affiliate is involved in making a sale, we normally consider the sale to be CEP unless the record demonstrates that the U.S. affiliate's involvement in making the sale is incidental or ancillary. The record demonstrates that Dongkuk International, Inc.'s role exceeds that of an incidental or ancillary role. See *LOT/CEP Memo* July 19, 1999.

We based EP on the price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign

inland freight, foreign wharfage and loading, foreign brokerage, international freight, marine insurance, domestic inland freight, and U.S. brokerage and wharfage. Additionally, we added to the U.S. price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act.

We calculated CEP, in accordance with subsections 772(b), (c), and (d) 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 prices to unaffiliated purchasers in the United States. We made deductions for discounts and rebates. Additionally we made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign wharfage and loading, foreign brokerage, international freight, marine insurance, domestic inland freight, U.S. brokerage and wharfage, U.S. duty and U.S. 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 (e.g., commissions, credit costs, bank charges, and warranty expenses), and indirect selling expenses. For CEP sales, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act. Additionally, we added to the U.S. price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act.

#### *Normal Value*

After testing (1) home market viability, (2) whether sales to affiliates were at arm's-length prices, and (3) whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-CV Comparisons" sections of this notice.

#### *1. Home Market Viability*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because each of the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of

U.S. sales for the subject merchandise, we determined that the home market was viable for both respondents.

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

##### *POSCO*

POSCO reported sales to affiliated parties in the home market. For sales to affiliated parties we applied the arm's-length test by comparing them to sales of identical merchandise from POSCO to unaffiliated home market customers. If these affiliated-party sales satisfied the arm's-length test, we used them in our analysis. Sales to affiliated customers in the home market not made at arm's-length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102.

To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses and packing. We added to the starting price interest revenue and duty drawback. 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) and 62 FR at 27355. 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 *SSWR* at 63 FR 40451. 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.

##### *Dongkuk*

Dongkuk also reported sales to affiliated parties in the home market. We applied the arm's-length test as described above.

#### *Affiliated Reseller Sales*

POSCO asked to be excused from reporting downstream sales through its numerous affiliated service centers. While we denied POSCO's request, we limited the number of service centers that POSCO would have to report. POSCO submitted its narrative questionnaire response on July 8, and its electronic database, along with certain supplemental information, on July 12,

1999. However, there are a number of problems associated with these data that made it difficult to reflect these reseller sales in our preliminary margin calculations. Most important is the fact that two of these resellers sell subject merchandise which they purchase from both POSCO and other unaffiliated suppliers. According to POSCO, these resellers cannot distinguish the producer of the subject merchandise. This makes it impossible to determine whether any given sale by these resellers was produced by POSCO and should be included in our analysis. In addition, petitioners have raised a number of issues regarding the proper treatment of these sales and accompanying adjustments. However, there is insufficient information on the record regarding these issues to make a satisfactory determination concerning the use of these sales in our antidumping analysis at this time. While we have not used these sales for purposes of the preliminary determination, we intend to address these issues in a supplemental questionnaire and determine whether and in what way to use this information in the final determination.

### 3. Cost of Production Analysis

In their petition, the petitioners submitted a countrywide allegation pursuant to section 773(b)(1) of the Act that Korean producers and exporters had made sales in the home market at less than the cost of production ("COP"). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that each Korean exporter sold CTL plate in the home market at prices at less than the COP. Accordingly, we initiated COP investigations with respect to the two Korean exporters to determine whether sales were made at prices less than the COP pursuant to section 773(b) of the Act (see *Initiation Notice* at 64 FR 12959, 12965).

We conducted the COP analysis described below.

#### A. Calculation of COP

In accordance with section 773(b)(3) of the Act, for each respondent we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product plus amounts for home market selling, general and administrative expenses ("SG&A"), interest expense, and packing costs. We relied on the COP data submitted by POSCO and Dongkuk in their section D questionnaire responses to calculate each company's weighted-average COPs for the POI, except for the following instances where the information was

improperly quantified or valued: (1) We increased Dongkuk's reported material cost for slabs purchased from affiliated suppliers to account for an understatement of the affiliated supplier's costs reflected in the transfer prices; (2) we increased Dongkuk's reported depreciation expense as a result of our disallowance of the extension of the useful lives for fixed assets; (3) we recalculated general and administrative expenses to exclude certain items which were unrelated to general operations; and (4) we recalculated interest expense to ensure consistency between this basis for this expense and the basis for the other reported costs. See *Memo To Neal Halper*, July 19, 1999. In addition, we analyzed Dongkuk's treatment of certain start-up costs as recorded in its accounting records in accordance with Korean GAAP. We have allowed this treatment for purposes of the preliminary determination as it appears to reasonably state Dongkuk's production costs. However, we will continue to probe this issue at verification and in the final determination.

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

We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below COP. In determining whether to disregard home market sales made at prices less than the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses.

#### C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, we also

determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

For both Dongkuk and POSCO, we found that, for certain grades of CTL plate, more than 20 percent of these firm's sales within an extended period of time were at prices less than COP.

#### D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of POSCO's and Dongkuk's cost of materials, fabrication, SG&A, interest, U.S. packing costs and profit. We made similar adjustments as those described above for COP. In accordance with sections 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

#### Price-to-Price Comparisons

We calculated NV based on prices to affiliated (where appropriate) and unaffiliated customers. We made deductions, where appropriate, from the starting price for inland freight, and also added duty drawbacks and interest revenue. We made adjustments for differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. 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, warranties, and commissions. In the case of Dongkuk, we recalculated its credit expenses in the home market because of inconsistencies in its sales response regarding this expense. See *Dongkuk Calculation Memo from Analyst to the File*. Finally, 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.

#### Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a home market match of the foreign like product. We made adjustments to CV in accordance with section 773(a)(8) of the Act. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses.

### Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. See *POSCO Calculation Memo from Analyst to the File* for an explanation of our treatment of currency conversion for the POI in this case.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) of the Act directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see *Policy Bulletin 96-1: Currency Conversions* (61 FR 9434, March 8, 1996).)

### Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are

entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, except those entries produced by POSCO.

We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. We will adjust the deposit requirements to account for any export subsidies found in the companion countervailing duty investigation. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

| Exported/manufacturer weighted-average | Margin percentage |
|--|-------------------|
| Dongkuk Steel Mill Co. Ltd ...         | 6.15              |
| Pohang Iron & Steel Co., Ltd           | .05               |
| All Others Rate .....                  | 6.15              |

### 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 157 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.

### Public Comment

Case briefs or other written comments and at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than August 25, 1999, and rebuttal briefs no later than September 1, 1999. 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 on September 14, 1999, time and room to be determined, 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 75 days after the date of this preliminary determination.

This determination is issued and published pursuant to sections 733(d) and 777(i)(1) of the Act.

Dated: July 19, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

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