after the filing of case 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. 99–18854 Filed 7–23–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–818]

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 India

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

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Eric B. Greynolds, 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 India. For information on the estimated countervailing duty rate, 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 Steelworkers of America (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of 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 19, 1999, we issued our original countervailing duty questionnaire to the Government of India (GOI) and to producers/exporters of the subject merchandise. On April 21, 1999, we postponed the preliminary determination of this investigation to 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).

On May 10, 1999, we received responses to our initial questionnaire from the GOI and from the Steel Authority of India (SAIL), the only producer and exporter of the subject merchandise. We issued supplemental questionnaires on June 3, 1999, and June 15, 1999. We received responses to these questionnaires on June 25, 1999, and July 6, 1999.

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils).

Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of this investigation 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 Department's 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 and 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 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 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 India 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 India materially injure, or threaten material injury to, a U.S. industry. On April 8, 1999, the ITC published its preliminary determination 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 India 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 duty investigations of cut-to-length plate.

Period of Investigation (POI)

Because SAIL is the only exporter/producer of the subject merchandise, the POI for which we are measuring subsidies is the period for SAIL's most recently completed fiscal year, April 1, 1997 through March 31, 1998.

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 SAIL's non-recurring benefits over 15 years, the AUL listed in the IRS tables for the steel industry.

Benchmarks for Loans and Discount Rate

For those programs which require the application of a short-term interest rate benchmark, we used as our benchmark a company-specific, short-term commercial interest rate for both rupee- and U.S. dollar-denominated loans for the POI as reported by SAIL. Where a long-term interest-rate benchmark was required, the selection of a benchmark is specified in the program-specific sections of this notice.

In addition, because SAIL did not report rupee-denominated long-term commercial loans, we could not use a company-specific interest rate as our discount rate. Therefore, the discount rate used was the lending rate on rupee lending from private creditors as reported in the International Financial Statistics.

I. Programs Preliminarily Determined To Be Countervailable

A. Duty Entitlement Passbook Scheme (DEPS)

In its May 10, 1999, response to the Department's original questionnaire, the GOI submitted copies of two publically available Ministry of Commerce publications—''Export and Import Policy'' and ''Handbook of Procedures'' (see Exhibits P and Q of the public version on file in room B–099 of the Main Commerce Building). These publications set forth the rules and regulations of the several programs which allow duty exemptions on imports. Chapter 7 of the ''Export and Import Policy'' contains the details of India's Duty Exemption Scheme, which consists of the DEPS and ''Duty Free Licenses'' (Advance Licenses, Advance Intermediate Licenses, and Special Imprest Licenses).

The DEPS formerly was the Passbook Scheme (PBS), which was enacted on April 1, 1995, under the auspices of the Directorate General of Foreign Trade (DGFT). Under the PBS, GOI-designated manufacturers/exporters, upon export of finished goods, could claim credits on certain imported inputs which could be used to pay customs duties on subsequent imports. The amount of credit granted was determined according to the GOI's ''Standard Input/Output'' (SIO) norm schedule that established the quantities of normally imported raw materials used to produce one unit of the finished product. Using the SIO norm schedule, the GOI granted a credit based on an estimation of the customs duty that would have otherwise been charged absent the program. Rather than receiving the import duty refund in cash, participating companies received their credits in the form of a ''passbook'' from the DGFT which, in turn, could be used to pay import duties on subsequent GOI-approved imports by means of a debit entry in the company's passbook. According to the GOI, the passbook program was discontinued on April 1, 1997. However, exporters may continue to use a passbook credit that was issued prior to the termination for a period of up to three years after the issuance date. Thus, exporters can, conceivably, continue to use credits earned under the PBS program until their credits have been used up or until March 31, 2000. SAIL has reported that it did not use or receive credits under the PBS during the POI.

On the same date that the PBS was terminated, the GOI enacted the DEPS. Under the DEPS, exporters are eligible to receive a specified percentage of duty credits against the f.o.b. value of their exports. As with the PBS, the GOI determines the amount of credit that can be applied towards a company's remission of import duties according to the GOI's SIO norm schedule, which sets forth the average amount of inputs imported for the manufacture of a specific product and the average amount of duty payable on those imported inputs.

Under the DEPS, an exporter may obtain credits on a pre-export or post-export basis. Eligibility for the DEPS pre-export program is limited to manufacturers/exporters that have exported for a three year period prior to applying for the program. A pre-export credit is capped at five percent of the average export performance of the applicant during the preceding three years. The GOI and the company have stated that SAIL did not use or receive DEPS pre-export credits during the POI.

All exporters are eligible to participate in the DEPS post-export program, provided that the exported product is listed in the GOI's SIO norm schedule. According to the GOI, post-export DEPS credits allow exporters to receive exemptions on any subsequent import regardless of whether it is incorporated into the production of an export product. In addition, credits earned under the DEPS post-export program are valid for 12 months and are freely transferable. During the POI, SAIL received and used post-export DEPS credits.

Section 351.519 of the CVD Regulations sets forth the criteria regarding the remission, exemption or drawback of import duties. Under 351.519(a)(4), the entire amount of an import duty exemption is countervailable if the government does not have in place a system or procedure to confirm which imports are consumed in the production of the exported product, or if the government has not carried out an examination of actual imports involved to confirm which imports are consumed in the production of the exported product.

According to the GOI, once a post-export DEPS credit is earned, companies may use the credit for the exemption of duties on any import regardless of whether the import is consumed in the production of an export product. Because the GOI reported that exporters are free to use products imported with post-export DEPS credits without restriction, we preliminary determine that the GOI does not have a system in place to confirm that imports are consumed in the production of an exported product, nor has it carried out such an examination. Consequently, under § 351.519(a)(4) of the CVD Regulations, the entire amount of the import duty exemption provides a benefit. Furthermore, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program because the GOI is foregoing customs duties. In addition, this program can only be used by exporters, and, thus, the subsidy is specific under section 771(5A)(A) of the Act.

SAIL reported its receipt of DEPS post-export credits during the POI for exports of subject merchandise to the United States and the application fees it paid in order to receive the credits. We preliminarily determine that the fees paid qualify as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act. Thus, to calculate the subsidy, we have calculated the amount of DEPS import duty exemptions received by SAIL and the amount of revenue earned on DEPS export credits which have been sold by SAIL during the POI that were attributable to exports of subject merchandise to the United States (less the applicable fees paid). We then divided that amount by SAIL's total exports of subject merchandise to the United States during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.55 percent *ad valorem*.

B. Advance Licenses

Under India's Duty Exemption Scheme, companies may also import

inputs duty-free through the use of import licenses. Using advance licenses, companies are able to import inputs ''required for the manufacture of goods'' without paying India's basic customs duty (*see* chapter 7 of ''Export and Import Policy''). Advance intermediate licenses and special imprest licenses are also used to import inputs duty-free. During the POI, SAIL used advance licences and also sold some advance licenses. SAIL reported that it did not use or sell any advance intermediate licenses or special imprest licenses during the POI.

In *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 62 FR 32297, 32306 (June 13, 1997) (*1994 Castings*), the Department found that the advance licenses system accomplished, in essence, what a drawback system is intended to accomplish, *i.e.*, finished products produced with imported inputs are allowed to be exported free of the import duties assessed on the imported inputs. The Department concluded that, because the imported inputs were used to produce castings which were subsequently exported, the duty-free importation of these inputs under the advance license program did not constitute a countervailable subsidy. *See 1994 Castings* 62 FR at 32306.

Subsequently, in *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 63 FR 64050, 64058–59 (Nov. 18, 1998) (*1996 Castings*), we stated that we would reevaluate the program in light of new information as to how the program operates. In the petition, petitioners provided new substantive information which indicated that the GOI does not value the licenses according to the inputs actually consumed in the production of the exported good. Based on this information, we initiated a reexamination of the advanced license program.

As stated earlier, § 351.519 of the CVD Regulations sets the criteria used to determine whether programs which provide for the remission, exemption, or drawback of import duties are countervailable. Under § 351.519(a)(4), the government must have a system in place or must carry out an examination to confirm that inputs are consumed in the production of the exported product. Absent these procedures, the entire amount of the import duty exemption provides a countervailable benefit.

Because the GOI reported in its questionnaire response that products imported under an advance license need not be consumed in the production of the exported product, we preliminarily determine that the GOI has no system in place to confirm that the inputs are consumed in the production of the exported product, nor has the GOI carried out such an examination. Consequently, under § 351.519(a)(4) of the CVD Regulations, the entire amount of the duty exemption under the advance licenses program is countervailable. Because only exporters can receive advance licenses, this program constitutes an export subsidy under section 771(5A)(B) of the Act. In addition, a financial contribution is provided by the program under section 771(5)(D)(ii) of the Act.

The GOI also allows companies to sell advance licenses to other companies in India. The Department has previously determined that the sale of import licenses constitutes a countervailable export subsidy. *See, e.g., 1996 Castings* and *1994 Castings*. No new substantive information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that this program constitutes an export subsidy and that the financial contribution in the form of the revenue received on the sale of licenses constitutes the benefit.

SAIL reported the advance licenses it used and sold during the POI which it received for exports of subject merchandise to the United States and the application fees it paid in order to receive these licenses. We preliminarily determine that the fees paid qualify as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act. Under § 351.524(c) of the CVD Regulations, this program provides a recurring benefit. Therefore, to calculate the subsidy for the Advance Licenses program, we added the values of the import duty exemptions realized by SAIL from its use of advance licenses during the POI (net of application fees) and the proceeds it realized from sales of advance licenses during the POI (net of application fees). We then divided this total by the value of SAIL's exports of subject merchandise to the United States during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 12.90 percent *ad valorem*.

C. Special Import Licenses (SILs)

During the POI, SAIL sold through public auction two other types of import licenses—SILs for Quality and SILs for Star Trading Houses. SILs for Quality are licenses granted to exporters which meet internationally-accepted quality standards for their products, such as IS0 9000 (series) and ISO 14000 (series). SILs for Star Trading Houses are licenses granted to exporters that meet certain export targets. Both types of SILs permit the holder to import products listed on a ''Restricted List of Imports'' in amounts up to the face value of the SIL but do not relieve the importer of import duties.

SAIL reported that it sold SILs during the POI. As explained above, the Department's practice is that the sale of special import licenses constitutes an export subsidy because companies received these licenses based on their status as exporters. *See, e.g., 1996 Castings* and *1994 Castings*. No new substantive information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that this program constitutes a countervailable export subsidy, and the financial contribution in the form of the revenue received on the sale of licenses constitutes the benefit.

During the POI, SAIL sold numerous SILs. Because the receipt of SILs cannot be segregated by type or destination of export, we calculated the subsidies by dividing the total amount of proceeds received from the sales of these licenses by the value of SAIL's total exports. On this basis, we preliminarily determine the net countervailable subsidy be 0.15 percent *ad valorem*.

D. Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and an exemption from excise taxes on imports of capital goods. Under this program, producers may import capital goods at reduced rates of duty by undertaking to earn convertible foreign exchange equal to four to six times the value of the capital goods within a period of five to eight years. For failure to meet the export obligation, a company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest.

In the *Final Negative Countervailing Duty Determination: Elastic Rubber Tape From India*, 64 FR 19125 (April 19, 1999) (*ERT*), we determined that the import duty reduction provided under the EPCGS was a countervailable export subsidy. *See ERT* 64 FR at 19129–30. We also determined that the exemption from the excise tax provided under this program was not countervailable. *See ERT* 64 FR at 19130. No new

information or evidence of changed circumstances have been provided to warrant a reconsideration of these determinations. Therefore, we continue to find that import duty reductions provided under the EPCGS to be countervailable export subsidies.

SAIL reported that it imported machinery under the EPCGS during the POI and in the years prior to the POI. For some of its imported machinery, SAIL met its export commitments prior to the POI. Therefore, the amount of duty for which it had claimed exemption has been completely waived by the GOI. However, SAIL has not completed its export commitments for other imports of capital machinery. Therefore, although SAIL received a reduction in import duties when the capital machinery was imported, the final waiver on the potential obligation to repay the duties has not yet been made by the GOI.

We preliminary determine that SAIL benefitted in two ways by participating in this program during the POI. The first benefit received by SAIL under this program is the benefit on the import duty reductions received on imported capital equipment which has been formally waived by the GOI because SAIL met its export requirements with respect to those imports. Prior to the POI, SAIL met its export requirements for certain capital imports it made under the EPCGS and, therefore, upon that fulfillment, the GOI formally waived the unpaid duties on those imports. Because the GOI has formally waived the unpaid duties on these imports, we have treated the full amount of the duty exemption as a grant received in the year the export requirement for the import was met since that was the year the final waiver of unpaid duties was received.

Section 351.524 of the CVD Regulations specifies the criteria to be used by the Department in determining how to allocate the benefits from a countervailable subsidy program. Under the CVD Regulations, recurring benefits will be expensed in the year of receipt, while non-recurring benefits will be allocated over time. In this investigation, non-recurring benefits will be allocated over 15 years, the AUL of assets used by the steel industry as reported in the IRS tables.

Normally, tax benefits are considered to be recurring benefits and are expensed in the year of receipt. Since import duties are a type of tax, the benefit provided under this program is a tax benefit, and, thus, normally would be considered a recurring benefit. However, the CVD Regulations recognize that under certain circumstances it may be more appropriate to allocate the benefits of a program traditionally considered as a recurring subsidy, rather than to expense the benefits in the year of receipt. For example, § 351.524(c)(2) of the CVD Regulations allows a party to claim that a recurring subsidy should be treated as a non-recurring subsidy and enumerates the criteria to be used by the Department in evaluating that claim. In addition, in the Explanation of the Final Rules (the Preamble) to the CVD Regulations, the Department provides an example of when it may be more appropriate to consider the benefits of a tax program non-recurring, and, thus, allocate those benefits over time. In the Preamble to the CVD Regulations we stated that if a government provides an import duty exemption tied to major capital equipment purchases, such as the program at issue here, that it may be appropriate to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring, even though import duty exemptions are on the list of recurring subsidies. *See* CVD Regulations, 63 FR at 65393. Therefore, because the benefit received from the waiver of import duties under the EPCGS program is tied to the capital assets of SAIL, we consider the benefit to be non-recurring. Accordingly, we have allocated the benefit from this program over the average useful life of assets in the industry, as set forth in the ''Subsidies Valuation Information'' section, above.

The second type of benefit received under this program was provided by the import duty reductions received on imports of capital equipment for which SAIL had not yet met its export requirements. For those capital equipment imports, we determine that SAIL had unpaid duties which formally had not been waived by the GOI. Thus, the company had outstanding contingent liabilities during the POI. When a company has an outstanding liability and repayment of that liability is contingent upon subsequent events, our practice is to treat any balance on that unpaid liability as an interest-free loan. *See* § 351.505(d)(1) of the CVD Regulations.

In this investigation, the amount of contingent liability which would be treated as an interest-free loan is the amount of the import duty reduction received by SAIL, but not yet finally waived by the GOI. Thus, for duty reductions received on imports of capital equipment for which SAIL had not yet met its export requirements, we consider the full amount of SAIL's unpaid customs duty on those imports which are outstanding during the POI to be an interest-free loan. We calculated this portion of the benefit as the interest that SAIL would have paid during the POI had it borrowed the full amount of the duty reduction at the benchmark rate. Pursuant to § 351.505(d)(1) of the CVD Regulations, we used a long-term interest rate as our benchmark for measuring the subsidy because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period for SAIL to fulfill its export commitments) occurs at a point in time more than one year after the date the capital goods were imported. Because SAIL did not report any rupee-denominated long-term loans for the year in which SAIL imported the capital equipment, we could not use a company-specific benchmark interest rate as a discount rate in calculating the benefit provided to SAIL under this program. Thus, we used, as the discount rate, the lending rate on rupee-lending from private creditors, which is published in *International Financial Statistics*.

To calculate the subsidy, we divided the combined benefit allocable to the POI by SAIL's total exports from its Bhilai facility during the POI because SAIL only reported the capital equipment imported under the EPCGS for the Bhilai facility. (We used this methodology for the purpose of the preliminary determination because SAIL only reported the capital equipment imported under the EPCGS by the Bhilai facility, the only plant which produced the subject merchandise exported to the United States. We are seeking additional information on all import duty exemptions on imports of all capital equipment by SAIL for purposes of the final determination). On this basis, we preliminarily determine the net countervailable subsidy to be 0.25 percent *ad valorem*.

E. Pre-shipment and Post-shipment Export Financing

The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment financing, or ''packing credits,'' to exporters. Upon presentation of a confirmed export order or letter of credit to a bank, companies may receive pre-shipment loans for working capital purposes, *i.e.*, for the purchase of raw materials, warehousing, packing, and transporting of export merchandise. Exporters may also establish pre-shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks, based upon a company's creditworthiness and past export performance, and may be

denominated in either Indian rupees or in foreign currency. Companies that have pre-shipment credit lines typically pay interest on a quarterly basis on the outstanding balance of the account at the end of each period.

Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates determined by the RBI. During the POI, the rate of interest charged on pre-shipment, rupee-denominated export loans up to 180 days was 12.0 and 13.0 percent. For those loans over 180 days and up to 270 days, banks charged interest at 15.0 percent. The interest charged on foreign currency denominated export loans up to 180 days during the POI was a 6-month LIBOR rate plus 2.0 percent for banks with foreign branches, or plus 2.5 percent for banks without foreign branches. For those foreign currency denominated loans exceeding 180 days and up to 270 days, the interest charged was 6-month LIBOR plus 4.0 percent for banks with foreign branches, or plus 4.5 percent for banks without foreign branches. Exporters did not receive the concessional interest rate if the loan was beyond 270 days.

Post-shipment export financing consists of loans in the form of discounted trade bills or advances by commercial banks. Exporters qualify for this program by presenting their export documents to their lending bank. The credit covers the period from the date of shipment of the goods, to the date of realization of export proceeds from the overseas customer. Post-shipment financing is, therefore, a working capital program used to finance export receivables. This financing is normally denominated in either rupees or in foreign currency, except when an exporter used foreign currency pre-shipment financing, then the exporter is restricted to post-shipment export financing denominated in the same foreign currency.

In general, post-shipment loans are granted for a period of no more than 180 days. The interest rate charged on these foreign currency denominated loans during the POI was LIBOR plus 2.0 percent for banks with overseas branches or LIBOR plus 2.5 percent for banks without overseas branches. For loans not repaid within the due date, exporters lose the concessional interest rate on this financing.

The Department has previously found both pre-shipment export financing and post-shipment export financing to be countervailable, because receipt of export financing under these programs was contingent upon export performance and the interest rates were lower than the rates the exporters would have paid on comparable commercial loans. *See, e.g., 1995 Castings,* 62 FR at 32998. No new substantive information or evidence of changed circumstances has been submitted in this investigation to warrant reconsideration of this finding. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that pre-and post-shipment export financing constitute countervailable export subsidies.

To determine the benefit conferred under the pre-export financing program for rupee-denominated loans, we compared the interest rate charged on these loans to a benchmark interest rate. SAIL reported that, during the POI, it received and paid interest on commercial, short-term, rupee-denominated cash credit loans which were not provided under a GOI program. Cash credit loans are the most comparable type of short-term loans to use as a benchmark because like the pre-export loans received under this program, cash credit loans are denominated in rupee and take the form of a line of credit which can be drawn down by the recipient. Thus, we used these loans to calculate a company-specific, weighted-average, rupee-denominated benchmark interest rate. We compared this company-specific benchmark rate to the interest rates charged on SAIL's pre-shipment rupee loans and found that the interest rates charged were lower than the benchmark rates. Therefore, in accordance with section 771(5)(E)(ii) of the Act, this program conferred countervailable benefits during the POI because the interest rates charged on these loans were less than what a company otherwise would have had to pay on a comparable short-term commercial loan.

To calculate the benefit from these pre-shipment loans, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rate. Where the benchmark interest exceeded the actual interest paid, the difference is the benefit. We then divided the total amount of benefit by SAIL's total exports. On this basis, we preliminarily determine the net countervailable subsidy to be 0.10 percent *ad valorem*.

During the POI, SAIL also took out U.S. pre-and post-shipment export financing denominated in U.S. dollars. To determine the benefit conferred from this non-rupee pre-and post-shipment export financing, we again compared the program interest rates to a benchmark interest rate. We used the company-specific interest rates from SAIL's ''bankers acceptance facility'' loans to derive the benchmark. SAIL's bankers acceptance facility loans were the only commercial short-term dollar lending received by the company during the POI. Because the effective rates paid by the exporters are discounted rates, we derived from the bankers acceptance facility rates a discounted weighted-average, dollar-denominated benchmark. We compared this company-specific benchmark rate to the interest rates charged on pre-shipment and post-shipment dollar-denominated loans and determined that the program interest rates were higher than the benchmark rate. Therefore, we preliminarily determine that SAIL did not benefit from dollar-denominated pre-and post-shipment export financing during the POI.

F. Loan Guarantees From the GOI

In its questionnaire response, the GOI reported that it has not extended loan guarantees pursuant to any program *per se*. Rather, the Ministry of Finance extends loan guarantees to selected Indian companies on an *ad hoc* basis, normally to public sector companies in particular industries. The GOI also reported that GOI loan guarantees are not contingent on export performance nor are they contingent on the use of domestic over imported goods. The GOI stated that, while it has not extended loan guarantees to the steel sector since 1992, it continues to extend loan guarantees to other industrial sectors on an *ad hoc* basis.

During the POI, SAIL had outstanding several long-term, foreign currency loans on which it received loan guarantees from the GOI. These loans originated from both foreign commercial banks and international lending/development institutions. According to SAIL, the loan guarantees were earmarked for certain activities related to the company's steel production (i.e. worker training, modernization activities, etc.). In contradiction to the GOI's response, SAIL reported that it finalized its loan agreements, and, thus, its loan guarantees as late as 1994.

Section 351.506 of the CVD Regulations states that in the case of a loan guarantee, a benefit exists to the extent that the total amount a firm pays for the loan with a government-provided guarantee is less than the total amount the firm would pay for a comparable commercial loan that the firm could actually obtain on the market absent the government-provided guarantee, including any differences in guarantee fees. Thus, to determine whether this program confers a benefit, we compared the total amount SAIL paid, including effective interest and guarantee fees, on

each of its outstanding foreign currency loans with the total amount it would have paid on a comparable commercial loan.

According to SAIL's response, the original loan amounts were denominated in foreign currencies. However, SAIL only reported the rupee-denominated payments on these loans, and reported only a weighted-average interest rate on these loans derived from these rupee payments. Therefore, for this preliminary determination, we are unable to use a foreign currency benchmark to calculate the benefit conferred by these loan guarantees. (We also note that SAIL did not report any non-GOI guaranteed long-term foreign currency loans, thus, even if SAIL had properly reported the interest rates charged on these loans, we could not use a company-specific benchmark interest rate.) SAIL also did not report any long-term rupee loans from commercial sources. Therefore, we used as the benchmark the long-term interest rate for loans denominated in rupees from private creditors, which is published in *International Financial Statistics.* (We are seeking additional information from SAIL on the actual fees charged on these guarantees. We will also seek information on interest rates and guarantee fees charged by commercial banks on foreign currency loans provided within India.)

Using these two rates for comparison purposes, we found that the total amount paid by SAIL on the GOI guaranteed loans was less than what the company would have paid on a comparable commercial loan. Thus, we preliminary determine that the loan guarantees from the GOI conferred a benefit upon SAIL. We preliminarily determine that this program is specific under section 771(5A)(D)(iii)(II) of the Act because it is limited to certain companies selected by the GOI on an *ad hoc* basis. In addition, a financial contribution is provided under the program as defined under section 771(5)(D)(i) of the Act. To calculate the subsidy, we divided the benefit calculated from the loan guarantees by SAIL's total sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.50 percent *ad valorem*.

We did not include in our calculations the loans which originated from international lending/development institutions. According to § 351.527 of the CVD Regulations, the Department does not generally consider loans provided by international lending/development institutions such as the World Bank to be countervailable. However, we will continue to consider the issue for the final determination.

II. Program Preliminarily Determined To Be Not Countervailable

Government of India (GOI) Loans through the Steel Development Fund (SDF)

The SDF was established in 1978 at a time when the steel sector was subject to price and distribution controls. From 1978 through 1994, an SDF levy was imposed on all sales made by India's integrated producers. The proceeds from this levy were then remitted to the Joint Plant Committee (JPC), the administrating authority consisting of four major integrated steel producers in India that have contributed to the fund over the years. The GOI reported in its questionnaire response that these levies, interest earned on loans, and repayments of loans due are the only sources of funds for the SDF.

Under the SDF program, companies that have contributed to the fund are eligible to take out long-term loans from the fund at favorable rates. All loan requests are subject to review by the JPC along with the Development Commission for Iron and Steel. In its questionnaire response, the GOI has claimed that it has never contributed any funds, either directly or indirectly, to the SDF. Thus, we preliminarily determine that the SDF program is not countervailable because it does not constitute a financial contribution as defined under section 771(5)(D)(ii) of the Act.

III. Programs Preliminarily Determined To Be Not Used

Based upon the information provided in the responses, we preliminarily determine that SAIL did not apply for or receive benefits under the following programs during the POI:

A. *Passbook Scheme*
B. *Advanced Intermediate Licenses*
C. *Special Imprest Licenses*
D. *Tax Exemption for Export Profits (Section 80 HHC of the India Tax Act)*

Verification

In accordance with section 782(i) 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 an individual rate for the company under investigation—SAIL. We will use this rate for purposes of the ''all others'' rate.

Producer/exporter	Net subsidy rate
Steel Authority of India (SAIL).	14.45% ad valorem.
All Others	14.45% 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 the subject merchandise from India, 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. 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.

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 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 nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of 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. 99–18856 Filed 7–23–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–837]

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 the Republic of Korea

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

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Tipten Troidl, CVD/AD Enforcement, Office 6, Group II, 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 the Republic of Korea. For information on the estimated countervailing duty rates, 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 Steelworkers of America (the petitioners).

Case History

Since the publication of the notice of initiation in the *Federal Register (see Notice of 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 18, 1999, we issued countervailing duty questionnaires to the Government of Korea (GOK), and the producers/exporters of the subject merchandise. On April 29, 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 GOK and Pohang Iron & Steel Company, Ltd. (POSCO), and Dongkuk Steel Mill Co., Ltd. (DSM), producers of the subject merchandise, on May 10, 1999. In addition, on July 1, 1998 we received responses from four trading companies which are involved in exporting the subject merchandise to the United States: POSCO Steel Service & Sales Company, Ltd. (POSTEEL), Dongkuk Industries Co., Ltd. (DKI), Hyosung Corporation (Hyosung), and Sunkyong Ltd. (Sunkyong). On June 9, 1999, we issued supplemental questionnaires to all of the responding parties and received their responses on June 28, 1999, and July 1, 1999.

The Department is currently seeking additional information regarding certain R&D programs used by either POSCO, DSM or their affiliates, which may have benefitted the producers/exporters of the subject merchandise.

Scope of Investigation

For purposes of this investigation, the product covered is 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