addition, six copies of the business proprietary version and six copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: July 16, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–18857 Filed 7–23–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–806]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From Indonesia

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

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Lockard or Eva Temkin, Office of CVD/AD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2786.

PRELIMINARY DETERMINATION: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of certain cut-to-length carbon-quality steel plate from Indonesia. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Gulf States Steel, Inc., IPSCO Steel, Inc., Tuscaloosa Steel Corporation, and the United Steel Workers of America (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Initiation of Countervailing Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea,* 64 FR 12996 (March 16, 1999) (*Initiation Notice*)), the following events have occurred. On March 16, 1999, we issued countervailing duty questionnaires to the Government of Indonesia (GOI), and the producers/exporters of the subject merchandise. On April 21, 1999, we postponed the preliminary determination of this investigation until no later than July 16, 1999. *See Certain Cut-to-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea: Postponement of Time Limit for Countervailing Duty Investigations,* 64 FR 23057 (April 29, 1999).

We received responses to our initial questionnaires from the GOI and two of the three producers of the subject merchandise, PT Gunawan Dianjaya Steel (Gunawan), and PT Jaya Pari Steel Corporation (Jaya Pari), on April 29, 1999. On May 11, 1999 and June 3, 1999, we issued supplemental questionnaires to the responding parties. On June 7, 1999, petitioners alleged additional subsidies that were not contained in the original petition. We determined to include these allegations in this investigation on June 21, 1999. *See* Memorandum for Bernard Carreau, Deputy Assistant Secretary for AD/CVD Enforcement Group II, a public document on file in the Central Records Unit, room B–099 of the Main Commerce Building (CRU). We issued a questionnaire addressing these programs on June 22, 1999. We received additional responses between June 1, 1999 and July 14, 1999.

Scope of Investigation

The products covered by this scope 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 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 April 14, 1999, the petitioners responded to Usinor's and the Korean respondents' comments. 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 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 technological properties and mechanical uses 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 treating them as covered merchandise for purposes of these investigations.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as codified at 19 CFR Part 351 (1998) and to the substantive countervailing duty regulations published in the **Federal Register** on November 25, 1998 (63 FR 65348) (CVD Regulations).

Injury Test

Because Indonesia is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Indonesia materially injure, or threaten material injury to, a U.S. industry. On April 8, 1999, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Indonesia of the subject merchandise. *See Certain Cut-To-Length Carbon-Quality Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia*, 64 FR 17198 (April 8, 1999).

Alignment With Final Antidumping Duty Determination

On July 2, 1999, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. *See Initiation of Antidumping Duty Investigations: Certain Cut-to-Length Carbon-Quality Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, the Republic of Korea, and the Former Yugoslav Republic of Macedonia*, 64 FR 12959 (March 16, 1999). Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping investigations of cut-to-length plate.

Period of Investigation

The period of investigation for which we are measuring subsidies (the POI) is calendar year 1998.

Attribution of Subsidies

Section 351.525 of the CVD Regulations states that the Department

will attribute subsidies received by two or more corporations to the products produced by those corporations where cross ownership exists. According to § 351.525(b)(6)(vi) of the CVD Regulations, cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation in essentially the same ways it can use its own assets. The regulations state that this standard will normally be met where there is a majority voting ownership interest between two corporations. The preamble to the CVD Regulations, identifies situations where cross ownership may exist even though there is less than a majority voting interest between two corporations: ''in certain circumstances, a large minority interest (for example, 40 percent) or a 'golden share' may also result in cross-ownership.'' *See* 63 FR 65401.

Because we have preliminarily found both Gunawan and Jaya Pari to have zero subsidy rates, we do not reach the question of whether the relationship between the companies satisfies the standard of cross-ownership. However, if we discover subsidies at verification or otherwise modify our findings so that one or more of the companies does have a subsidy rate for the final determination, we will consider whether there is cross-ownership between Gunawan and Jaya Pari and thus, whether, for purposes of calculating a countervailing duty rate, we should attribute any subsidies received by either or both companies to the products produced by both companies. Accordingly, we invite the parties to comment on whether the relationship between the firms satisfies our new cross-ownership standard.

Use of Facts Available

PT Krakatau Steel (Krakatau), a producer of subject merchandise, failed to respond to the Department's questionnaire. Section 776(a)(2) of the Act requires the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. As described in more detail below, Krakatau has failed to provide information explicitly requested by the Department; therefore, we must resort to the facts otherwise available.

In using the facts otherwise available, however, the Department notes that the GOI has provided some, although not all, of the information requested about Krakatau. With this information from the GOI, we find that the administrative record with regard to Krakatau is not so incomplete that it cannot serve as a reliable basis for reaching this preliminary determination. In addition, we find that the remainder of the criteria listed in 782(e) of the Act have been met. Consequently, we find it unnecessary to resort to total facts available with respect to Krakatau. Where practicable, we have based our preliminary determination for this company on information provided by the GOI. We have only used facts available where specific information concerning Krakatau, that is necessary for our analysis, is absent from the record.

Furthermore, section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that party has failed to cooperate to the best of its ability. Here, the Department asked Krakatau to submit the information requested in the initial countervailing duty questionnaire. Krakatau did not respond to the questionnaire. The Department then asked Krakatau once again to respond to the questionnaire, reminding the company that the Department may have to use facts available if no response was received. However, Krakatau failed to submit the information that was specifically requested by the Department on two separate occasions. Krakatau stated that, due to the recent financial crisis, it does not have the resources available to participate in the investigation. We note, however, that Krakatau is participating in the companion antidumping duty investigation.

The Department finds that by not providing necessary information specifically requested by the Department and failing to participate in any respect in this investigation, Krakatau has failed to cooperate to the best of its ability. Therefore, in selecting partial facts available, the Department determines that an adverse inference is warranted.

When employing an adverse inference, the statute indicates that the Department may rely upon information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review, or section 762 review; or (4) any other information placed on the record. *See also* § 351.308(c) of the CVD Regulations. Due to the absence of any other relevant information on the record, we consider the petition to be an appropriate source for the necessary information.

Finally, the Statement of Administrative Action accompanying the URAA clarifies that information from the petition and prior segments of the proceeding is ''secondary information.'' *See* Statement of Administrative Action, accompanying H.R. 5110 (H.R. Doc. No. 103–316) (1994) (SAA), at 870. If the Department relies on secondary information as facts available, section 776(c) of the Act provides that the Department shall, ''to the extent practicable,'' corroborate such information using independent sources reasonably at its disposal. The SAA further provides that to corroborate secondary information means simply that the Department will satisfy itself that the secondary information to be used has probative value.

As discussed above, the GOI submitted some information about Krakatau's use of programs included in this investigation. As discussed above and in the Analysis Memo for the Preliminary Countervailing Duty Determination, dated July 16, 1999, public version on file in the CRU (Analysis Memo), we find that the information submitted by the GOI may be used in reaching our determination in accordance with section 782(e) of the Act. Based on this information, we were able to determine that Krakatau did not use the Bank of Indonesia Rediscount Program with respect to shipments of subject merchandise and did not use the Tax Holiday Program. However, we are applying the facts available in countervailing the 1995 Equity Infusion to Krakatau program including our analysis of the company's creditworthiness. For a more detailed description of our treatment of this program, *see* the program description in the *Program Preliminarily Determined to be Countervailable* section of this notice. We are using information submitted in the countervailing duty petition, modified by and corroborated by Krakatau's financial statements which were submitted for the record by petitioners. *See* Analysis Memo.

In addition, as noted earlier, on June 7, 1999, petitioners made new subsidy allegations with respect to Krakatau. The Department has not had sufficient time to collect information from Krakatau and the GOI on the use of the Pre-1993 Equity Infusions to Krakatau, P.T. Cold-Rolled Mill Indonesia (CRMI) Equity Infusions and Two-Step Loan programs. Thus, we do not have sufficient information to make determinations with respect to these programs' countervailability. Because respondents have not had sufficient

opportunity to provide information about these programs for the record, the use of the facts available is not warranted at this time. We will continue to collect information that will enable us to make a determination about these programs in our final determination.

Subsidies Valuation Information

Allocation Period

Section 351.524(d)(2) of the CVD Regulations states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

In this investigation, no party to the proceeding has claimed that the AUL listed in the IRS tables does not reasonably reflect the AUL of the renewable physical assets for the firm or industry under investigation. Therefore, according to § 351.524(d)(2) of the CVD Regulations, we have allocated Krakatau's non-recurring benefits over 15 years, the AUL listed in the IRS tables for the steel industry.

Equityworthiness

In analyzing whether a company is equityworthy, the Department considers whether that company could have attracted investment capital from a reasonable private investor in the year of the government equity infusion based on the information available at that time. In this regard, the Department has consistently stated that a key factor for a company in attracting investment capital is its ability to generate a reasonable return on investment within a reasonable period of time. In making an equityworthiness determination, in accordance with § 351.507(a)(4) of the CVD Regulations, the Department may examine the following factors, among others:

A. Objective analyses of the future financial prospects of the recipient firm or the project as indicated by, *inter alia*, market studies, economic forecasts, and project or loan appraisals prepared prior to the government-provided equity infusion in question;

B. Current and past indicators of the recipient firm's financial health calculated from the firm's statements and accounts, adjusted, if appropriate, to conform to generally accepted accounting principles;

C. Rates of return on equity in the three years prior to the government equity infusion; and

D. Equity investment in the firm by private investors.

The Department has examined Krakatau's equityworthiness for the year 1995. We are also examining Krakatau's equityworthiness for the period 1988 through 1992, to the extent equity infusions may have been received in these years. *See* June 1, 1999, memorandum to Bernard Carreau, Deputy Assistant Secretary for AD/CVD Enforcement II, a public document on file in the CRU. Krakatau did not respond to our first questionnaire regarding the new allegations pertaining to the period 1988 through 1992, but the company has not yet had the opportunity to respond to any additional questionnaire on these allegations. Therefore, we are not addressing Krakatau's equityworthiness in these years for this preliminary determination.

In considering whether Krakatau was equityworthy in 1995, we examined information on the above-listed factors. With respect to factor A, no studies or other relevant data have been submitted to the record. However, according to press articles submitted by petitioners, Krakatau was not an attractive investment. In one article, the Indonesian Minister for the Empowerment of State Enterprises stated, ''[w]hy is Krakatau Steel difficult to sell? Because it has often been said that the company would go bankrupt and that it needed an investment of $1.2 billion.'' The Minister also stated in 1998 that Krakatau had a very low return on equity compared to its international competitors. Another government official stated that Krakatau would, ''* * * first have to restructure its subsidiaries, cut costs and reduce staff,'' in order to complete its proposed privatization. *See* Countervailing Duty Petition, public version on file in the CRU.

In addition, according to information submitted by the Petitioners, the investment climate in Indonesia in 1995 was considered a risky one, further dampening any potential for private investment. According to press articles, problems with state-owned firms would have further deterred private investment in these companies.

To address factors B and C, we examined Krakatau's financial ratios for the three years prior to each of the infusions based on the information contained in Krakatau's translated financial statements that were submitted by petitioners. *See* Analysis Memo. This data indicates that Krakatau did report modest profits in the years relevant to examination. Return on sales was positive, but declined over the period 1992 through 1994. Return on equity declined from 1992 to 1993, but recovered in 1994. In all relevant years Krakatau's return on equity remained less than half of the annual inflation rate; thus the company was posting negative returns in real terms. Further, Krakatau's returns during this period were well-below commercial interest rates.

With respect to the final factor, Krakatau has no private investors. Therefore, there are no private investments that may be used to evaluate Krakatau's equityworthiness.

In light of Krakatau's unfavorable financial position, anemic returns and the press reports about the company's dubious financial health, it seems unlikely that a reasonable private investor would have made equity investments in the company. On this basis, we preliminarily determine that Krakatau was unequityworthy in 1995.

Equity Methodology

In measuring the benefit from a government equity infusion, in accordance with § 351.507(a)(2) of the CVD Regulations, the Department compares the price paid by the government for the equity to actual private investor prices, if such prices exist. According to § 351.507(a)(3) of the CVD Regulations, where actual private investor prices are unavailable, the Department will determine whether the firm was unequityworthy at the time of the equity infusion. In this case, private investor prices were unavailable; thus, we conducted an equityworthy analysis. As discussed above, we have determined that Krakatau was unequityworthy in 1995.

Section 351.507(a)(3) of the CVD Regulations provides that a determination that a firm is unequityworthy constitutes a determination that the equity infusion was inconsistent with the usual investment practices of private investors. The Department will then apply the methodology described in § 351.507(a)(6) of the regulations, and treat the equity infusion as a grant. Use of the grant methodology for equity infusions into an unequityworthy company is based on the premise that an unequityworthiness finding by the Department is tantamount to saying that

the company could not have attracted investment capital from a reasonable investor in the infusion year based on the available information.

Creditworthiness

When the Department examines whether a company is creditworthy, it is essentially attempting to determine if the company in question could obtain commercial financing at commonly available interest rates. To do so, the Department examines whether the company received long-term commercial loans in the year in question, and, if necessary, the overall financial health and future prospects of the company. If a company not owned by the government receives long-term financing from commercial sources without government guarantees, that company will normally be considered creditworthy. In the absence of commercial borrowings, in accordance with § 351.505(a)(4) of the CVD Regulations, the Department examines the following factors, among others, to determine whether or not a firm is creditworthy:

A. The receipt by the firm of comparable commercial long-term loans;

B. The present and past financial health of the firm, as reflected in various financial indicators calculated from the firm's financial statements and accounts;

C. The firm's recent past and present ability to meet its costs and fixed financial obligations with its cash flow; and

D. Evidence of the firm's future financial position, such as market studies, country and industry economic forecasts, and project and loan appraisals prepared prior to the agreement between the lender and the firm on the terms of the loan.

With respect to the first factor, Krakatau received one long-term commercial loan in 1995 amounting to approximately 3 billion Rupiah. However, because Krakatau is owned by the government, this loan may not be considered dispositive as to the company's creditworthiness. *See* § 351.505(a)(4)(ii) of the CVD Regulations.

Therefore, to determine whether Krakatau was creditworthy in 1995, in accordance with the Department's past practice, we analyzed financial ratios for each of the three years prior to the year under examination to address factors B and C. In examining these ratios, however, because tKrakatau failed to respond to our questionnaires (as discussed in the ''Facts Available'' section of this notice), we do not have the company's financial statements for 1992 and 1993. The only financial information for the years 1992 and 1993 on the record of this investigation is taken from data from the Indonesian Commercial Newsletter submitted by petitioners. Thus, we are not able to evaluate whether this data is supported by the financial statements and whether there may be any notes to the financial statements that would call the data into question.

Using the only information available on the record, we found that, as discussed above, Krakatau had positive returns on sales and equity during the relevant years, but these rates were lower than commercial interest rates and lower than the level of inflation. Krakatau's current ratio remained relatively strong during this period, ranging from 3.86 to 6.51, showing a fairly strong degree of short-term protection for creditors and no indication of difficulty in covering short-term liabilities.

The Department normally examines other financial ratios including the quick ratio and times-interest-earned ratio; however, data on the record is incomplete, allowing us only to examine the company's position in 1994. Both of these ratios indicate that the company probably did not have difficulties managing its debt obligations in 1994, but we are unable to examine the company's ratios for the other relevant years.

With respect to the final factor, there are no studies or analyses submitted to the record that may be used to evaluate Krakatau's financial position.

While the data we have indicates that Krakatau may not have had any difficulty obtaining financing at commercial interest rates, again, we note that the record evidence is incomplete. In addition, other financial data and press reports, as discussed in the ''Equityworthiness'' section above, indicate that Krakatau had financial difficulties. Therefore, as adverse facts available we preliminarily find that Krakatau was uncreditworthy in 1995.

Discount Rates

We calculated the discount rates in accordance with the formula for constructing a long-term interest rate benchmark for uncreditworthy companies as stated in the Department's new regulations. *See* § 351.505 (a)(3)(iii) of the CVD Regulations. This formula requires values for the probability of default by uncreditworthy and creditworthy companies. For the probability of default by an uncreditworthy company, we relied on the average cumulative default rated reported for the Caa to C-rated category of companies as published in Moody's Investors Service, ''Historical Default Rates of Corporate Bond Issuers, 1920–1997,'' (February 1998). For the probability of default by a creditworthy company we used the average cumulative default rates reported for the Aaa to Baa.[1] For the period before 1998, we used the average cost of long-term fixed-rate loans in Indonesia in 1995 as the interest rate that would be paid by a creditworthy company, specifically the investment rate offered by commercial banks in Indonesia as reported in the Indonesian Financial Statistics of February 1999, attached to the GOI's April 29, 1999, questionnaire response, a public document on file in the CRU. For this period, we used the average cumulative default rates for both uncreditworthy and creditworthy companies that were based on a 15 year term, since Krakatau's allocable subsidy was based on this allocation period. For 1998, since Indonesia experienced high inflation during this year, we converted the subsidy into U.S. dollars and then applied a long-term dollar rate as the discount rate, specifically, the average yield to maturity on selected long-term Baa-rated bonds. See Analysis Memo. This conforms with our practice in *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela*, 62 FR 55014, 55019 (October 22, 1997). In calculating the uncreditworthy rate for 1998, we used the average cumulative default rates for both uncreditworthy and creditworthy companies based on a 12 year term, since that period remained on Krakatau's allocated subsidy.

I. Program Preliminarily Determined To Be Countervailable

1995 Equity Infusion Into Krakatau

Because Krakatau did not respond to this allegation, we used the information and data provided in the petition as adverse facts available, in accordance with section 776(b) of the Act (*See* ''Facts Available'' discussion above). According to both the Countervailing Duty Petition and Krakatau's financial statements, the GOI provided Krakatau with equity in the form of debt-to-equity conversions in 1995. *See* Analysis Memo. In 1995, the GOI converted subordinated loans into equity. The conversion was authorized by the

[1] We note that since publication of the CVD Regulations, Moody's Investors Service no longer reports default rates for Caa to C-rated category of companies. Therefore for the calculation of uncreditworthy interest rates, we will continue to rely on the default rates as reported in Moody Investor Service's publication dated February 1998 (see Exhibit 28).

Minister of Finance in decree number S–44/MK016/1995 dated July 25, 1995. According to Krakatau's financial statement, provided in the petition, on April 29, 1996, through decree of the Minister of Finance S–240/MK016/1996, the conversion was approved at a slightly lower amount than originally authorized. The excess amount has not yet been converted into capital and has been recorded as a loan in the financial statement, with interest still due.

We preliminarily determine that under section 771(5)(E)(i) of the Act, the equity conversion into Krakatau was not consistent with the usual investment practice of a private investor and confers a benefit in the amount of each infusion (*see* ''Equityworthiness'' section above). The equity conversion is specific within the meaning of section 771(5A)(D) of the Act because it was limited to Krakatau. Accordingly, we preliminarily find that the 1995 debt-to-equity conversion is a countervailable subsidy within the meaning of section 771(5) of the Act.

As explained in the ''Equity Methodology'' section above, we have treated equity infusions into unequityworthy companies as grants given in the year the infusion was received because no market benchmark exists. In accordance with § 351.507(c) of the CVD Regulations, the equity conversion is allocated as a non-recurring subsidy. We allocated the subsidy and converted the remaining face value of the infusion in 1998 into U.S. dollars using the average 1997 rupiah/dollar exchange rate and applied the long-term U.S. dollar uncreditworthy interest rate described in the ''Discount Rate'' section of this notice. We then divided the benefit amount allocable to the POI by Krakatau's estimated 1998 U.S. dollar total sales figure, which was calculated based on the facts available in the petitioner's submission. See Analysis Memo. On this basis, we preliminarily determine the net countervailable subsidy to be 17.38 percent *ad valorem* for Krakatau.

II. Program Preliminarily Determined To Be Not Countervailable

Reduction in Electricity Tariffs

Petitioners alleged that discounts on electricity rates were provided to the steel industry during the POI; they alleged that after the GOI increased electricity rates in 1998, the GOI decreased rates for the steel industry. According to the questionnaire response, in 1998, the GOI instituted a substantial increase in electricity tariff rates for electricity supplied by the state-owned electricity company, PT Perusahaan Listrik Negara, known as Persero. In accordance with Presidential Decree No. 70/1998 of May 4, 1998, rates were scheduled to increase periodically throughout the year, in May, August, and November. The May 1998 increase was implemented as discussed in the Announcement of the Minister of Mines and Energy, No. Pm/40/MPE/1998 dated May 4, 1998, submitted in the June 23, 1999, questionnaire response. Subsequently, the August and November increases were retroactively postponed, by Presidential Decree No. 1/1999 of January 7, 1999, submitted in the June 1, 1999, questionnaire response. According to this decree, the rate increase was postponed for all electricity customers, with the exception of large residential households.

The postponement of the rate increase applied broadly throughout the economy, with only large residential households excepted from the new rate. According to the GOI, all ''[i]ndustrial customers pay electricity rate solely according to the tariff and time of use.'' Thus, contrary to petitioners' allegation, there is no basis for concluding that the steel industry received a special electricity discount. Based on the record evidence, the electricity discount was not limited to a specific enterprise, industry or group thereof, but was available to all industrial users in the country. Therefore, we preliminarily determine that the electricity discount program is not countervailable.

III. Programs Preliminarily Determined To Be Not Used

Based on the information provided by respondents and the GOI, we determine that Gunawan, Jaya Pari, and Krakatau did not apply for or receive benefits under the following programs during the POI:

A. *Bank of Indonesia Rediscount Loans*
B. *Corporate Income Tax Holidays*

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated individual rates for each of the companies under investigation.

According to section 705(5)(A)(i) of the Act, the all others rate is, ''an amount equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates and any rates determined entirely under section 776.'' Thus, in accordance with section 705(5)(A)(i) of the Act, we are excluding the rates calculated for Gunawan and Jaya Pari because they are zero rates. Although the subsidy rate calculated for Krakatau is based in part on facts available, section 705(5)(A)(i) specifies that only those rates calculated *entirely* under section 776 (facts available) are excluded; thus, we are including the subsidy rate calculated for Krakatau in the all others rate.

Producer/exporter	Net subsidy rate
P.T. Krakatau Steel ..	17.38% ad valorem.
P.T. Gunawan Steel	0.00% ad valorem.
P.T. Jaya Pari	0.00% ad valorem.
All Others Rate	17.38% ad valorem.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cut-to-length plate from Indonesia, except with respect to Gunawan and Jaya Pari as discussed above, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. Since the estimated preliminary net countervailing duty rates for Gunawan and Jaya Pari are zero, these two companies will be excluded from the suspension of liquidation. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary 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 Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 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.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: July 16, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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