determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than August 25, 1999, and rebuttal briefs no later than September 1, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on September 8, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

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

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

Dated: July 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19301 Filed 7–28–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–805]

Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products From Indonesia

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

EFFECTIVE DATE: July 29, 1999.

FOR FURTHER INFORMATION CONTACT: Barbara Wojcik-Betancourt or Brian C. Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0629 or (202) 482–1766, respectively.

The Applicable Statute

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

Preliminary Determination

We preliminarily determine that certain cut-to-length carbon-quality steel plate products (''CTL plate'') from Indonesia are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

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

In their petition, the petitioners [1] identified PT Gunawan Dianjaya Steel (''Gunawan''), PT Jaya Pari Steel Corporation (''Jaya Pari''), and PT Krakatau Steel (''Krakatau'') as possible exporters of CTL plate from Indonesia. Though we requested on March 8, 1999, data on all producers and exporters of the subject merchandise during the period of investigation (''POI'') from the U.S. Embassy in Jakarta, the U.S. Embassy was unable to provide any additional information on producers or exporters of the subject merchandise to the United States. Based on information contained in the petition, the Department issued antidumping questionnaires to Gunawan, Jaya Pari and Krakatau in March 1999.[2]

In April 1999, the United States International Trade Commission (''ITC'') issued an affirmative preliminary injury determination in this case (*see* ITC Investigation No. 731–TA–815–822). Also, the Department received a response to all applicable sections of the questionnaire from Gunawan and Jaya Pari.

On April 7, 1999, Krakatau, a *pro* se company, notified the Department that it did not have the resources available to respond to the Department's questionnaire because of the economic hardship caused by the Indonesian financial crisis. Krakatau filed its letter within the deadline specified for notifying the Department of difficulties faced in responding to the questionnaire in accordance with section 782(c)(1) of the Act and section 351.301(c)(2) of the Department's regulations. On April 20, 1999, the Department informed Krakatau that it was still required to submit a full questionnaire response. However, recognizing Krakatau's claimed difficulties, the Department informed Krakatau that it would grant Krakatau an extension of time to respond to the questionnaire, if requested, and in accordance with section 782(c)(2) of the Act, would provide assistance to Krakatau, to the extent practicable, in preparing its response.

On April 26, 1999, Krakatau requested that the Department reconsider its April 20, 1999, decision and excuse it from the reporting requirement because of its relatively small shipments of the subject merchandise to the United States during the POI and because the Department in

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

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

past cases has excused companies under similar circumstances. On the same day, the Department informed Krakatau that although the cover letter to the questionnaire mentioned that if the number of exporters and producers was large, the Department might find it necessary, due to resource constraints, to limit the number of companies subject to the investigation, the Department had determined that it now had sufficient resources to examine all Indonesian exporters and producers of the subject merchandise which were served with a questionnaire in accordance with section 351.204(c) of the Department's regulations. However, recognizing the fact that Krakatau was experiencing difficulties in responding to the questionnaire, the Department again provided Krakatau with an opportunity to respond to the questionnaire by extending the deadline until May 10, 1999. In response to an April 28, 1999, letter from Krakatau requesting assistance on compiling its home market and U.S. sales, the Department on April 30, 1999, provided Krakatau with formatted lotus spreadsheets containing the data fields listed in the questionnaire.

On May 6, 1999, the Department sent Krakatau a letter which provided the *pro se* company with guidelines to follow for submitting documents in antidumping duty proceedings. On May 7, 1999, Krakatau requested an extension of the deadline for submitting its questionnaire response. Due to the statutory time constraints in this case and fairness considerations with respect to other companies participating in the CTL plate proceedings, we granted Krakatau only a partial extension of the deadline until May 14, 1999. On May 13, 1999, we received a response from Krakatau which was significantly incomplete in that it contained no narrative explanation of the documentation submitted or electronic media for its sales, cost and expense data. Recognizing its effort to attempt to respond to the Department's questionnaire, we allowed Krakatau until May 21, 1999, to provide the requested information. We also reminded Krakatau of the instructions contained in the Department's May 6, 1999, letter, which outlined how to properly file questionnaire responses. After receiving Krakatau's questionnaire response on May 24, 1999, we informed Krakatau on May 27, 1999, that the Department was rejecting its response because (1) Krakatau missed the extended deadline date within which to submit its response; (2) Krakatau did not properly file its response in accordance with the Department's instructions; and (3) Krakatau did not fully respond to the Department's questionnaire. In an effort to provide Krakatau with a final opportunity to provide the requested data for use in the preliminary determination given its previous effort to respond to the questionnaire, and based on our decision to require the Indonesian respondents to respond to additional questions based on our determination that the Indonesian economy underwent high inflation during the POI,[3] we granted Krakatau additional time until June 11, 1999, to remedy its deficiencies, which were enumerated in the attachment to our letter dated, May 27, 1999. In our May 27, 1999, letter, we again furnished Krakatau with filing instructions and also provided Krakatau with a section D questionnaire for high-inflation economies.

We issued supplemental section A, B, C and D questionnaires to Gunawan and Jaya Pari in May 1999, including questions related to high-inflation economies, and received responses to these questionnaires along with revised home market and U.S. sales listings in June 1999.

In June 1999, in accordance with section 782(c)(2) of the Act, the Department provided Krakatau additional assistance, upon the company's request, by sending a member of its staff to Jakarta to answer any questions Krakatau had with respect to the Department's questionnaire requirements. Based on the company's request for an extension of time to respond to the supplemental questionnaire subsequent to the Department's visit, the Department on June 10, 1999, granted Krakatau a final extension until June 25, 1999, to file a complete questionnaire response, including monthly production cost data in accordance with its high-inflation methodology. We also stated in the June 10, 1999, letter that we may be unable to use Krakatau's response, if filed by June 25, 1999, in the preliminary determination given the proximity of the final extended response deadline date to the Department's preliminary determination deadline date. While Krakatau's response was received by the Department on the deadline date, it continued to contain major deficiencies and omissions of data despite the Department's previous instructions. For example, Krakatau provided neither calculation worksheets for its reported per-unit charges and adjustments, nor monthly packing and COP amounts on a control-number-specific basis in accordance with the Department's high-inflation methodology. Krakatau also provided no historical shipment data for use in the Department's critical circumstances determination.

On July 2, 1999, the petitioner submitted comments dealing with the Department's high-inflation methodology for consideration in the preliminary determination. On July 7 and 8, 1999, Gunawan and Jaya Pari submitted revised cost data. Also on July 8, 1999, the Department issued Krakatau a supplemental questionnaire and advised Krakatau that it would have to respond fully to the supplemental questionnaire in a timely manner before the Department could consider conducting verification of its response for use in the final determination.

Scope of Investigation

The products covered by the scope of this investigation are certain hot-rolled carbon-quality steel: (1) Universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically

[3] Based on our analysis of Indonesia's consumer price and wholesale price indices, we determined that the Indonesian economy was experiencing high inflation during the POI (see 1999 issues of the International Monetary Fund's *International Financial Statistics*). ''High inflation'' is a term used to refer to a high rate of increase in price levels. Investigations and reviews involving exports from countries with highly inflationary economies require special methodologies for comparing prices and calculating CV and COP. Generally, a 25 percent inflation rate has been used as a general guide for assessing the impact of inflation on AD investigations and reviews (*see* Antidumping Manual, Chapter 8, Section XV, updated February 10, 1998; *see* also Policy Bulletin No. 94.5, entitled ''Differences in Merchandise Calculations in Hyperinflationary Economies,'' dated March 25, 1994).

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 this investigation: (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 this investigation 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 above, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage.

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

Usinor requested that the Department modify the scope to exclude: (1) plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4″ or thicker and which is certified for use in high-pressure, nuclear or other technical applications; and (3) floor plate (*i.e.*, plate with ''patterns in relief'') made from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

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

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

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

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

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

Period of Investigation

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

Facts Available

We did not receive a full questionnaire response from Krakatau in time to analyze Krakatau's information for the preliminary determination. Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.'' Although Krakatau provided the Department with a questionnaire

response on June 25, 1999, that response contained numerous deficiencies and omissions of data which rendered the submission unusable for the preliminary determination. Therefore, in accordance with section 776(a) of the Act, we have determined that use of facts available is appropriate for Krakatau at this time. We have issued Krakatau another supplemental questionnaire and, pending receipt of a timely and adequate supplemental response, intend to verify all of Krakatau's submitted data for use in the final determination.

Section 776(b) of the Act provides that adverse inferences may be used in selecting from the facts available if a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. As explained in the ''Case History'' section above, Krakatau, a *pro se* company, had requested the Department's assistance in responding to the questionnaire. In response to Krakatau's request for assistance, the Department helped Krakatau to understand the reporting requirements. The Department's assistance in this regard included sending staff to Krakatau's facilities in Jakarta, Indonesia to clarify and elaborate on the Department's reporting requirements contained in the questionnaire and subsequent Departmental letters. Krakatau was provided numerous opportunities and extensions of time to fully respond to the Department's questionnaire. However, even with the assistance of the Department's staff, Krakatau failed to provide a questionnaire response that addressed the most important deficiencies identified by the Department in the attachment to its May 27, 1999, letter. Therefore, the Department preliminarily finds that Krakatau did not act to the best of its ability to provide the information requested, despite the extent of assistance it received from the Department. Therefore, we have used an adverse inference in selecting the facts available to determine Krakatau's preliminary margin.

For the preliminary determination, we assigned Krakatau the simple average of the margins in the petition, 35.01 percent, rather than the highest margin, 52.42 percent. Although we find that Krakatau did not fully cooperate to the best of its ability, Krakatau, on a *pro se* basis, tried to provide the Department in a timely manner with the data requested in the antidumping questionnaire. Recognizing Krakatau's effort to comply with the Department's information requests, and in light of its claimed difficulties, we do not believe it is appropriate to assign the highest margin alleged in the petition. (*See e.g., Krupp Stahl AG* v. *U.S.*, 822 F. Supp. 789, 793 (Ct. Int'l Trade 1993), which referenced a Court of Appeals' opinion sanctioning the Department's practice to take into account the level of respondents' cooperation; and *Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Germany*, 63 FR 8953, 8955 (February 23, 1998).)

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No.316, 103d Cong., 2d Sess. (1994) (hereinafter, the ''SAA'') states that ''corroborate'' means to determine that the information used has probative value. See SAA at 870.

In this proceeding, we considered the petition as the most appropriate information on the record to form the basis for a dumping calculation for an uncooperative respondent. In accordance with section 776(c) of the Act, we sought to corroborate the data contained in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*e.g.*, import statistics and foreign market research reports). *See Initiation Notice.*

For purposes of the preliminary determination, we attempted to corroborate the information in the petition. We reexamined the export price, home market price, and CV data provided for the margin calculations in the petition in light of information obtained during the investigation and, to the extent practicable, found that it has probative value (*see* Memorandum to the File regarding the Facts Available Rate and Corroboration of Secondary Information dated July 19, 1999).

Fair Value Comparisons

To determine whether sales of CTL plate from Indonesia to the United States were made at less than fair value, we compared the export price (''EP'') to the Normal Value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs. Indonesia experienced significant inflation during the POI, as measured by the Wholesale Price Index, published in the June 1999 issue of *International Financial Statistics*. Accordingly, to avoid distortions caused by the effects of significant inflation on prices, we calculated EPs and NVs on a monthly average basis, rather than on a POI average basis.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Gunawan and Jaya Pari covered by the description in the ''Scope of Investigation'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate, within the same month. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade and in the same month to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade within the same month. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: painting, quality, grade specification, heat treatment, nominal thickness, nominal width, patterns in relief, and descaling.

Collapsing

Pursuant to 19 CFR 351.401(f), the Department will collapse producers and treat them as a single entity where (1) those producers are affiliated, (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (3) there is a significant potential for manipulation of price or production. In determining whether a significant potential for manipulation exists, the Department will consider (1) the level of common ownership, (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm, and (3) whether the operations of the affiliated firms are intertwined (*see Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Sweden*, 63 FR 40449, 40452 (July 29, 1999)). Based on a totality of the circumstances, the Department will collapse affiliated producers and treat them as a single entity where the criteria of 19 CFR 351.401(f) are met.

We find that Gunawan and Jaya Pari satisfy the first criterion in that they are affiliated with each other. Under section

771(33)(F) of the Act, persons are deemed to be affiliated where such persons, directly or indirectly, are under the common control of any other person. In this instance, the respondents stated in their questionnaire response that the Gunawan family controls both Gunawan and Jaya Pari (*see* page 5 of Gunawan's June 11, 1999, supplemental questionnaire response). The Gunawan family owns a significant number of shares in both Jaya Pari and Gunawan (*see* page 5 of Gunawan's June 11, 1999, supplemental questionnaire response). In addition, as more fully discussed below, members of the Gunawan family sit on the board of directors of both Gunawan and Jaya Pari. These facts indicate that the Gunawan family controls both Gunawan and Jaya Pari. Thus, we find Gunawan and Jaya Pari to be affiliated.

Moreover, pursuant to 19 CFR 351.401(h), we find that Gunawan and Jaya Pari are both producers of the subject merchandise. The merchandise each produces is identical or similar to merchandise produced by the other, and no retooling would be required to restructure manufacturing priorities. Accordingly, we find the first and second collapsing criteria to have been met in that Gunawan and Jaya Pari are affiliated parties, each of which is a producer of identical or similar subject merchandise.

Finally, we also find that the operations of Gunawan and Jaya Pari are so intertwined that there exists a significant potential for manipulation of price or production if these affiliated producers were not collapsed. *See* 19 CFR 351.401(f)(2). In particular, the level of common control is substantial as the Gunawan family holds a significant number of shares in both Gunawan and Jaya Pari. Additionally, certain executive management positions in Gunawan and Jaya Pari are jointly occupied by members of the Gunawan family. For example, Mr. Gwie Gunawan of the Gunawan family is the President Director of both Gunawan and Jaya Pari. Also, Mr. Gwie Gunawan's son, Mr. Gunadi Gunawan, is a director of Jaya Pari and vice-president director of Gunawan (*see* page 6 of Gunawan's June 11, 1999, supplemental response). Further, Gunawan and Jaya Pari also share information concerning sales, production, and pricing (*see* page 6 of the Gunawan's June 11, 1999, supplemental response). All of these facts indicate that there is significant potential for price manipulation between these two respondents. Therefore, based on the totality of the facts on the record, we have collapsed Gunawan and Jaya Pari under 19 CFR 351.401(f), for purposes of our margin analysis.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profit. For EP, the LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

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

Gunawan and Jaya Pari reported two customer categories (*i.e.,* trading companies and original equipment manufacturers) and one channel of distribution (*i.e.,* direct sales) for their home market sales. Gunawan and Jaya Pari only reported EP sales in the U.S. market. For EP sales, Gunawan and Jaya Pari reported one customer category (*i.e.,* trading companies) and one channel of distribution (*i.e.,* direct sales to trading companies). Gunawan and Jaya Pari did not claim that their sales to home market customers are at a different LOT than their sales to U.S. customers and, therefore, did not claim a LOT adjustment.

In determining whether separate LOTs actually existed in the home market and U.S. market, we examined whether Gunawan's and Jaya Pari's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions. As noted above, Gunawan's and Jaya Pari's sales to their unaffiliated customers were made through the same channel of distribution, albeit to different categories of customer, with no significant differences in selling functions. Based on these factors, we find that Gunawan's and Jaya Pari's home market sales comprise a single LOT.

In analyzing Gunawan's and Jaya Pari's selling activities for their EP sales, we noted that their sales involved essentially the same selling functions associated with the home market LOT described above. The selling activities include: (1) sales representative visits to the customer; (2) freight and delivery; and (3) pre-delivery inspection. Therefore, based upon this information, we have determined that the LOT for all EP sales is the same as that in the home market.

Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) of the Act is warranted.

Export Price

We calculated EP, in accordance with section 772(a) of the Act because the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted, based on the facts of record. We based EP on the packed CNF delivered price to unaffiliated purchasers in the United States. We made deductions to the starting price for discounts granted through credit notes and rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling charges, ocean freight, marine insurance, and stevedoring charges at the U.S. port.

Normal Value

After testing (1) home market viability, and (2) whether home market sales were at below-cost prices, we calculated NV as noted in the ''Price-to-Price Comparisons'' and ''Price-to-CV Comparisons'' sections of this notice. We note that we did not conduct an arm's length test on affiliated party transactions for the reasons stated in the ''Affiliated-Party Transactions'' section below.

1. Home Market Viability

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

2. Affiliated-Party Transactions

We have not used Gunawan's home market sales to Jaya Pari or Jaya Pari's home market sales to Gunawan in our analysis because we find that Gunawan and Jaya Pari meet the criteria for collapsing affiliated companies, and are, therefore, treating them as a single entity for purposes of our analysis. *See* ''Collapsing'' section above for further discussion. Gunawan and Jaya Pari reported no other affiliated party sales during the POI.

3. Cost of Production Analysis

Based on data contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of CTL plate in the home market were made at prices below the COP. Accordingly, we initiated a country-wide COP investigation to determine whether sales were made at prices less than the COP pursuant to section 773(b) of the Act (*see Initiation Notice* at 64 FR 12959, 12963).

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Gunawan's and Jaya Pari's cost of materials and fabrication for the foreign like product, plus an amount for home market SG&A, interest expenses, and packing costs. As noted above, we determined that the Indonesian economy experienced significant inflation during the POI. Therefore, in order to avoid the distortive effect of inflation on our comparison of costs and prices, we computed monthly costs based on the weighted average of all monthly costs as indexed for inflation over the POI (*see* Antidumping Manual, Chapter 8, Section XV, updated February 10, 1998).

We used the information from Gunawan's and Jaya Pari's Section D questionnaire responses to calculate COP. We used the respondents' monthly COP amounts, adjusted as discussed below, and the IMF's *International Financial Statistics* to compute monthly weighted-average COPs for the POI. We made the following adjustments to the respondents' reported costs:

1. We revised Jaya Pari's reported per-unit variable and fixed overhead amounts to include year-end adjustments which had not been included in the reported costs.
2. We computed the respondents' G&A and interest expense ratios on a constant currency basis using monthly inflation indices. We recalculated the reported G&A expense ratios to include the expenses incurred in January 1998 which had been excluded. In addition, we adjusted Gunawan's cost of sales figure to reflect the cost in the income statement.
3. We allocated total foreign exchange gains attributable to accounts payable as a percentage of cost of sales.
4. We calculated the price of slab for those months where there were no purchases using the most recent prior month average purchase price and indexed that price for inflation.
5. For months in which there was no production for Jaya Pari, we have allocated the conversion costs incurred in these months to the remaining months with production.
6. We calculated consolidated weighted-average COPs and CVs for the two companies.

B. Test of Home Market Sales Prices

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

C. Results of the COP Test

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

We found that, for certain grades of CTL plate, more than 20 percent of Gunawan's and Jaya Pari's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining above-cost sales as the basis for determining NV if such sales existed, in accordance with section 773(b)(1) of the Act. For those U.S. sales of CTL plate for which there were no comparable home market sales in the ordinary course of trade, we compared EPs to CV in accordance with section 773(a)(4) of the Act.

D. Calculation of CV

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

Price-to-Price Comparisons

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for early payment discounts, discounts granted through credit notes, inland freight, and ''billing error'' rebates. We made adjustments for differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In addition, we made

adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses, warranties and commissions. In this case, respondents incurred commissions only in the home market. Therefore, we offset home market commissions by the lesser of U.S. indirect selling expenses and home market commissions. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses in accordance with section 773(a)(6)(C)(iii) of the Act. We offset home market commissions in the manner described above in the ''Price-to-Price Comparisons'' section.

Critical Circumstances

In their February 16, 1999, petition, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of CTL plate from the Indonesia. In a preliminary determination of critical circumstances finding published on April 26, 1999, we stated that because there was insufficient evidence on the record to make a finding whether importers, exporters, or producers knew or should have known, at some time prior to the filing of the petition, that a proceeding concerning Indonesia was likely, we would make our preliminary critical circumstances finding by the date of the preliminary determination (*see Preliminary Determination of Critical Circumstances: Certain Cut-To-Length Carbon-Quality Steel Plate from Japan*, 64 FR 20251, 20252 (April 26, 1999)). Therefore, in accordance with 19 CFR 351.206(c)(2)(i), we are issuing our preliminary critical circumstances determination.

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

(B) There have been massive imports of the subject merchandise over a relatively short period.

We are not aware of any existing antidumping order in any country on CTL plate from Indonesia. Therefore, we examined whether there was importer knowledge. In determining whether an importer knew or should have known that the exporter was selling the subject merchandise at less than its fair value and thereby causing material injury, the Department normally considers margins of 25 percent or more for EP sales sufficient to impute knowledge of dumping (*see Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China*, 62 FR 9160 (February 28, 1997); and *Notice of Final Determination of Sales at Less Than Fair Value: Steel Sheet and Strip in Coils from Japan*, 64 FR 30574 (June 8, 1999) (*Steel Sheet and Strip in Coils from Japan*)). All respondents in this proceeding have made EP sales to the United States.

The Department's margin for Gunawan and Jaya Pari exceeds 25 percent (*see* ''Suspension of Liquidation'' section below). Therefore, we determine that importers knew or should have known that Gunawan and Jaya Pari made sales of the subject merchandise at prices below fair value. As to the knowledge of injury from such dumped imports, in the present case, the ITC preliminarily determined that there is reasonable indication that the U.S. CTL plate industry is experiencing present material injury. Therefore, we find that the ''importer knowledge of dumping and material injury'' criterion is met with respect to CTL plate from Indonesia.

Because we have found that the first statutory criterion is met with regard to Gunawan and Jaya Pari, we must consider the second statutory criterion: whether imports of the merchandise have been massive over a relatively short period. According to 19 CFR 351.206(h), we consider the following to determine whether imports have been massive over a relatively short period of time: (1) volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department typically compares the export volume for equal periods immediately preceding and following the filing of the petition. Under 19 CFR 351.206(h), unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider the imports to have been ''massive.'' The Department examines shipment information submitted by the respondent or import statistics when respondent-specific shipment information is not available.

To determine whether imports of subject merchandise have been massive over a relatively short period, we compared Gunawan's and Jaya Pari's export volume for the four months subsequent to the filing of the petition (March–June 1999) to that during the four months prior to the filing of the petition (November 1998-February 1999). These periods were selected based on the Department's practice of using the longest period for which information is available from the month that the petition was submitted through the date of the preliminary determination.

Based on our analysis, we preliminarily find that the increase in imports was not greater than 15 percent with respect to Gunawan and Jaya Pari, as these companies reported that they had no exports of subject merchandise to the United States during the period March-June 1999 (*see* July 9, 1999, submission). In addition, U.S. Customs import data indicate that Gunawan and Jaya Pari accounted for the vast majority of imports of subject merchandise into the United States during the POI. Moreover, since the filing of the petition, U.S. Customs import data does not evidence massive imports of subject merchandise from Indonesia (*see* July 19, 1999, Memorandum to the File Regarding Import Statistics Used for Preliminary Critical Circumstances Determination).

Because the margin we have assigned to Krakatau is 35.01 percent, and thus exceeds 25 percent, we have imputed knowledge of dumping to Krakatau. However, information on the record sufficiently establishes that Krakatau's exports of subject merchandise to the United States have not increased massively since the filing of the petition. U.S. Customs import data does not show such an increase, and we preliminarily do not find massive imports for the two companies responsible for the majority of such exports. Thus, we preliminarily determine that no critical circumstances exist for Krakatau.

Because the margin for all other Indonesian exporters/producers of the subject merchandise is 32.20 percent, and thus exceeds 25 percent, we have imputed knowledge of dumping to ''All Others.'' However, we considered that

the increase in imports was not greater than 15 percent with respect to Gunawan and Jaya Pari. We also considered U.S. Customs data on overall imports from Indonesia of the products at issue. Based on our review of Gunawan's and Jaya Pari's data on massive imports and the U.S. Customs import data, we find that imports from all non-investigated exporters (*i.e.*, ''all others'') were also not massive during the relevant comparison periods. Given these factors, the Department determines that there are no critical circumstances with regard to ''all other'' imports of CTL Plate from Indonesia (*see Steel Sheet and Strip in Coils from Japan* at 64 FR 30585).

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales certified by the Federal Reserve Bank.

Verification

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

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

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

Exporter/manufacturer	Weighted-average margin percentage
Gunawan Dianjaya Steel/PT Jaya Pari Steel Corporation	32.20
PT Krakatau Steel	35.01
All Others	32.20

ITC Notification

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

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than August 25, 1999, and rebuttal briefs no later than September 1, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on September 9, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

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

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

Dated: July 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19302 Filed 7–28–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–826]

Preliminary Determinations of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products From Italy

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

EFFECTIVE DATE: July 29, 1999.

FOR FURTHER INFORMATION CONTACT: Howard Smith or Maisha Cryor, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5193 or (202) 482–5841, respectively.

The Applicable Statute

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

Preliminary Determination

We preliminarily determine that certain cut-to-length carbon-quality steel plate products (''CTL plate'') from Italy are being, or are likely to be, sold the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''*Suspension of Liquidation*'' section of this notice.

Case History

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

In their petition, the petitioners [1] identified Ferriera Siderscal SpA (''FS''), ILVA SpA (''ILVA''), Palini & Bertoli SpA (''P&B''), and Siderurgica Villalvernia SpA (''SV''), as possible exporters of CTL plate from Italy. On March 15, 1999, we requested data on all producers and exporters of the subject merchandise during the period of investigation (''POI'') from the U.S. embassy in Rome. The U.S. embassy informed us that only ILVA and P&B are manufacturers and exporters to the United States of carbon steel plate. Based on this information, and information contained in the petition, the Department issued antidumping questionnaires to ILVA and P&B in March 1999. According to the U.S.

[1] The petitioners are Bethlehem Steel Corporation, Gulf States Steel, Inc., PPSCO Steel Inc., the United Steelworkers of America, and the U.S. Steel Group (a unit of USX Corporation).