(c) Unless a conference has been requested, the Office shall review and reassess any penalty if necessary to consider facts which were not reasonably available on the date of issuance of the proposed assessment because of the length of the abatement period. The Office shall serve a copy of any such reassessment and of the worksheet showing the computation of the reassessment in the manner provided in paragraph (b), within 30 days after the date the violation is abated.

§ 845.18 Procedures for assessment conference.

(a) The Office shall arrange for a conference to review the proposed assessment or reassessment, upon written request of the person to whom notice or order was issued, if the request is received within 15 days from the date the proposed assessment or reassessment is mailed.

(b)(1) The Office shall assign a conference officer to hold the assessment conference. The assessment conference shall not be governed by section 554 of Title 5 of the United States Code, regarding requirements for formal adjudicatory hearings. The assessment conference shall be held within 60 days from the date of issuance of the proposed assessment or the end of the abatement period, whichever is later, PROVIDED: that a failure by the Office to hold such conference within 60 days shall not be grounds for dismissal of all or part of an assessment unless the person against whom the proposed penalty has been assessed proves actual prejudice as a result of the delay.

(2) The Office shall post notice of the time and place of the conference at the State or field office closest to the mine at least 5 days before the conference. Any person shall have a right to attend and participate in the conference.

(3) The conference officer shall consider all relevant information on the violation. Within 30 days after the conference is held, the conference officer shall either:

(i) Settle the issues, in which case a settlement agreement shall be prepared and signed by the conference officer on behalf of the Office and by the person assessed; or

(ii) Affirm, raise, lower, or vacate the penalty.

(4) An increase or reduction of a proposed civil penalty assessment of more than 25 percent and more than $500 shall not be final and binding on the Secretary, until approved by the Director or his or her designee.

(c) The conference officer shall promptly serve the person assessed with a notice of his or her action in the manner provided in 30 CFR 845.17(b) and shall include a worksheet if the penalty has been raised or lowered. The reasons for the conference officer's action shall be fully documented in the file.

(d)(1) If a settlement agreement is entered into, the person assessed will be deemed to have waived all rights to further review of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a clause to this effect.

(2) If full payment of the amount specified in the settlement agreement is not received by the Office within 30 days after the date of signing, the Office may enforce the agreement or rescind it and proceed according to paragraph (b)(3)(ii) within 30 days from the date of the rescission.

(e) The conference officer may terminate the conference when he or she determines that the issues cannot be resolved or that the person assessed is not diligently working toward resolution of the issues.

(f) At formal review proceedings under sections 518, 521(a)(4), and 525 of the Act, no evidence as to statements made or evidence produced by one party at a conference shall be introduced as evidence by another party or to impeach a witness.

§ 845.19 Request for hearing.

(a) The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the reassessed or affirmed penalty to the Office of Hearings and Appeals (to be held in escrow as provided in paragraph (b) of this section) within 30 days from receipt of the proposed assessment or reassessment or 15 days from the date of service of the conference officer's action, whichever is later. The fact of the violation may not be contested if it has been decided in a review proceeding commenced under 30 CFR 843.16.

(b) The Office of Hearings and Appeals shall transfer all funds submitted under paragraph (a) of this section to the Office, which shall hold them in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in 30 CFR 845.20.

§ 845.20 Final assessment and payment of penalty.

(a) If the person to whom a notice of violation or cessation order is issued fails to request a hearing as provided in § 845.19, the proposed assessment shall become a final order of the Secretary and the penalty assessed shall become due and payable upon expiration of the time allowed to request a hearing.

(b) If any party requests judicial review of a final order of the Secretary, the proposed penalty shall continue to be held in escrow until completion of the review. Otherwise, subject to paragraph (c) of this section, the escrowed funds shall be transferred to the Office in payment of the penalty, and the escrow shall end.

(c) If the final decision in the administrative and judicial review results in an order reducing or eliminating the proposed penalty assessed under this part, the Office shall within 30 days of receipt of the order refund to the person assessed all or part of the escrowed amount, with interest from the date of payment into escrow to the date of the refund at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

(d) If the review results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the difference to the Office within 15 days after the order is mailed to such person.

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federal register

Monday
August 16, 1982

Part IV

Department of Commerce

International Trade Administration

Preliminary Determinations of Sales at Less Than Fair Value: Certain Steel Products From Belgium, Federal Republic of Germany, France, Italy, the Netherlands, United Kingdom; Carbon Steel Structural Shapes From Luxembourg and Carbon Steel Plate From Romania

DEPARTMENT OF COMMERCE

International Trade Administration

Preliminary Determinations of Sales at Less Than Fair Value: Certain Steel Products From Belgium

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Steel Products From Belgium.

SUMMARY: We have preliminarily determined that certain steel products from Belgium are being sold, or are likely to be sold, in the United States at less than fair value. Therefore, we have notified the United States International Trade Commission (ITC) of our determinations, and we have directed the United States Customs Service to suspend the liquidation of all entries of the subject merchandise (except as noted below) which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond for each such entry in the amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. We have determined that "critical circumstances" exist only for hot-rolled carbon steel sheet and strip imported from Cockerill Sambre by related companies.

With respect to imports of this product from Cockerill Sambre by related companies, this suspension of liquidation applies to unliquidated entries of the merchandise entered, or withdrawn from warehouse, for consumption, on or after the date which is 90 days before publication of this notice. Critical circumstances do not otherwise exist in these cases. Therefore, with respect to hot-rolled carbon steel sheet and strip imported from Cockerill by unrelated companies, and from companies other than Cockerill, and with respect to imports of carbon steel structural shapes and hot-rolled carbon steel plate, this suspension of liquidation applies to entries of the subject merchandise made on or after the date of publication of this notice. We also have preliminarily determined that Siderurgie Maritime should be excluded from these preliminary determinations with respect to hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip because we found no sales at less than fair value for this company. If these investigations proceed normally, we will make final determinations by October 25, 1982.

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1785.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

We have preliminarily determined that there is a reasonable basis to believe or suspect that certain steel products from Belgium are being sold, or are likely to be sold, in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have found no sales at less than fair value of hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip by Siderurgie Maritime. Therefore, we are excluding imports of these products from Siderurgie Maritime from these preliminary determinations.

For carbon steel structural shapes we have found that the foreign market value exceeded the United States price on 23.40 percent of sales. These margins ranged from 0.01 percent to 17.97 percent. The overall weighted-average margin on all sales compared is 1.14 percent.

For hot-rolled carbon steel plate we have found that the foreign market value exceeded the United States price on 30.22 percent of sales. These margins ranged from 0.00 percent to 26.62 percent. The overall weighted-average margin on all sales compared is 1.88 percent.

For hot-rolled carbon steel sheet and strip we have found that foreign market value exceeded the United States price on 89.08 percent of sales. These margins ranged from 0.00 percent to 24.87 percent. The overall weighted-average margin on all sales compared is 9.83 percent.

The weighted-average margins for individual companies investigated are given for each product in the "Suspension of Liquidation" section of this notice.

If these investigations proceed normally, we will make final determinations by October 25, 1982.

Case History

On January 11, 1982, we received petitions from United States Steel Corporation and counsel for Bethlehem Steel Corporation, filed on behalf of the United States industry producing certain steel products. The petitioners alleged certain steel products from Belgium are being, or are likely to be, sold in the United States at less than fair value, and that such sales are materially injuring, or threatening to materially injure, a United States industry. The petitioners also alleged sales in the home market were made at prices below the cost of production. In addition, counsel for Bethlehem Steel Corporation alleged that "critical circumstances," as defined in section 733(e) of the Act, exist in these cases.

After reviewing the petitions, we determined they contained sufficient grounds to initiate antidumping investigations. We notified the ITC of our actions and initiated such investigations on February 1, 1982 (47 FR 5745). The ITC subsequently found, on February 26, 1982, that there is a reasonable indication that imports of carbon steel structural shapes, hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip from Belgium are materially injuring, or are threatening to materially injure, a U.S. industry. We determined these cases to be "extraordinarily complicated," as defined in section 733(c) of the Act. Therefore, we extended the period for making preliminary determinations by 50 days until August 9, 1982 (47 FR 23508).

Questionnaires were presented to Forges de Clabecq (Clabecq), Fabrique de Fer de Charleroi (Fabfer), Cockerill Sambre (Cockerill) and Siderurgie Maritime (Sidmar) on February 15, 1982. Responses to our questionnaires were received during the period from April 30 to June 1, 1982.

Scope of Investigations

The products covered by these investigations are:

- Carbon steel structural shapes.
- Hot-rolled carbon steel plate.
- Hot-rolled carbon steel sheet and strip.

The products are fully described in Appendix A which follows this notice.

Since Clabecq, Fabfer, Cockerill and Sidmar produce virtually all the carbon steel structural shapes, hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip exported from Belgium to the United States, we limited our investigations to them.

These investigations cover the period from April 1 to September 30, 1981.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by all four companies, because the merchandise was sold to unrelated purchasers prior to its importation into the United States. Where applicable, prices to unrelated exporters who resell the merchandise to Unites States importers were used to represent purchase price, since the manufacturers know at the time of the sales that the merchandise is destined for the United States.

We calculated the purchase price based on the f.o.b., c.&f., c.i.f., or c.i.f. landed, duty paid, packed or unpacked prices to unrelated customers in the United States or to unrelated exporters who resell the merchandise to United States customers. We made deductions, were appropriate, for discounts, inland freight in Belgium, ocean freight, marine insurance, brokerage charges, miscellaneous port charges, United States duties and sales commissions. We also made additions, where appropriate, for rebated import duties.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value based on home market sales or, where appropriate, on constructed value. For purposes of determining similar merchandise under section 771(16) of the Act, we made comparisons based on dimensional categories selected by a Commerce Department industry expert.

The petitioners alleged that sales in the home market were at prices below the cost of producing carbon steel structural shapes, hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip. Cockerill and Sidmar did not provide sufficient information on home market sales to enable us to determine whether their home market seles were at less then cost. These companies are further discussed below. For Clabecq and Fabfer, we examined production costs, including materials, fabrication and general expenses. To avoid possible double counting, we have subtracted from the reported costs of production certain production costs apparently absorbed by the government in the form of grants. These grants were preliminarily determined to be subsidies in the recent notice of "Preliminary Affirmative Countervailing Duty Determinations Certain Steel Products from Belgium" (47 Fed. Reg. 26300). This is consistent, we believe, both with past practice and with the statement of the Court of International Trade in *Connors Steel Company* v. *United States* (CIT , Slip Op. 81-110, November 24, 1981). We invite comments from interested parties on this approach and methodology.

In the case of Clabecq, for certain categories of hot-rolled carbon steel plate, we found that sales were made at less than cost over an extended period of time, in substantial quantities and at prices not permitting recovery of all costs within a reasonable period of time. Consequently, we could not use sales in the home market for these categories of hot-rolled carbon steel plate to determine foreign market value. In the case of Fabfer, for one category of hot-rolled carbon steel plate there were no comparable sales in the home market. Therefore, we used constructed value. For both companies, for all other categories of hot-rolled carbon steel plate and for hot-rolled carbon steel sheet and strip, there were sufficient sales at or above cost of comparable merchandise. Therefore, for these categories we used home market sales prices to determine foreign market value.

Where applicable, we calculated the home market prices for Clabecq and Fabfer on the basis of ex-mill or "free of charge" unpacked prices to unrelated customers. We made deductions, where appropriate, for inland freight and discounts.

Clabecq claimed circumstances of sale adjustments for differences in the costs of credit, testing, warehousing and technical services. We did not make any of these adjustments. The credit expense claim was not allowed because we did not receive sufficient information to calculate the amount of the adjustment. The testing expense claim was not allowed because we had insufficient information to determine whether or not this expense was directly related to the sales. We will seek more information concerning these claims. The warehousing and technical services claims were not allowed because we have preliminarily determined that they are not directly related to the sales under consideration.

For Clabecq and Fabfer, we calculated constructed value by adding the cost of materials, fabrication, general expenses, and profit. We used the cost data provided in the responses as the basis for constructed value except for claimed depreciation for which we used the depreciation expense itemized in the financial statements. In the case of Clabecq, we did not allow certain claims for adjustments to the cost of production including the adjustment of production cost of the plate rolling mill for abnormal running; provision for future rebuilding of blast furnaces; adjustment for slabs not used in making plate; imputed costs for mark-down in material inventories; and price differences between slabs ex-ingot and slabs ex-continuous casting.

For general expenses, in the case of Clabecq, we used the actual general expenses, as calculated by the Department, because they exceeded the statutory minimum of 10 percent. In the case of Fabfer, we used the statutory minimum of 10 percent of the total cost of materials and fabrication, since the actual expenses were less than the statutory minimum. For profit, in the case of Clabecq, we used the statutory minimum of 8 percent of the sum of general expenses and costs since the actual profit was less than the statutory minimum. In the case of Fabfer, we used the company's actual profit since it exceeded the statutory minimum of 8 percent. We did not add packing since merchandise sold to the United States is sold unpacked. We substracted the value of grants, as described above.

With respect to Cockerill and Sidmar we used the best information available as required by section 776(b) of the Act to determine foreign market value. Cockerill and Sidmar did not supply data on a substantial amount of home market sales. However, we used their cost of production information as the best information available, because it was not determined that the responses were incomplete until too late to permit a supplemental response in time for use in these preliminary determinations.

We calculated constructed value for Cockerill and Sidmar by taking the amounts provided by them for materials and fabrication and, in accordance with the Act, adding an amount for general expenses equal to the greater of the respondents' actual expenses, or 10 percent of the amounts given for materials and fabrication. In addition, we added an amount for profit equal to the greater of the profit reported by the respondents, or the 8 percent statutory minimum. Where appropriate, we added packing costs incurred on certain sales to the United States. We also subtracted for the value of grants, as described above.

Supplemental Information Requested

We are requesting Clabecq to provide us with additional information on claims for circumstances of sale adjustments for differences in the cost of credit and testing, and on claims concerning uncollected export duties and taxes. We are also seeking supplemental information on Clabecq's cost of production. We need additional information on the following factors of production: materials, labor, factory overhead, and general and administrative expenses. In addition, we are requesting supplemental information on adjustments to the cost of production claimed by Clabecq. Although the response was incomplete on the above items, we used Clabecq's data as the best information available for the purposes of our preliminary determinations as discussed in the "Foreign Market Value" section of this notice.

If this supplemental information is not received by September 1, 1982, we may use only some or none of the partial information received in making our final determinations. In that instance, we may resort to using the best information available.

We are requesting Cockerill and Sidmar to provide us with all home market sales information originally requested in our questionnaire but not contained in their responses. Although the responses were incomplete in this regard, we used them as the best information available for purposes of our preliminary determinations as discussed in the "Foreign Market Value" section of this notice.

If this supplemental information is not received by September 1, 1982, we may use only some or none of the partial information received in making our final determinations. In that instance, we may resort to using the best information available.

Partial Affirmative Determination of Critical Circumstances

Counsel for Bethlehem Steel Corporation alleged that imports of steel products under investigation present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist when there is a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

In preliminarily determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period, we considered the following factors: recent import penetration levels; changes in import penetration since the date of the ITC's preliminary affirmative determinations of injury; whether imports have surged recently; whether recent imports are significantly above the average calculated over the last 3½ years (January 1979–June 1982); and whether the pattern of imports over that 3½ year period may be explained by seasonal swings. Import statistics available to the Department of Commerce are combined for Belgium and Luxenbourg. However, Cockerill points out in its "Memorandum . . . concerning 'Critical Circumstances' " (at 6), "Based upon the export statistics of these countries, Belgium accounts for practically all imports of plate and hot-rolled sheet and approximately half the imports of structurals."

Based upon our consideration, we preliminarily determine that in the context of the steel industry, imports of hot-rolled carbon steel sheet and strip and hot-rolled carbon steel plate, and possibly carbon steel structural shapes, appear massive over a relatively short period (March through June, 1982).

We therefore proceed to consider whether there is a history of dumping of these products in the United States or elsewhere; or whether the person by whom, or for whose account, these products were imported knew or should have known that the product was being sold at less than its fair value. We believe there is a reasonable basis to believe or suspect that the importer knew or should have known that a product was being dumped: (a) Whenever margins calculated on the basis of responses to the Department's questionnaire are sufficiently large that the importer should have known that prices for sale to the United States (as adjusted according to the antidumping law) were significantly below home market sales (or third country sales or cost of production, as applicable), or (b) whenever its price was recurringly, significantly less than the applicable price established by the Department under the Trigger Price Mechanism ("TPM") (45 FR 66833, which has been suspended since January 11, 1982 (47 FR 2392)). The price levels so established were based upon the cost of production of comparable steel products produced in Japan, which was considered to be on average the world's most efficient steel producer. Where the price of an imported steel product was lower than the price for the comparable Japanese merchandise, we could reasonably infer that the person by whom, or for whose account the merchandise was imported knew or should have known that it was being sold below fair value. In addition, while the TPM was being applied, the Department notified importers of each significant shipment of these products from Belgium/Luxenbourg which entered the United States at prices below the comparable trigger prices. Therefore, all importers had constructive notice, and many additionally had actual notice, of what sorts of shipments might be subject to antidumping investigations under the TPM.

With respect to hot-rolled carbon steel sheet and strip imported from Cockerill by related companies, we believe that the margins are so large that there is a reasonable basis to believe or suspect that these importers knew or should have known that imports of that product from that company were being sold in the United States at less than fair value. We note that this determination may change if the dumping margin for Cockerill is significantly reduced in our final determination on hot-rolled carbon steel sheet and strip from Belgium. With respect to hot-rolled carbon steel sheet and strip imported from Cockerill by unrelated companies and from all other Belgian companies, and with respect to all other products covered by these investigations, the margins are not sufficiently large to justify this inference. In the case of carbon steel structural shapes, hot-rolled carbon steel plate, and hot-rolled carbon steel sheet and strip imported from Cockerill by unrelated companies, and from companies other than Cockerill, the difference between the average import price during the second half of 1981 (the most recent period for which TPM data are available) and the comparable trigger price is too small to warrant or sustain an inference that importers knew or should have known that this merchandise was being sold in the United States at less than fair value.

To ascertain whether there is a history of dumping of these products, on the other hand, we reviewed our and the Department of the Treasury's past antidumping determinations. Although there have been past United States antidumping petitions on these products from Belgium, the petitions were withdrawn and no dumping determinations were made. We also reviewed the antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. We found no history of dumping of these products from Belgium.

For the reasons described above, we preliminarily determine that critical circumstances exist for hot-rolled carbon steel sheet and strip imported from Cockerill by related companies, but do not exist for the other products subject to these investigations.

Verification

We will verify all data used in reaching final determinations in these investigations.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of carbon steel structural shapes, hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip from Belgium, with the exception of hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip produced by Sidmar. With respect to hot-rolled carbon steel sheet and strip imported from Cockerill by related companies, this suspension of liquidation applies to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date of publication of this notice. With respect to hot-rolled carbon steel sheet and strip imported from Cockerill by unrelated companies, and from companies other than Cockerill, and with respect to all other products covered by these investigations, this suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin by which the foreign market value of the merchandise subject to these investigations exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

	Weighted-Average Margin (percent)
Carbon Steel Structural Shapes:	
Cockerill Sambre (Cockerill)	1.14
Other manufacturers/producers/exporters	1.14
Hot-Rolled Carbon Steel Plate:	
Forges de Clabecq (Clabecq)	1.70
Fabrique de Fer de Charleroi (Fabfer)	0.79
Cockerill Sambre (Cockerill)	5.17
Siderurgie Maritime (Sidmar)	[1] 0.00
Other manufacturers/producers/exporters	5.17
Hot-Rolled Carbon Steel and Strip:	
Forges de Clabecq (Clabecq)	0.86
Cockerill Sambre (Cockerill)	10.88
Siderurgie Maritime (Sidmar)	[1] 0.00
Other manufacturers/producers/exporters	10.88

[1] Imports of these products from Sidmar are excluded from these preliminary determinations.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on September 7, 1982, at the United States Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by August 31, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of publication of this notice, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

August 9, 1982.

Appendix A—Description of Products

For purposes of these investigations:

1. The term *"carbon steel structural shapes"* covers hot-rolled, forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule 6, Part 2 of the *Tariff Schedules of the United States Annotated ("TSUSA")*, for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the *TSUSA*, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *TSUSA*. Such products are generally referred to as structural shapes.

2. The term *"hot-rolled carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615, or 607.94, of the *Tariff Schedules of the United States Annotated ("TSUSA")*; and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or placted with zinc, as currently provided for in items 608.0710 or 608.11 of the *TSUSA*. Semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included.

3. The term *"hot-rolled carbon steel sheet and strip"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a hot-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches[1] in width and in coils or if not in coils under 0.1875 inch in thickness and over 12 inches in width;[2] as currently provided for in items 607.6610, 607.6700, 607.8320, 607.8342, or 607.9400 of the *Tariff Schedules of the United States Annotated ("TSUSA"). PLEASE NOTE THAT THE DEFINITION OF HOT-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA ITEMS (607.6610 AND 607.8320).* Hot-rolled carbon steel strip is a flat-rolled steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled, not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and not over 12 inches in width; as currently provided for in items 608.1920, 608.2120, or 608.2320 of the *TSUSA*. Hot-rolled carbon steel strip originally rolled less than 12 inches in

[1] Amended from 12 inches in the initiation notice.

[2] Initiation notice amended by adding after thickness "and over 12 inches in width."

width and containing over 0.25 percent carbon is not included.

4. The term *"cold-rolled carbon steel sheet and strip"* covers the following cold-rolled carbon steel products. Cold-rolled carbon steel sheet is a cold-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and in coils or if not in coils under 0.1875 inch in thickness; as currently provided for in items 607.8320 or 607.8344 of the *Tariff Schedules of the United States Annotated ("TSUSA"). PLEASE NOTE THAT THE DEFINITION OF COLD-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEM 607.8320).* Cold-rolled carbon steel strip is a flat-rolled carbon steel product; cold-rolled, whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width; as currently provided for in items 608.1940, 608.2140, or 608.2340 of the *TSUSA*. Cold-rolled carbon steel strip, originally rolled less than 12 inches in width and containing over 0.25 percent carbon is not included.

5. The term *"galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheert which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710, 608.0730, 608.11 or 608.13 of the *Tariff Schedules of the United States Annotated ("TSUSA"). NOTE THAT THE DEFINITION OF GALVANIZED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 608.0710 and 608.11).* Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc is not included.

6. the term *"hot-rolled carbon steel bars"* covers hot-rolled carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed, and not coated or plated with metal, as currently provided for in items 606.8310, 606.8330, or 606.8350 of the *Tariff Schedules of the United States Annotated.*

7. the term *"hot-rolled alloy steel bars"* covers hot-rolled alloy steel products, other than those of stainless or tool steel, of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed,[3] as currently provided for in item 606.97 of the *Tariff Schedules of the United States.*

8. the term *"cold-formed carbon steel bars"* covers cold-formed carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, * * * as currently provided for in items 606.8805 or 606.8815 of the *Tariff Schedules of the United States Annotated.*

9. the term *"cold-formed alloy steel bars"* covers cold-formed alloy steel products, other than those of stainless or tool steel, of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons,[3] as currently provided for in item 606.99 of the *Tariff Schedules of the United States.*

[FR Doc. 82-22104 Filed 8-13-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Determinations of Sales at Less Than Fair Value: Certain Steel Products From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Steel Products From the Federal Republic of Germany.

SUMMARY: We have preliminarily determined that certain steel products from the Federal Republic of Germany (FRG) are being sold, or are likely to be sold, in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determinations, and we have directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise (except as noted below) which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. We have determined that "critical circumstances" do not exist in these cases.

We have also preliminarily determined that imports of carbon steel structural shapes and hot-rolled carbon steel sheet and strip from Stahlwerke Piene-Salzgitter AG should be excluded from the preliminary determinations because we found no sales at less than fair value. We also have perliminarily determined that imports of hot-rolled carbon steel plate from Klockner Werke AG, imports of hot-rolled carbon steel sheet and strip from Krupp Stahl AG and imports of cold-rolled carbon steel sheet and strip from Stahlwerke Piene-Salzgitter AG should be excluded from these determinations because we found 0.26%, 0.03% and 0.03% weighted-average margins, respectively. These margins are *de minimis.*

If these investigations proceed normally, we will make final determinations by October 25, 1982.

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

We have preliminarily determined that there is a reasonable basis to believe or suspect that certain steel products from the FRG are being sold, or are likely to be sold, in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

We have also preliminarily determined that imports of carbon steel structural shapes and hot-rolled carbon steel sheet and strip from Stahlwerke Piene-Salzgitter AG should be excluded from the preliminary determinations because we found no sales at less than fair value. We also have preliminarily determined that imports of hot-rolled carbon steel plate from Klockner Werke AG, imports of hot-rolled carbon steel sheet and strip from Krupp Stahl AG and imports of cold-rolled carbon steel sheet and strip from Stahlwerke Piene-Salzgitter AG should be excluded from these determinations because we found 0.26%, 0.03% and 0.03% weighted-average margins, respectively. These margins are *de minimis.*

For carbon steel structural shapes we have found that the foreign market value exceeded the United States price on 42.6% of sales. These margins ranged from 0.00% to 43.39%. The overall weighted-average margin on all sales compared is 4.94%.

For hot-rolled carbon steel plate we have found that the foreign market value exceeded the United States price on 77.2% of sales. These margins ranged

[3] Initiation notice amended by deleting after octagons "and not coated or plated with metal."

from 0.00% to 34.62%. The overall weighted-average margin on all sales compared is 8.22%.

For hot-rolled carbon steel sheet and strip we have found that the foreign market value exceeded the United States price on 41.8% of sales. These margins ranged from 0.00% to 35.70%. The overall weighted-average margin on all sales compared is 3.94%.

For cold-rolled carbon steel sheet and strip we have found that the foreign market value exceeded the United States price on 44.1% of sales. The margins ranged from 0.00% to 52.04%. The overall weighted-average margin on all sales compared is 6.43%.

The weighted-average margins for individual companies investigated are given for each product in the "Suspension of Liquidation" section of this notice.

The estimated margins for Thyssen, Dillinger, Otto Wolff, Rochling, Hoesch and Klockner are based, wholly or in part, on the best information available as explained in the sections of this notice which describe our fair value comparisons and calculations. These margins could change substantially if new information is furnished in a timely fashion and verified.

If these investigations proceed normally, we will make final determinations by October 25, 1982.

Case History

On January 11, 1982, we received petitions from United States Steel Corporation and counsel for Bethlehem Steel Corporation, filed on behalf of the United States industry producing certain steel products. The petitions alleged that certain steel products from the FRG are being sold in the United States at less than fair value, and that such sales are materially injuring, or are threatening to materially injure, a United States industry. The petitioners also alleged sales in the home market at prices below the cost of production, and that "critical circumstances," as defined in section 733(e) of the Act, exist in these cases.

After reviewing the petitions, we determined they contained sufficient grounds to initiate antidumping investigations. We notified the ITC of our actions and initiated such investigations on February 1, 1982 (47 FR 5742). The ITC subsequently found, on February 26, 1982, that there is a reasonable indication imports of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip are materially injuring, or are threatening to materially injure, a United States industry. We determined these cases to be "extraordinarily complicated," as defined in section 733(c) of the Act. Therefore, we extended the period for making preliminary determinations by 50 days until August 9, 1982 (47 FR 23508).

Questionnaires were presented to AG der Dillinger Huttenwerke (Dillinger), Stahlwerke Peine-Salzgitter AG (P & S), Klockner-Werke AG (Klockner), Krupp Stahl AG (Krupp), Otto Wolff AG (Otto Wolff), Thyssen AG (Thyssen), Hoesch Werke AG (Hoesch), and Stahlwerke Rochling-Burbach GmbH (Rochling) on February 15, 1982. Responses were received on May 3, 1982. Rochling did not respond.

Scope of Investigations

The following products are covered by these investigations:

- Carbon steel structural shapes
- Hot-rolled carbon steel plate
- Hot-rolled carbon steel sheet and strip
- Cold-rolled carbon steel sheet and strip

The products are fully described in Appendix A which appears with the notice of "Preliminary Determinations of Sales at Less than Fair Value: Certain Steel Products from Belgium" in this issue of the **Federal Register**.

Since Hoesch, P & S, and Rochling manufacture and export approximately 85% of the carbon steel structural shapes exported from the FRG to the United States, we limited our investigation on carbon steel structural shapes to them.

Since Dillinger, Klockner, and Thyssen manufacture and export approximately 90% of the hot-rolled carbon steel plate exported from the FRG to the United States, we limited our investigation on hot-rolled carbon steel plate to them.

Since Krupp, P & S, Klockner, and Thyssen manufacture and export approximately 95% of the hot-rolled carbon steel sheet and strip exported from the FRG to the United States, we limited our investigation on hot-rolled carbon steel sheet and strip to them.

Since P & S Klockner, Thyssen, Otto Wolff, and Hoesch manufacture and export approximately 85% of the cold-rolled carbon steel sheet and strip exported from the FRG to the United States, we limited our investigation on cold-rolled carbon steel sheet and strip to them.

These investigations cover the period from April 1 to September 30, 1981, for purchase price sales and from July 1 to December 31, 1981, for exporter's sales price transactions.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price to represent United States price for sales by Dillinger, Otto Wolff, Klockner, and Krupp because the merchandise was sold to unrelated purchasers prior to its importation into the United States. For Thyssen, Hoesch, and P & S, we used both purchase price and exporter's sales price, because these companies sold some merchandise to unrelated purchasers prior to its importation into the United States and some to unrelated purchasers in the United States after the date of importation.

We calculated the purchase price based on the f.o.b., c&f., c.i.f., or c.i.f., duty paid, packed price to unrelated purchasers in the United States. Where appropriate, we made deductions for insurance, ocean freight, inland freight, United States duty, brokerage charges and discounts.

When we used exporter's sales price, we made additional deductions, where appropriate, for credit costs, warehousing costs, technical service costs, and other selling expenses.

Krupp sold some hot-rolled carbon steel sheet and strip to unrelated purchasers after importation. However, we did not have sufficient information on its expenses incurred in the United States to calculate properly exporter's sales price. Since these sales represented only a small amount of Krupp's sales to the United States, we did not use them in our comparisons.

With respect to some of Hoesch's sales of cold-rolled carbon steel sheet and strip, we used best information available as required in section 776(b) of the Act to make fair value comparisons. Hoesch provided us with exporter's sales price data based on average resale prices for one subsidiary. After repeated requests, Hoesch did not furnish us with sale specific exporter's sales price data on these sales, which accounted for approximately 20% of Hoesch's sales to the United States. Use of an average exporter's sales price is not permitted by the statute. Therefore, it was impossible to determine a usable exporter's sales price for individual transactions for comparison purposes without resorting to the best information available. We used as the best information available the estimated margin in the United

States Steel Corporation petition on cold-rolled carbon steel sheet and strip, which was the most adverse to the respondent. Hoesch's other United States subsidiary submitted an incomplete exporter's sales price response. Since these sales represented less than one percent of Hoesch's sales to the United States, we disregarded them.

With respect to some of Hoesch's sales of carbon steel structural shapes, we used best information available as required in section 776(b) of the Act to make fair value comparisons. After repeated requests, Hoesch did not provide a response on sales of structural shapes produced by one FRG subsidiary. This made it impossible for us to make fair value comparisons without resorting to the best information available. These sales accounted for approximately 10% of total sales of carbon steel structural shapes to the United States during the period of investigation. Therefore, we used as the best information available the estimated margin in the United States Steel Corporation petition on carbon steel structural shapes, which was most adverse to the respondent.

With respect to Rochling, we used best information available as required in section 776(b) of the Act to make fair value comparisons. After repeated requests, Rochling did not provide a response on sales of structural shapes. This made it impossible for us to make fair value comparisons without resorting to the best information available. Therefore, we used as the best information available the estimated margin in the United States Steel Corporation petition on carbon steel structural shapes, which was most adverse to the respondent.

Foreign Market Value

1. *General Methodology.* In accordance with section 773 of the Act, we used home market prices, where there were sufficient home market sales to determine foreign market value. Where there we no insufficient sales of such or similar merchandise in the home market at or above cost, or where there were no sales of such or similar merchandise, we used constructed value. For purposes of determinating such or similar merchandise under section 771(16) of the Act, we made comparisons based on dimensional categories selected by a Commerce Department industry expert.

The petitioners alleged that sales in the home market were at prices below the cost of producing carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip. Where possible, we examined production costs, including materials, labor and general expenses. To avoid possible double-counting, we have subtracted from the reported costs of production certain production costs apparently absorbed by the government in the form of grants. These grants were preliminarily determined to be subsidies in the recent notice of "Preliminary Affirmative Countervailing Duty Determinations Certain Steel Products from the Federal Republic of Germany" (47 FR 26321). This is consistent, we believe, both with past practice and with the statement of the Court in *Connors Steel Company v. United States* (—CIT—, Slip Op. 81-110, November 24, 1981). We invite comments from interested parties on this approach and methodology.

We found sales of certain categories of carbon steel structural shapes were made at or below cost over an extended period of time, in substantial quanities and at prices not permitting recovery of all costs within a reasonable period of time. Consequently, we could not use sales in the home market to determine the foreign market value of these categories of carbon steel structural shapes. Therefore, we used constructed value. For all other categories of carbon steel structural shapes, all categories hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip, there were sufficient sales in the home market at or above cost. Therefore, we used home market prices to determine foreign market value of these categories of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip. For certain other categories of hot-rolled carbon steel sheet and strip, there were no comparable sales in the home market. Therefore, we used constructed value.

For P & S, Klockner, Krupp and Hoesch, home market prices were based on the delivered, ex-mill basing point or ex-factory prices to unrelated purchasers. We made deductions, were appropriate, for inland freight, discounts and rebates. We made adjustments, where appropriate for differences in merchandise, credit costs, commissions, and packing. However, were we compared exporter's sales price with the home market price, we treated adjustments for credit costs and commissions as deductions. In addition, indirect selling expenses were deducted to offset United States selling expenses. Adjustments for differences in merchandise were based on differences in the costs of materials, direct labor and directly related factory overhead. These included an adjustment claimed by Hoesch, for the theoretical minimum weight on sales of cold-rolled carbon steel sheet and strip. We invite comments on the appropriateness of such an adjustment.

For Klockner, Krupp and Hoesch, we calculated constructed value by adding the costs of materials and fabrication, general expenses, profit and the cost of packing in accordance with section 773 of the Act. We deducted home market selling expenses and added those expenses incurred in selling the subject merchandise in the United States. After ascertaining that the amount for general expenses was greater than the statutory minimum of 10% of the costs of materials and fabrication, we added the statutory minimum of 8% of the sum of the actual general expenses and costs as the amount for profit usually reflected in sales of the subject merchandise by manufacturers in the country of exportation, since actual profit was lower than 8% or there was no profit. We added the cost of packing for exports to the United States, where appropriate, and subtracted the value of grants, as described above.

2. *Company Methodology.*

A. *P & S.* With respect to P & S, we found sufficient sales at or above cost on all carbon steel structural shapes, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip. Therefore, we based our comparisons on home market prices.

P & S sold "tear plate", a form of unpickled hot-rolled carbon steel sheet, to the United States and a third country. There were no sales of tear plate in the home market. Although P & S did report on sales to a third country, we did not use the third country sales since we had sales of similar merchandise in the home market. We compared tear plate sold to the United States to the most similar merchandise sold in the home market with an adjustment for differences in merchandise.

On sales of carbon steel structural shapes, P & S claimed adjustments for differences in merchandise based on a lower yield in the home market, higher roller usage, reheating, additional finishing and handling. We disallowed these claims as not being demonstrated to be directly related to differences in physical characteristics.

B. *Dillinger.* With respect to Dillinger, we used best information available as required by section 776(b) of the Act to determine foreign market value. After repeated requests, Dillinger did not provide data on the physical dimensions of its hot-rolled carbon steel plate sold to the United States and in the home market. Without the data on physical dimensions, it was impossible to determine similar merchandise, since dimension significantly affects the unit price of carbon steel plate. Therefore, we used as best information available the constructed value as estimated in the Bethlehem Steel Corporation petition on hot-rolled carbon steel plate, since it was the only petition with a cost estimate for "heavy" plate, the product sold by Dillinger. The petitions did not indicate whether they included the 10% statutory minimum for general expenses. Since they stated that the constructed value could be computed by adding the 8% statutory minimum profit and packing, we assumed that general expenses of at least 10% were included. We added the 8% statutory minimum for profit and respondent's packing costs. We subtracted the value of grants, as described in the "General Methodology" section of this notice.

C. *Klockner.* With respect to Klockner, we used best information available for sales of hot-rolled carbon steel plate and hot-rolled carbon steel sheet and strip, as required by section 776(b) of the Act, to determine foreign market value. Although Klockner did not supply data on aproximately 44% of its home market sales of hot-rolled carbon steel plate and 53% of such sales of hot-rolled carbon steel sheet and strip, we used Klockner's cost-of-production information as the best information available, because we did not determine that the response was incomplete until too late to permit a supplemental response in time for use in these preliminary determinations. We calculated constructed value as described in the "General Methodology" section of this notice.

In addition, Klockner only reported on approximately 85% of its home market sales of cold-rolled carbon steel sheet and strip in its response. We determined that in this case this was an adequate basis for preliminarily determining foreign market value. We are requesting information on the other sales. Since we found a sufficient number of sales of all categories of cold-rolled carbon steel sheet and strip in the home market at or above cost, we calculated foreign market value by deducting inland freight, discounts and rebates from the delivered, home market price.

D. *Krupp.* We based foreign market value on information submitted by Krupp, although Krupp only reported on approximately 85% of its home market sales of hot-rolled carbon steel sheet and strip. We made repeated requests for the additional information on the other sales. Even though Krupp did not respond, we determined that in this case, information on 85% of home market sales was an adequate basis for preliminarily determining foreign market value. We are requesting the sales information once again. Since we found sufficient sales at or above cost of production, we used home market prices. We adjusted the ex-factory prices for differences in commissions, merchandise and packing. We denied claims for differences in related to the sales under consideration. Where we did not credit, technical service, warehousing costs and miscellaneous claims because they were not properly quantrified and/or shown to be directly related to the sales under consideration. Where we did not find sufficient sales at or above cost in the home market, we used constructed value as described in the "General Methodology" section of this notice.

E. *Otto Wolff and Thyssen.* With respect to sales of cold-rolled carbon steel sheet and strip by Otto Wolff and sales of hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip by Thyssen, we used best information available as required by section 776(b) of the Act of determine foreign market value. After repeated requests, Otto Wolff did not provide us with home market sales information on approximately 72% of its home market sales of cold-rolled sheet and strip, and Thyssen did not provide us with such information on 55% of its hot-rolled carbon steel plate, 94% of its hot-rolled carbon steel sheet and strip, and 40% of its cold-rolled carbon steel sheet and strip. Based on the sales data provided by Otto Wolff and Thyssen, it was impossible to determine similarity of merchandise or to determine what portion, if any, of sales in the home market were made at or above the cost of production. Furthermore, if sufficient sales were found to have been made at or above cost of production, it would be impossible to calculate accurate weighted-average home market sales price. Therefore, we used as best information available, the constructed values, as estimated in the Bethlehem Steel Corporation petitions on hot-rolled carbon steel plate and cold-rolled carbon steel sheet and strip, and as estimated in the United States Steel Corporation petition on hot-rolled carbon steel sheet and strip, which were most adverse to the respondent. We calculated the constructed value as described in the discussion above on Dillinger.

F. *Hoesch.* With respect to some sales by Hoesch, we used the best information available as described in the "United States Price" section of this notice. None of Hoesch's reported home market sales of carbon steel structural shapes were at or above the cost of production.

Therefore, we used constructed value for these sales. We calculated constructed value as described above in the "General Methodology" section of this notice.

For those comparisons for which we had sufficient United States price data on cold-rolled carbon steel sheet, we determined that we had sufficient sales at or above cost, and therefore, used the home market price. We deducted, where appropriate, inland freight, insurance, discounts and rebates from the delivered or ex-factory price. We made adjustments for differences in merchandise and packing. The adjustment for differences in merchandise was based on a theoretical minimum weight formula. We rejected claims for differences in merchandise for continuous casting, and shorter production runs because they were not shown to be directly related to differences in physical characteristics of the merchandise. We rejected claims for differences in circumstances of sale for technical service costs, research and development expenses, and higher selling costs for smaller quantities, because they were not shown to be directly related to the sales under consideration.

G. *Rochling.* With respect to Rochling, we used the best information available as described in the "United States Price" section of this notice.

Supplemental Information Requested

Section 776(b) of the Act states that whenever any party refuses or is unable to produce information requested, the Commerce Department may use the best information otherwise available for determining the existence of sales at less than fair value. We did so with respect to the following companies for the reasons indicated in the "United States Price" and/or "Foreign Market Value" sections of this notice.

1. *Dillinger.* Because Dillinger refused to provide us with information on the physical dimensions of the plate sold to the United States and in the home market, we based our comparisons on the best information available.

On May 19, 1982, we requested orally, with confirmation in writing on May 25, 1982, that Dillinger provide us with physical dimensions. These requests were denied orally on June 25, 1982.

Subsequently, we reiterated our request on July 7, 1982, by phone call and notified Dillinger that failure to provide this information would require us to use the best information otherwise available, according to section 776(b) of the Act. This request was denied orally on July 7, 1982.

We will ask Dillinger once again to provide this information before verification. If this information is not submitted by September 1, 1982, we will be unable to verify it. We will take into account for our final determination on hot-rolled carbon steel plate any additional information submitted on or before September 1, 1982, which is subsequently verified. The verification of this information could substantially change the sales at less than fair value margin calculated for our preliminary determination on hot-rolled carbon steel plate for Dillinger. Where information is not furnished, or furnished too late to verify, we will use best information available for our final determination on hot-rolled carbon steel plate.

2. *Thyssen.* Because Thyssen refused to provide us with information on a substantial portion of its home market sales of hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip, we based foreign market value on the best information available.

On May 19, 1982, we requested orally that Thyssen provided us with the home market data. This request was denied orally on May 19, 1982.

Subsequently, we reiterated our request on May 25, 1982, by letter and notified Thyssen that failure to provide this information would require us to use the best information otherwise available, according to section 776(b) of the Act. This request was denied in writing on June 23, 1982.

We will ask Thyssen once again to provide this information before verification. If this information is not submitted by September 1, 1982, we will be unable to verify it. We will take into account for our final determinations any additional information submitted on or before September 1, 1982, which is subsequently verified. The verification on this information could substantially change the sales at less than fair value margins calculated for our preliminary determinations for Thyseen. Where information is not furnished, or furnished too late to verify, we may use best information available for our final determinations.

3. *Otto Wolff.* Because Otto Wolff refused to provide us with information on a substantial portion of its home market sales of cold-rolled carbon steel sheet and strip, we based foreign market value on the best information available.

On June 3, 1982, we requested orally that Otto Wolff provide us with the home market sales data. This request went unanswered.

Subsequently, we reiterated our request on June 22, 1982, by letter and notified Otto Wolff that failure to provide this information would require us to use the best information otherwise available, according to section 776(b) of the Act. This request was denied in writing on June 24, July 23, and July 26, 1982.

We will ask Otto Wolff once again to provide this information before verification. If this information is not submitted by September 1, 1982, we will be unable to verify it. We will take into account for our final determination on cold-rolled carbon steel sheet and strip any additional information submitted on or before September 1, 1982, which is subsequently verified. The verification of this information could substantially change the sales at less than fair value margins calculated for our preliminary determination on cold-rolled carbon steel sheet and strip for Otto Wolff. Where information is not furnished, or furnished too late to verify, we may use best information available for our final determination on hot-rolled carbon steel sheet and strip.

4. *Hoesch.* Because Hoesch refused to provide us with a response on carbon steel structural shapes sold by Hoesch Huttenwerke AG (at that time know as EHD), we based the EHD margin on the best information available. This margin was weighted with other margins on carbon steel structural shapes sold by Hoesch.

On April 5, 1982, we requested in writing that Hoesch provide us with a response on carbon steel structural shapes sold by EHD. This request was denied orally on April 5, 1982.

Subsequently, we reiterated our request on April 7, 1982, by phone call and notified Hoesch that failure to provide this information would require us to use the best information otherwise available, according to section 776(b) of the Act. This request was denied in writing on May 3, 1982.

In addition, because Hoesch refused to provide us with an adequate exporter's sales price response from one United States subsidiary on cold-rolled carbon steel sheet and strip, we based the margins for that subsidiary on the best information available. The margin was weighted with other margins on cold-rolled carbon steel sheet and strip sold by Hoesch.

On June 15, 1982, we requested orally that Hoesch provide us with a corrected response. This request went unanswered.

Subsequently, we reiterated our request on June 24, 1982, by phone call and notified Hoesch that failure to provide this information would require us to use the best information otherwise available, according to section 776(b) of the Act. This request went unanswered.

We will ask Hoesch once again to provide this information before verification. If this information is not submitted by September 1, 1982, we will be unable to verify it. We will take into account for our final determinations any additional information submitted on or before September 1, 1982, which is subsequently verified. The verification of this information could substantially change the sales at less than fair value margins calculated for our preliminary determinations for Hoesch. Where information is not furnished, or furnished too late to verify, we may use best information available for our final determinations.

5. *Rochling.* Because Rochling refused to provide us with a response on carbon steel structural shapes, we based the weighted-average margin on the best information available.

On April 29, 1982, we requested in writing that Rochling provide us with a response on carbon steel structural shapes. This request was denied in writing on May 18, 1982.

We will ask Rochling once again to provide this information before verification. If this information is not submitted by September 1, 1982, we will be unable to verify it. We will take into account for our final determination on carbon steel structural shapes any additional information submitted on or before September 1, 1982, which is subsequently verified. The verification of this information could substantially change the sales at less than fair value margin calculated for our preliminary determination on carbon steel structural shapes for Rochling. Where information is not furnished, or furnished too late to verify, we may use best information available for our final determination on carbon steel structural shapes.

6. *Klockener.* Because Klockner did not provide us with information on a substantial portion of its home market sales, we are requesting the information on the unreported sales. If this supplemental informatin is not received by September 1, 1982, we may use only some or none of the partial information received relative to home market sales for these products in making our final determinations. In these instances, we may resort to using the best information available for our final determinations.

7. *Krupp.* We are requesting Krupp to provide us with information on its home market sales of hot-rolled carbon steel sheet and strip to auto-makers and information on selling expenses incurred in the United States on its exporter's sales price transactions which were not contained in their response. If this supplemental information is not received by September 1, 1982, we may use only some or none of the partial information received in making our final determination. In this instance, we may resort to using the best information available for our final determination on hot-rolled carbon steel sheet and strip.

Negative Determinations of Critical Circumstances

United States Steel Corporation and counsel for Bethlehem Steel Corporation alleged that imports of all steel products under investigation present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist when there is a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

In determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period, we considered the following factors: recent import penetration levels; changes in import penetration since the date of the ITC's preliminary affirmative determinations of injury; whether imports have surged recently; whether recent imports are significantly above the average calculated over the last 3½ years (January 1979–June 1982); and whether the pattern of imports over that 3½ year period may be explained by seasonal swings. Based upon our consideration, we have determined that in the context of the steel industry, imports of hot-rolled carbon steel sheet and strip from the FRG appear massive over a relatively short period (March through June 1982). Imports of the remaining products subject to these investigations do not appear massive over that period.

We therefore proceeded to consider whether there is a history of dumping of hot-rolled carbon steel sheet and strip from the FRG in the U.S. or elsewhere; or whether the person by whom, or for whose account, this product was imported knew or should have known that it was being sold at less than its fair value. We believe there is a reasonable basis to believe or suspect that the importer knew or should have known that a product was being dumped: (a) Whenever margins calculated on the basis of responses to the Department's questionnaire are sufficiently large that the importer should have known that prices for sale to the United States (as adjusted according to the antidumping law) were significantly below home market sales (or third country sales or cost of production, as applicable), or (b) whenever its price was recurringly, significantly less than the applicable price established by the Department under the Trigger Price Mechanism ("TPM") (45 FR 66833, which has been suspended since January 11, 1982 (47 FR 2392)). The price levels so established were based upon the cost of production of comparable steel products produced in Japan, which was considered to be on average the world's most efficient steel producer. Where the price of an imported steel product was lower than the price for the comparable Japanese merchandise, we could reasonably infer that the person by whom, or for whose account the merchandise was imported knew or should have known that it was being sold below fair value. In addition, while the TPM was being applied, the Department notified importers of each significant shipment of these products from the FRG which entered the U.S. at prices below the comparable trigger prices. Therefore all importers had constructive notice, and many additionally had actual notice, of what sorts of shipments might be subject to antidumping investigations initiated under the TPM procedures.

In the case of hot-rolled carbon steel sheet and strip, margins calculated on the basis of responses to the Department's questionnaires are not sufficiently large, particularly where there is no corporate relationship between exporters and importers, that there is a reasonable basis to believe or suspect that the importer knew or should have known that the merchandise was being sold in the United States at less than fair value. Moreover, the difference between the average import price during the second half of 1981 (the most recent period for which TPM data are available) and the comparable trigger price is too small to warrant or sustain such an inference. Therefore, we have no reasonable basis to believe or suspect that importers knew or should have known that hot-rolled carbon steel sheet and strip from the FRG was being sold in the United States at less than fair value.

To ascertain whether there is a history of dumping of hot-rolled carbon steel sheet and strip, on the other hand, we reviewed our and the Department of the Treasury's past antidumping determinations. Although there have been past United States antidumping petitions on hot-rolled carbon steel sheet and strip from the FRG, those petitions were withdrawn and no dumping determinations were made. We also reviewed the antidumping actions of other countries made available to us through the Antidumping Code Committee established by the agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. We found no history of dumping of this product from the FRG.

For the reasons described above, we have determined that critical circumstances do not exist with respect to any of the products subject to these investigations.

Verification

In accordance with section 776(a) of the Act, we verified, to the extent possible, some of the information from Hoesch used in these determinations. We verified the information received on cost of production, all sales, and all adjustments claimed by Hoesch, except information specifically concerning exporter's sales price transactions. We were granted access to Hoesch's books and records. We used standard verfication procedures including on site inspection of the manufacturer's operations and examination of accounting records and selected documents containing relevant information. Data concerning ESP sales will be verified prior to our final determinations.

We will verify all data used in reaching final determinations on these investigations.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel and sheet and strip, and cold-rolled carbon steel sheet and strip from the FRG, with the exception of imports of carbon steel structural shapes, hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip from P & S, hot-rolled carbon steel plate produced by Klockner and hot-rolled carbon steel sheet and strip produced by Krupp. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to these investigations exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer producer/exporter	Weighted-average margin (percent)
Carbon steel structural shapes:	
Hoesch Werke AG (also known as Hoesch Huttenwerke AG, Hoesch Hohenlimburg AG, or Hoesch Siegerlandwerke AG)	10.29
Stahlwerke Peine-Salzgitter AG	[1]0.00
Stahlwerke Rochling-Burbach GmbH	10.90
Other manufacturers/producers/exporters	10.90
Hot-rolled carbon steel plate:	
AG der Dillinger Huttenwerke	9.25
Klockner-Werke AG	[1]0.00
Thyssen AG	2.41
Other manufacturers/producers/exporters	9.25
Hot-rolled carbon steel sheet and strip:	
Stahlwerke Peine-Salzgitter AG	[1]0.00
Klockner-Werke AG	3.60
Krupp Stahl AG	[1]0.00
Thyssen AG	19.17
Other manufacturers/producers/exporters	19.17
Cold-rolled carbon steel sheet and strip:	
Stahlwerke Peine-Salzgitter AG	[2]0.00
Klockner-Werke AG	0.65
Otto Wolff AG	12.47
Thyssen AG	12.91
Hoesch Werke AG (also known as Hoesch Huttenwerke AG, Hoesch Hohenlimburg AG, or Hoesch Siegerlandwerke AG)	6.92
Other manufacturers/producers/exporters	12.91

[1] Imports of these products are excluded from these determinations because the weighted average margins are *de minimis* as indicated below.

Carbon steel structural shapes: Stahlwerke Peine-Salzgitter AG—0.11%.

Hot-rolled carbon steel plate: Klockner-Werke AG—0.26%.

Hot-rolled carbon steel sheet and strip: Krupp Stahl AG—0.03%.

Cold-rolled carbon steel sheet and strip: Stahlwerke Peine Salzgitter AG—0.03%.

[2] Imports of this product from Stahlwerke Peine-Salzgitter AG are excluded from our preliminary determinations, because we found no sales at less than fair value.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 1:00 p.m. on September 9, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discusssed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by September 2, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of this notice's publication, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

August 9, 1982.

[FR Doc. 82-22234 Filed 8-13-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Determinations of Sales at Less Than Fair Value: Certain Steel Products From France

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Determinations of Sales at Less Than Fair: Certain Steel Products From France.

SUMMARY: We have preliminarily determined that certain steel products from France are being sold, or are likely to be sold, in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determinations, and we have directed the U.S. Customs Service to suspend the liquidation of all entries (except as noted below) of the subject merchandise. We have determined that "critical circumstances" exist in these cases. Therefore, this suspension of liquidation applies to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption, on or after the date which is 90 days before publication of this notice. We have also directed the U.S. Customs Service to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. We have also preliminarily determined that Dilling, one of the three companies investigated, should be excluded from these preliminary determinations because we found no sales at less than fair value for hot-rolled carbon steel sheet and strip, and a 0.19 percent weighted-average margin on sales of cold-rolled carbon steel sheet and strip. This margin is *de minimus.* If these investigations proceed normally, we will make final determinations by October 25, 1982.

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-4036.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

We have preliminarily determined that there is a reasonable basis to believe or suspect that certain steel products from France are being sold, or are likely to be sold, in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have found no sales at less than fair value of hot-rolled carbon steel sheet and strip, and a 0.19 percent weighted-average margin on sales of cold-rolled carbon steel sheet and strip by Dilling. This margin is *de minimis.* Therefore, we are excluding imports of these products from Dilling from these preliminary determinations.

For carbon steel structural shapes, we have found that the foreign market value exceeded the United States price on 100 percent of sales. These margins ranged from 0.03 percent to 23.54 percent. The weighted-average margin on all sales compared is 9.06 percent.

For hot-rolled carbon steel sheet and strip, we have found that the foreign market value exceeded the United States price on 45.90 percent of sales. These margins ranged from 0 to 42.32 percent. The overall weighted-average margin on all sales compared is 8.40 percent.

For cold-rolled carbon steel sheet and strip, we have found that the foreign market value exceeded the United States price on 49.50 percent of sales. These margins ranged from 0 to 47.20 percent. The overall weighted-average margin on all sales compared is 11.50 percent.