determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

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

This determination is published pursuant to sections 703(f) and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 13, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–9859 Filed 4–19–01; 8:45 am]

BILLING CODE 3510–05–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–821]

Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination With Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products From India

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

ACTION: Notice of preliminary affirmative countervailing duty determination.

EFFECTIVE DATE: April 20, 2001.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds at (202) 482–6071 or Robert Copyak (202) 482–2209, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of certain hot-rolled carbon steel flat products (subject merchandise) from India. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, Gallatin Steel Company, IPSCO Steel Inc., LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., U.S. Steel Group, a unit of USX Corporation, Weirton Steel Corporation, Independent Steelworkers Union, and the Independent 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 Hot-Rolled Carbon Steel Flat Products from Argentina, India, Indonesia, South Africa, and Thailand,* 65 FR 77580 (December 12, 2000) (*Initiation Notice*), the following events have occurred: On December 7, 2000, we issued countervailing duty questionnaires to the Government of India (GOI).[1] On January 26, 2001, we received questionnaire responses from the Steel Authority of India Limited (SAIL), Essar Steel Limited (Essar), Ispat Industries Limited (Ispat), the Tata Iron and Steel Company Limited (TISCO), (collectively, producers/exporters of subject merchandise), and the GOI. Beginning on February 16, 2001, we issued supplemental questionnaires to SAIL, Essar, Ispat, TISCO, and the GOI. Beginning on March 9, 2001, we received supplemental questionnaire responses from the GOI and the producers/exporters of subject merchandise.

We note that the GOI's January 26, 2001 questionnaire response indicated that Jindal Iron and Steel (Jindal) shipped subject merchandise to the United States during the POI. However, we did not receive a questionnaire response from Jindal.

On February 22, 2001, petitioners submitted financial information for Ispat and Essar and requested that the Department initiate creditworthy investigations for the two companies for fiscal years 1997 through 2000. In the same submission, petitioners submitted additional financial information for SAIL covering fiscal years 1997 and 1998 and requested that the Department reverse its decision in the *Initiation Notice* and initiate creditworthy investigations of SAIL for these years.

On January 18, 2001, we issued a partial extension of the due date for this preliminary determination from February 7, 2001, to March 26, 2001. *See Certain Hot-Rolled Carbon Steel Flat Products from India, Indonesia, South Africa, and Thailand: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations, (Extension Notice)* 66 FR 8199 (January 30, 2001).

On March 26, 2001, we amended the Extension Notice to take the full amount of time to issue this preliminary determination. The extended due date is April 13, 2001. *See Certain Hot-Rolled Carbon Steel Flat Products From India, Indonesia, South Africa, and Thailand:*

---

[1] Upon the issuance of the questionnaire, we informed the GOI that it was the government's responsibility to forward the questionnaires to all producers/exporters that shipped subject merchandise to the United States during the period of investigation.

Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations, 66 FR 17525 (April 2, 2001).

Scope of the Investigation

The merchandise subject to this investigation is certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*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 thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

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

1.80 percent of manganese, or
2.25 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
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.,* ASTM specifications A543, A387, A514, A517, A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this investigation is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon-quality steel covered by this investigation, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

In the scope section of the *Initiation Notice* for this investigation, the Department encouraged all parties to submit comments regarding product coverage by December 26, 2000. The Department is presently considering a request to amend the scope of these investigations to exclude a particular specialty steel product. We will issue our determination on this request prior to the final determination.

The Applicable Statute and Regulations

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 citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Injury Test

Because India is a ''Subsidy 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 January 4, 2001, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from India of subject merchandise. *See Hot-Rolled Steel Products from Argentina, China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine,* 66 FR 805 (January 4, 2001). *Alignment With Final Antidumping Duty Determination*

On March 23, 2001, petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the antidumping duty investigation of hot-rolled carbon steel flat products from India.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is April 1, 1999, through March 31, 2000, which corresponds to the period for producers/exporters' most recently completed fiscal year.

Use of Facts Available

Jindal failed to respond to the Department's questionnaire. Sections 776(a)(2)(A) and 776(a)(2)(B) of the Act require the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. Jindal failed to provide information explicitly requested by the Department; therefore, we must resort to the facts otherwise available. Because Jindal failed to provide any requested information, sections 782(d) and (e) of the Act are not applicable.

Section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that a party has failed to cooperate to the best of its ability. In this investigation, the Department requested that all producers/exporters in India that shipped subject merchandise to the United States during the POI submit the information requested in our initial questionnaire. However, Jindal, a producer/exporter that shipped subject merchandise to the United States during the POI, did not participate in the investigation.

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

Section 776(b) of the Act indicates that, when employing an adverse inference, the Department may rely upon information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review; or (4) any other information placed on the record. *See* also 19 CFR § 351.308(c). As adverse facts available in this preliminary determination, we have calculated Jindal's net subsidy rate by taking the sum of the highest company-specific rates calculated under each program. We note that, in determining Jindal's adverse facts available rate, we did not include in our calculations any net subsidy rates stemming from programs that were provided exclusively to public sector companies such as under the GOI's loan guarantee program or to a particular producer/exporter of subject merchandise such as under the GOI's forgiveness of loans to SAIL. In addition, we also did not include a subsidy rate for the Steel Development Fund because, according to the response of the GOI, Jindal was not eligible for this program. We further note that none of the company-specific program rates used to derive Jindal's net subsidy rate were determined on the basis of facts available.

For more information on the rate attributed to Jindal, see the ''Suspension of Liquidation'' section of this preliminary determination.

Subsidies Valuation Information

Allocation Period

Under section 351.524(d)(2) of the CVD Regulations, 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, as updated by the Department of the 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, the Department is examining non-recurring subsidies. Regarding non-recurring subsidies, we have allocated, where applicable, all of the non-recurring subsidies of the producers/exporters of subject merchandise over the AUL listed in the IRS tables for the steel industry and used in a recently completed administrative review for Indian steel companies (*see Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from India,* 64 FR 73131 (December 29, 1999) (*CTL Plate from India*)). Therefore, in accordance with section 351.524(d)(2) of the CVD Regulations, the Department is using an allocation period of 15 years.

Benchmarks for Loans and Discount Rate

In accordance with section 351.505(3)(i) of the CVD Regulations, for those programs requiring the application of a short-term benchmark interest rate, we used company-specific, short-term interest rates on commercial loans as reported by producers/exporters of subject merchandise. With respect to the rupee-denominated, short-term benchmark, we used the weighted-average of the companies' cash credit loans. We note that in *CTL Plate from India,* we found that the cash credit loans provide the most comparable type of short-term benchmark when calculating the benefit under the GOI's short-term loan programs. 64 FR at 73137.

For those programs requiring a rupee-denominated discount rate or the application of a rupee-denominated, long-term benchmark interest rate, we used, where available, company-specific, weighted-average interest rates on commercial long-term, rupee-denominated loans. We note that some producers/exporters of subject merchandise did not have rupee-denominated, long-term loans from commercial banks for all required years. Therefore, for those years, we had to rely on a rupee-denominated, long-term benchmark interest rate that is not company-specific, but provides a reasonable representation of industry practice, in order to determine whether a benefit was provided to the companies from rupee-denominated, long-term loans received from the GOI. Pursuant to 19 CFR § 351.505(a)(3)(iii), we first sought to use national average interest rates for those years in which the producer/exporters did not report company-specific interest rates on comparable commercial loans. However, the GOI did not provide in its questionnaire response national average interest rates on long-term, rupee-denominated financing for those years. Therefore, in keeping with the Department's past practice, we used as our benchmark in these instances the weighted-average interest rates of commercial rupee-denominated, long-term loans that were received by the other respondent companies in this investigation. This approach is consistent with the Department's practice in recent investigations. *See e.g., Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 64 FR 30636, 30640 (June 8, 1999) and *Final Affirmative*

Countervailing Duty Determination: Structural Steel Beams From the Republic of Korea, 65 FR 41051 (July 3, 2000).

SAIL used a countervailable program requiring the use of long-term interest rate benchmarks that were denominated in foreign currencies. Because SAIL did not have any comparable, commercial loans denominated in the appropriate foreign currencies, we used currency-specific ''Lending Rates'' from private creditors as published in the *International Financial Statistics* as the benchmark for SAIL's foreign currency loans. *See, e.g., CTL Plate from India,* 64 FR at 73133. During verification, we will seek additional information on interest rates charged by commercial banks on foreign currency loans provided within India.

Creditworthiness

In the November 13, 2000 petition and the November 22, 2000 supplement to the petition, petitioners alleged that SAIL was uncreditworthy for the years 1989 through 2000. Based upon the information provided by petitioners we initiated creditworthy investigations of SAIL for only the fiscal years 1999 and 2000. We declined to initiate a creditworthy investigation for the years 1989 through 1998 because the information provided in the petition did not support the allegation that SAIL was uncreditworthy for that period. *See Initiation Notice,* 65 FR 77580, 77583.

As discussed in the ''Case History'' section of this preliminary determination, on February 22, 2001, petitioners submitted additional financial information for SAIL covering the years 1997 and 1998 and requested that the Department reverse its finding in the *Initiation Notice* and initiate creditworthy investigations of SAIL for these two years. Petitioners also alleged on February 22, 2001, that Ispat and Essar were uncreditworthy during the years 1997 through 2000.

Pursuant to section 351.505(a)(4)(i) of the CVD Regulations, the Department will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources. To make this determination, the Department may examine, among other factors, the following:

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

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

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

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

With regard to items (B) and (C), above, it is necessary to examine financial ratios of a firm not only as they stand alone, but also within the context of the industry in which it operates. Petitioners have calculated numerous financial ratios for Ispat, Essar and SAIL based on the companies' balance sheets during the years in question. The Department has confirmed these figures. The key ratios calculated and reported by petitioners are debt/equity, total liabilities/net worth, fixed assets/net worth, current liabilities/net worth, quick ratio and current ratio. However, in our creditworthy analysis we have placed little reliance on the debt/equity ratio because the other five ratios are more important in determining the solvency and creditworthiness of a company.

As explained in the April 13, 2001, creditworthiness memorandum to Melissa G. Skinner, Director of the Office of AD/CVD Enforcement VI, a public document on file in the Department's Central Records Unit, Room B–099 (*Preliminary Creditworthiness Memorandum*), for purposes of this preliminary determination, we find that SAIL was creditworthy during the fiscal years 1999 and 2000 based on the company's financial ratios for the period and on the fact that SAIL was able to secure commercial financing during fiscal years 1999 and 2000 without the aid of GOI guarantees.

As also explained in the *Preliminary Creditworthy Memorandum,* the information submitted by petitioners is not sufficient to warrant a reversal of the Department's decision in the *Initiation Notice* not to initiate a creditworthy investigation of SAIL for fiscal years 1997 and 1998. As noted in the *Preliminary Creditworthy Memorandum,* SAIL's financial ratios for fiscal years 1997 and 1998 are not indicative of an uncreditworthy company. On this basis, we preliminarily find that SAIL was creditworthy for fiscal years 1997 and 1998 and, therefore, we are not initiating a creditworthy investigation of SAIL for these fiscal years.

Regarding petitioners' allegation that Ispat and Essar were uncreditworthy during fiscal years 1997 through 2000, our review of the companies' financial ratios do not lead us to conclude that the companies were uncreditworthy. Moreover, the companies' financial statements as well as their questionnaire responses indicate that they were able to secure commercial financing without GOI guarantees during the years alleged. For more information, see the *Preliminary Creditworthy Memorandum.* Thus, for purposes of this preliminary determination, we find that Ispat and Essar were creditworthy during the fiscal years 1997 through 2000.

Programs Preliminarily Determined To Confer Subsidies

1. 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 either in 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 10.0 percent. For those loans over 180 days and up to 270 days, banks charged interest at 13.0 percent. During the POI, the interest rate charged on foreign currency-denominated export loans up to 180 days was a rate not to exceed the LIBOR/Euro or LIBOR/Euribor rate plus 1.5 percent. Any extension of a foreign currency-denominated pre-shipment loan outstanding during the POI was subject to the same terms and conditions as were applicable for an extension of rupee-denominated packing credit, with an additional cost of two percent above the rate for the initial 180-day period prevailing at the time of the extension.

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. Under the Foreign Exchange Management Act of 1999, exporters are required to realize export proceeds within 180 days from the date of shipment, which is monitored by the RBI. Post-shipment financing is, therefore, a working capital program used to finance export receivables. This financing is normally denominated either in rupees or in foreign currency, except in those instances when an exporter uses foreign currency pre-shipment financing and is then 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 1.5 percent. 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 under this program were lower than the rates the exporters would have paid on comparable commercial loans. *See, e.g., CTL Plate from India,* 64 FR at 73137. 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 whether a benefit was conferred under the pre-export financing program for rupee-denominated loans, we compared the interest rate charged on these loans to a rupee-denominated, short-term benchmark interest rate, as described in the ''Benchmarks for Loans and Discount Rate'' section above. We compared this company-specific benchmark rate to the interest rates charged on the producer/exporter'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, we preliminarily determine that this program conferred countervailable benefits on producers/exporters of subject merchandise during the POI because the interest rates charged on these loans were less than what the companies otherwise would have had to pay on comparable short-term commercial loans.

To calculate the benefit conferred by 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 exceeds the actual interest paid, the difference is the benefit. We then divided the total amount of benefit by each producer/exporter's total exports. On this basis, we preliminarily determine the net countervailable subsidy under the pre-shipment export financing program to be 0.13 percent *ad valorem* for SAIL, 0.16 percent *ad valorem* for Essar, 1.28 percent *ad valorem* for Ispat, and 1.21 percent *ad valorem* for TISCO. As facts available, we preliminary determine a rate of 1.28 percent *ad valorem* for Jindal.

With regard to rupee-denominated post-shipment loans, we calculated the benefit using the same methodology described above. With respect to our calculation of the net subsidy rate, respondents have indicated that post-shipment financing can be tied to specific exports contracts. Therefore, when calculating the net subsidy rate under this program, we divided the benefits received by each producer/exporter under this program by their respective sales of subject merchandise made to the United States during the POI.

During the POI, SAIL also took out post-shipment export financing denominated in U.S. dollars. To determine the benefit conferred by SAIL's U.S. dollar-denominated post-shipment financing, we again compared the program interest rates to a comparable benchmark interest rate. As explained in the ''Benchmarks for Loans and Discount Rate'' section above, we used as our benchmark the weighted-average interest rate of SAIL's company-specific, U.S. dollar-denominated short-term loans received from commercial banks. We compared this company-specific benchmark rate to the interest rates charged on SAIL's post-shipment U.S. dollar-denominated loans and have determined that the interest payments under the program were less than what would have been paid on a comparable commercial short-term loan. Because respondents have indicated that post-shipment loans are tied to particular shipments, we divided SAIL's benefits under this program by its sales of subject merchandise to the United States during the POI.

On this basis, we preliminarily determine the net countervailable subsidy under the post-shipment export financing program to be 0.02 percent *ad valorem* for SAIL, 0.10 percent *ad valorem* for Ispat, and 0.33 percent *ad valorem* for TISCO. As facts available, we preliminary determine a rate of 0.33 percent *ad valorem* for Jindal.

2. Duty Entitlement Passbook Scheme (DEPS)

The DEPS formerly was the Passbook Scheme (PBS), which was enacted by the GOI on April 1, 1995. Administered under auspices of the Directorate General of Foreign Trade (DGFT), the PBS enabled GOI-designated manufacturers/exporters, upon export of finished goods, to earn import duty exemptions in the form of credits which could be used to pay customs duties on subsequent imports. The amount of PBS credit granted was determined according to the GOI's ''Standard Input/Output Norms Schedule'' (SIO Norms), which contains GOI-determined breakdowns of inputs needed to produce finished products. Rather than receiving cash, companies record their PBS credits in ''passbooks'' and then offset import duties on subsequent GOI-approved imports by making debit entries in their passbooks.

The PBS was discontinued on April 1, 1997. In its January 26, 2001, response to the Department's original questionnaire, the GOI stated that credit available under the PBS had to be utilized by September 30, 1999, after which date any outstanding credits lapsed. No producer/exporter reported using this program during the POI.

India's DEPS was enacted on April 1, 1997, as a successor to the PBS. As with PBS, the DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. Exporting companies may obtain DEPS credits on a pre-export basis or on a post-export basis. Eligibility for pre-export DEPS credits is limited to manufacturers/exporters that have exported for a three-year period prior to applying for the program. The amount of pre-export DEPS credits that could be earned during the POI was ten percent of the average of total export performance of the applicant during the preceding three years. Pre-export DEPS credits are not transferable.

All exporters are eligible to earn DEPS credits on a post-export basis, provided that the exported product is listed in the GOI's SIO Norms. Post-export DEPS credits can be used for any subsequent imports, regardless of whether they are consumed in the production of an export product. Post-export DEPS credits are valid for 12 months and are transferable. With respect to subject merchandise, exporters were eligible to earn credits equal to 14 percent of the f.o.b. value of their export shipments during the fiscal year ending March 31, 2000. During the POI, SAIL, Essar, Ispat, and TISCO all earned post-export DEPS credits.

The criteria regarding the remission, exemption or drawback of import duties is set forth in 19 CFR 351.519. Pursuant to this provision, the entire amount of an import duty exemption is countervailable if the government does not have in place and apply a system or procedure to confirm which imports are consumed in the production of the exported product and in what amounts, 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.

In *CTL Plate from India,* we determined that the DEPS does not meet either of these standards. 64 FR at 73134. In that investigation, we found that the exporter, upon exportation, submits a listing of inputs used to produce the export shipment. *Id.* at 73134. While some of these inputs may be imported items, we found in *CTL Plate from India* that the GOI has no way of knowing whether the inputs were imported or purchased domestically. *Id.* Therefore, we concluded in *CTL Plate from India* that the GOI did not have a system in place for determining whether the value of credits issued is equal to the amount of import duties that was payable on any imported items which were consumed in the production of the export shipment. *Id.* In addition, we further concluded that the GOI does not carry out, nor has it carried out, examinations of actual inputs involved. *Id.*

Consequently, in *CTL Plate from India* we determined that under section 351.519(a)(4) of the CVD Regulations, the entire amount of import duty exemption earned by producers/exporters during the POI constitutes a benefit. *Id.* In addition, we further found that a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program because the GOI provides producers/exporters with credits for the future payment of import duties. *Id.* We further found in *CTL Plate from India* that this program can only be used by exporters and, therefore, is specific under section 771(5)(A) of the Act. *Id.*

We note that, in this investigation, the GOI and the producers/exporters of subject merchandise have claimed that the DEPS is not countervailable. However, we find that these claims are not sufficient to demonstrate that a different decision is warranted at this time. Therefore, for purposes of this preliminary determination, we find that the DEPS conferred countervailable export subsidies upon producers/exporters of subject merchandise during the POI. However, during verification we will carefully examine how this program operates.

We have determined that benefits from the DEPS are conferred as of the date of exportation of the shipment for which the pertinent DEPS credits are earned rather than the date DEPS credits are used. At that time, the amount of the benefit is known by the exporter. The benefit to producers/exporters under this program is the total value of DEPS import duty exemptions that producers/exporters earned on their export shipments of subject merchandise to the United States during the POI. We have also determined that the application fees paid by producers/exporters 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. We note that this approach is consistent with the methodology employed in *CTL Plate from India. See* 64 at 73134.

Under 19 CFR § 351.524(c), this program provides a recurring benefit because DEPS credits provide exemption from import duties. To derive the DEPS program rate, we first calculated the value of the pre- and post-export credits that producers/exporters earned for their export shipments of subject merchandise to the United States during the POI by multiplying the f.o.b. value of each export shipment by 14 percent, the percentage of DEPS credit allowed under the program for exports of subject merchandise. We then subtracted as an allowable offset the actual amount of application fees paid for each license in accordance with section 771(6) of the Act. Finally, we took this sum (the total value of the licenses net of application fees paid) and divided it by each producer/exporter's total respective exports of subject merchandise to the United States during the POI.

On this basis, we preliminarily determine the net countervailable subsidy from this program to be 10.55 percent *ad valorem* for SAIL, 6.06 percent *ad valorem* for Essar, 14.02 percent ad valorem for Ispat, and 1.43 percent *ad valorem* for TISCO. As facts available, we preliminary determine a rate of 14.02 percent *ad valorem* for Jindal.

3. Advance Licenses

Under India's Duty Exemption Scheme, exporters 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. Advance intermediate licenses and special imprest licenses are also used to import inputs duty-free. The GOI reported that advance intermediate licenses and special imprest licenses are not related to exports. During the POI, Essar and TISCO used advance licences and TISCO also sold some advance licenses. Producers/exporters did not use or sell any advance intermediate licenses or special imprest licenses during the POI.

The Department has previously determined that the sale of import licenses confers a countervailable export subsidy. *See, e.g., CTL Plate from India; Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review,* 63 FR 64050 (November 18, 1998) (*1996 Castings*)[2]; and *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review,* 62 FR 32297 (June 13, 1997) (*1994 Castings*). No new or substantive evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination. During the POI, TISCO sold advance licenses or portions of advance licenses. Therefore, in accordance with section 771(5)(B) of the Act, we preliminarily determine that TISCO's sales of advance licenses are countervailable as export subsidies.

Essar and TISCO used advance licenses during the POI. In *CTL Plate from India,* we found that products imported under an advance license need not be consumed in the production of the exported product.[3] 64 FR at 73134. Furthermore, in *CTL Plate from India,* we found that, upon exportation, the exporter, in order to obtain an advanced license, submits a listing of inputs used to produce the export shipment. *Id.* We

[2] The year refers to the period covered by the administrative review, not to the date of publication.

[3] We note that in this investigation, TISCO has reported that the GOI does not place any restriction on the use of goods imported under the advanced license program.

concluded in *CTL Plate from India* that, while some of these inputs may be imported items, the GOI had no way of knowing whether the inputs were imported or purchased domestically. *Id.* Because we found that the GOI then issued the advanced licenses based on this list of inputs, we determined in *CTL Plate from India* that the GOI did not base the licenses it issued on the amount of import duties that were payable on the imported items that were consumed in the production of the exported merchandise. 64 FR at 73135.

In addition, we further determined in *CTL Plate from India* that, because the licenses specify ranges of quantities to be imported rather than an actual amount of duty exemption that can be claimed, the actual value of an advanced license was not known at the time the license was issued. *Id.* Therefore, in *CTL Plate from India,* we determined that the GOI had no system in place to confirm that the inputs are consumed in the production of the exported product. *Id.* In that investigation, we further determined that the GOI did not carry out examinations of actual inputs involved. *Id.*

Consequently, we determined in *CTL Plate from India* that, pursuant to 19 CFR 351.519(a)(4), the entire amount of the import duty exemption earned under the advanced license program conferred a benefit. *Id.* We further found that, because only exporters can receive advance licenses, the program constituted an export subsidy under section 771(5A)(B) of the Act and constituted a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue forgone. *Id.*

Respondents have stated that some adjustments have been made to this program; however, these claims are not sufficient to demonstrate that a different decision is warranted at this time. On this basis, we continue to determine that the advance license program is a countervailable program. However, during verification will we closely examine any changes made to the program since *CTL Plate from India.*

Under 19 CFR 351.524(c), this program provides a recurring benefit because advance licenses provide import duty exemptions. Essar and TISCO used advance licenses during the POI on exports of subject merchandise to the United States. As in *CTL Plate from India,* we continue to determine that benefits from advance licenses are conferred as of the date they are used, not the date of exportation of the export shipment for which the pertinent advance license is earned (*see* 64 FR at 73135). We also determine that the application fees paid by Essar and TISCO qualify as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy'' under section 771(6)(A) of the Act, and, therefore, should be treated as an offset to the duty exemptions.

To calculate the benefits conferred to Essar and TISCO from their use of the advance licenses, we first calculated the total amount of import duty exemptions realized by Essar and TISCO (net of application fees). Regarding TISCO's sale of advanced licenses, we determine that the benefit is equal to the revenues (net of application fees) that TISCO realized on its sale of the licenses. In *CTL Plate from India,* we found that advance licenses are issued on a shipment-by-shipment basis, thereby enabling companies to tie their receipt and sale of advance licenses to their sales of subject merchandise to the U.S. *Id.* Accordingly, we divided the total benefits Essar and TISCO received under this program by the companies' respective sales of subject merchandise to the United States during the POI. On this basis, we preliminarily determine the net countervailable subsidy from this program to be 1.78 percent *ad valorem* for Essar and 1.12 percent *ad valorem* for TISCO. As facts available, we preliminary determine a rate of 1.78 percent *ad valorem* for Jindal.

4. Special Import Licenses (SILs)

During the POI, producers/exporters of subject merchandise sold through public auction two 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 the 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. Under the program, the SILs do not exempt or reduce the amount of import duties paid by the importer.

Producers/exporters reported that they sold SILs during the POI. The Department's practice is that the sale of SILs constitutes an export subsidy because companies receive these licenses based on their status as exporters. *See, e.g., CTL Plate from India,* 64 FR at 73135. No new substantive information or evidence of changed circumstances has been submitted in this investigation 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 that the financial contribution in the form of the revenue received on the sale of licenses constitutes the benefit.

During the POI, producers/exporters sold numerous SILs. Because the receipt of SILs cannot be segregated by type or destination of export, we calculated the net subsidy rate by dividing the total amount of proceeds each producer/exporter of subject merchandise received from its sales of these licenses by its respective total export sales for the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.16 percent *ad valorem* for SAIL and 0.02 percent *ad valorem* for TISCO. As facts available, we preliminary determine a rate of 0.16 percent *ad valorem* for Jindal.

5. 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 equipment at reduced rates of duty by undertaking to earn convertible foreign exchange equal to four to five times the value of the capital goods within a period of 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 *CTL Plate from India,* we determined that the import duty reduction provided under the EPCGS was a countervailable export subsidy. *Id.* No new information or evidence of changed circumstances has been provided to warrant a reconsideration of this determination. Therefore, we continue to find that import duty reductions provided under the EPCGS are countervailable export subsidies.

Producers/exporters reported that they imported machinery under the EPCGS in the years prior to the POI and during the POI. For some of their imported machinery, producers/exporters met their export requirements. As a result, the GOI completely waived the amount of import duties. However, producers/exporters have not completed their export requirements for other imports of capital machinery. Therefore, although producers/exporters 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 determine that producers/exporters benefitted in two ways by participating in this program. The first benefit to producers/exporters is the benefit from the waiver of import duty on imports of capital equipment. SAIL was the only producer/exporter of subject merchandise to meet some of its export requirements with respect to certain imports of capital equipment. Because the GOI has formally waived the unpaid duties on those imports, we have treated the full amount of the waived duty exemptions as a grant received in the year in which the GOI officially granted the waiver. For other imports of capital machinery, producers/exporters have not completed their export commitments and the final waiver of the potential obligation to repay the duties on those imports has not yet been made by the GOI.

The criteria to be used by the Department in determining whether to allocate the benefits from a countervailable subsidy program is specified under 19 CFR 351.524. Specifically, recurring benefits are not to be allocated but are to be expensed to the year of receipt, while non-recurring benefits are to 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, our CVD regulations recognize that, under certain circumstances, it is more appropriate to allocate over time the benefits of a program traditionally considered a recurring subsidy, rather than to expense the benefits in the year of receipt. Section 351.524(c)(2) of the CVD regulations provides that a party can claim that a subsidy normally treated as a recurring subsidy should be treated as a non-recurring subsidy and enumerates the criteria to be used by the Department in evaluating such a claim. In the Preamble to our regulations, the Department provides an example of when it may be more appropriate to consider the benefits of a tax program to be non-recurring benefits, and, thus, allocate those benefits over time. *Countervailing Duties; Final Rule,* 63 FR 65348, 65393 (November 25, 1998). We also stated in the Preamble to our regulations that, if a government provides an import duty exemption tied to major capital equipment purchases, it may be reasonable 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. *Id.* Because the benefit received from the waiver of import duties under the EPCGS is tied to the capital assets of SAIL, and, therefore, is just such a benefit, we determine that it is appropriate to treat the waiver of duties received by SAIL as a non-recurring benefit. We note that our approach on this issue is consistent with that taken in *CTL Plate from India,* 64 FR at 73136.

In their questionnaire responses, producers/exporters reported all of the capital equipment imports they made using EPCGS licenses and the application fees they paid to obtain their EPCGS licenses. We preliminarily determine that the application fees paid by SAIL 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.

In order to calculate the benefit received from the waiver of SAIL's import duties on its capital equipment imports, we determined the total amount of duties waived in each year (net of application fees). Consistent with our approach in *CTL Plate from India,* we determine the year of receipt to be the year in which the GOI formally waived SAIL's remaining outstanding import duties. *See* 64 FR at 73136. Next, we performed the ''0.5 percent test,'' as prescribed under 19 CFR 351.524(b)(2) for each year in which the GOI granted SAIL an import duty waiver.[4] Those waivers whose face values exceeded 0.5 percent of SAIL's total export sales in the year in which the waivers were granted were allocated over 15 years, the AUL used in this investigation, using the Department's standard grant allocation methodology.

A second type of benefit conferred under this program involves the import duty reductions that producers/exporters received on the imports of capital equipment for which producers/exporters have not yet met their export requirements. For those capital equipment imports, producers/exporters have unpaid duties that will have to be paid to the GOI if the export requirements are not met. Therefore, we determine that the companies had outstanding contingent liabilities during the POI. When a company has an outstanding liability and the 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* 19 CFR § 351.505(d)(1).

We determine that the amount of contingent liability to be treated as an interest-free loan is the amount of the import duty reduction or exemption for which producers/exporters applied but, as of the end of the POI, was not finally waived by the GOI. Accordingly, we determine the benefit to be the interest that producers/exporters would have paid during the POI had they borrowed the full amount of the duty reduction at the time of import. We note that this approach is consistent with the methodology employed in *CTL Plate from India. See* 64 FR at 73136. Pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends (*i.e.,* the date of expiration of the time period for producers/exporters to fulfill their export commitments) occurs at a point in time more than one year after the date the capital goods were imported.

To calculate the program rate, we combined, where applicable, the sum of the allocated benefits received on waived duties and the benefits conferred on producers/exporters in the form of contingent liability loans. We then divided each producer/exporter's total benefit under the program by its respective total export sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy from this program to be 0.30 percent *ad valorem* for SAIL, 1.08 percent *ad valorem* for Essar, 16.60 percent *ad valorem* for Ispat, and 2.42 percent *ad valorem* for TISCO. As facts available, we preliminarily determine a rate of 16.60 percent *ad valorem* for Jindal.

6. Loans From the Steel Development Fund (SDF)

The SDF was established in 1978 during a time when the steel sector in India was subject to price and distribution controls. From 1978 through 1994, India's integrated steel producers, SAIL, TISCO, Rashtriya Ispat Nigam Limited (RINL), and India Iron & Steel Company Limited (IISCO), were mandated by the GOI to increase the prices for the products they sold. The proceeds from the price increases were remitted to the SDF. Under the SDF program, companies that contributed to the fund are eligible to take out long-term loans at advantageous rates.

[4] Under this section, non-recurring subsidies will be expensed in the year of receipt rather than allocated over time if the benefit from the non-recurring subsidy is less than 0.5 percent of the company's sales.

Loans from the SDF are made for the following purposes: (1) Financing capital improvements and research and development projects; (2) providing funding for rebates to the Small Scale Industries Corporations on supplies by those companies; and (3) meeting the expenditures of the Economic Research Unit of the Joint Plant Committee (JPC).

The Commission for Iron and Steel, which is known as CI&S, is led by the Secretary of the Ministry of Steel. This official is an ex-officio member of the SDF Managing Committee, and Chairman of the JPC. The issuance and administration of loans under the SDF program are supervised by the JPC. However, according to the GOI, all of the SDF's lending decisions are subject to the review and approval of the SDF Managing Committee.

In *CTL Plate from India,* we determined that the SDF was financed by producer levies and other non-GOI sources. In addition, we determined that there was no information on the record of that investigation to indicate that the GOI contributed tax revenues, either directly or indirectly to the fund, or that the GOI exerted any control over the fund. On this basis, we determined that loans under the SDF were not countervailable. *See CTL Plate from India,* 64 FR at 73143.

However, new information on the record of this investigation has led us to reverse the non-countervailable finding we made in *CTL Plate from India.* As stated above, our determination in *CTL Plate from India* was based on the claims of the GOI and SAIL that contributions to the SDF were made without the direct or indirect involvement of the government. In this investigation, new information from the GOI and the producers/exporters of subject merchandise indicate that the levies originated from producer price increases that were mandated and determined by the JPC. Because the Secretary of the Ministry of Steel, in his capacity as the head of the CI&S, acts as an ex-officio member and Chairman of the JPC, we determine, for purposes of this preliminary determination, that the GOI, through the JPC, has a controlling interest in the manner and amount of contributions that are made to the SDF.

In particular, during the period in which the funds for the SDF were provided, the GOI controlled the price of steel products in India. In order to create the SDF, the GOI, acting through the JPC, mandated steel price increases which were earmarked for the SDF. Steel producers collected this price increase, which was paid by steel consumers in India, and these additional funds were then placed into the SDF as a source of concessional financing for the Indian steel industry. Therefore, information on the record, information which was not on the record in *CTL Plate from India,* demonstrates that the GOI played a direct role in the creation of the SDF by mandating price increases on steel products which were authorized for use solely as a source of funds for the SDF.

Under section 771(5)(B) of the Act, a subsidy can be found whenever the government makes a financial contribution, when it provides a payment to a funding mechanism to provide a financial contribution, or when it entrusts or directs a private entity to make a financial contribution. We preliminary determine that the GOI directed the contribution of funds for the SDF within the meaning of section 771(5)(B) of the Act, by levying price increases on steel products which were routed into the SDF. Furthermore, because the Secretary of the Ministry of Steel has a major leadership role in the JPC and the SDF Managing Committee, the bodies that issue and administer loans under the SDF, we preliminarily determine that the GOI exercises control over the way in which funding is disbursed under this program. Therefore, we preliminarily determine that loans under the SDF constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act. According to information from the GOI, eligibility for loans from the SDF is limited to steel companies. Thus, we also preliminarily determine that loans under this program are specific within the meaning of 771(5A)(D)(i) of the Act. SAIL and TISCO received loans under the SDF program. However, SAIL has indicated in its questionnaire response that it had no outstanding SDF loans with interest payments due during the POI. Therefore, we preliminarily determine that these loans did not provide a benefit to SAIL during the POI. We will examine the terms of the loans in detail during verification.

In order to determine whether TISCO's loans under the SDF program conferred a benefit within the meaning of section 771(5)(E)(ii) of the Act, we compared the actual interest rates charged to the benchmark interest rates that would have been charged on a comparable commercial loan. As discussed in the ''Benchmarks for Loans and Discount Rate'' section of this preliminary determination, where available we used as our benchmark the weighted-average interest rates on TISCO's rupee-denominated, long-term loans. For those years in which no company-specific long-term benchmark was available for TISCO, we used the weighted-average interest rates of commercial rupee-denominated, long-term loans that were received by the other producers/exporters of subject merchandise. Our comparison of the interest rates indicates that the interest rate payments that TISCO made under the SDF program were less than what it would have otherwise paid on a comparable commercial loan. Thus, we preliminarily determine that the interest savings realized under this program conferred a benefit upon TISCO. We then divided the total amount of interest savings TISCO obtained under this program by TISCO's total sales for the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 1.45 percent *ad valorem* for TISCO.

7. The GOI's Forgiveness of SDF Loans Issued to SAIL

In October of 1998, SAIL, which was facing financial problems, proposed a turnaround plan to the GOI, through the SDF Managing Committee, in which it outlined its financial and business restructuring. The goals of the restructuring plan were to restore the profitability and competitiveness of the company. In order to achieve these goals, SAIL included in its proposal to the GOI provisions for the forgiveness of portions of its outstanding SDF debt. As SAIL's principal shareholder, the GOI reviewed and approved SAIL's overall restructuring plan. However, the approval for the actual forgiveness of SAIL's SDF loans lay with the SDF Managing Committee. SAIL has reported that on February 17, 2000, the SDF Managing Committee issued a resolution in which it waived Rs. 50.73 billion of SAIL's SDF debt. In addition, SAIL indicated that it received from the GOI three other waivers on its SDF loans in the years immediately preceding the POI.

As explained above, we have determined that because the Ministry of Steel has a major leadership role in the SDF Managing Committee, the actions of the SDF Managing Committee are subject to the influence and control of the GOI. Therefore, we preliminarily determine that the forgiveness of SAIL's Rs. 50.73 billion in SDF debt that took place during the POI, as well as the SDF waivers that occurred in prior years, constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act. Furthermore, because the waivers of the SDF loans were limited to SAIL, we determine that they were specific to a particular enterprise within the meaning of section 771(5A)(D)(i) of the Act.

In its questionnaire response, SAIL has claimed that a portion of the GOI debt forgiveness it received during the POI was contingent on the company assisting its subsidiary, IISCO, with its debts. Thus, SAIL argues that this portion of the SDF debt was effectively provided to IISCO and, therefore, did not benefit SAIL.

For purposes of this preliminary determination, we have determined that all of the Rs. 50.73 billion in SDF debt forgiveness that SAIL received during the POI constitutes a countervailable benefit conferred upon SAIL in the form of a grant. Information from the GOI indicates that, absent government involvement, SAIL would have borne the burden of IISCO's inability to repay its debts. Thus, we preliminarily determine that the full amount of the SDF loan waiver provided during the POI is attributable to SAIL. We will carefully examine this entire transaction during verification.

To calculate the benefit under this program, we treated the amount of debt forgiveness SAIL received in each year under this program as a non-recurring grant. For each of those years, we performed the "0.5 percent test" as prescribed under 19 CFR 351.524(b)(2). For those grants whose face values were larger than 0.5 percent of SAIL's total sales in the year the grant was approved, we allocated the face amounts of the grants over 15 years, the AUL applied in this investigation, using the Department's standard allocation methodology. We then divided the amounts of the benefits attributable to the POI by SAIL's total sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 6.27 percent *ad valorem* for SAIL.

8. GOI Forgiveness of Other Loans Issued to SAIL

In the 1970s, IISCO, a subsidiary of SAIL, was an ailing private sector company, the management of which was assumed by SAIL in the early 1970s at the direction of the GOI. According to the GOI, pursuant to a 1978 Act of Parliament, IISCO was made a wholly-owned subsidiary of SAIL. However, IISCO continued to incur losses, and, in order to meet its capital expenditures and to finance its debts, the GOI issued loans to the company in the late 1980s and early 1990s. According to the GOI, these loans were "routed" through SAIL. The GOI eventually forgave these loans as part of SAIL's financial restructuring package.

In its questionnaire responses, SAIL has claimed that IISCO was the sole recipient of the GOI's debt forgiveness and that SAIL did not benefit from the waiver of the GOI loans in any way. However, according to the questionnaire response of the GOI, due to IISCO's troubled financial situation, IISCO was not able to repay the outstanding debt it owed to SAIL. Thus, according to the GOI, IISCO's inability to repay its debts meant that SAIL, as the controlling entity of IISCO, was "burdened with loans with no prospect of their recovery." In order to provide relief to SAIL and IISCO, the GOI approved a waiver of SAIL's GOI debts in the amount of Rs. 3.81 billion so that SAIL could immediately thereafter waive loans in the same amount that IISCO owed to SAIL.

Based on the information provided by the GOI, we preliminarily determine that this program conferred countervailable benefits upon SAIL. Absent the involvement of the GOI, IISCO would have not been able to repay the loans it owed to SAIL. In other words, the actions of the GOI enabled SAIL to avoid bad debt expenses. Thus, we preliminarily determine that this program constitutes a financial contribution within the meaning of section 771(5)(D)(i) of the Act. Furthermore, because the waiver of the GOI loans was limited to SAIL, we determine that it was specific to a particular enterprise within the meaning of section 771(5A)(D)(i) of the Act.

To calculate the benefit under this program, we treated the amount of debt forgiveness SAIL received as a non-recurring grant. We then performed the "0.5 percent test," as prescribed under section 351.524(b)(2) of the CVD Regulations. Because the amount of the grant was larger than 0.5 percent of SAIL's total sales in the year the debt forgiveness was approved, we allocated the face amount of the grant over 15 years, the AUL applied in this investigation, using the Department's standard allocation methodology. We then divided the amount of the benefit attributable to the POI by SAIL's total sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.45 percent *ad valorem* for SAIL.

9. Loan Guarantees from the GOI

In its questionnaire response, the GOI reported that it does not extend loan guarantees under a particular program. Rather, it provides loan guarantees on a case-by-case basis only after companies have explained in their loan applications the situation and circumstances justifying the guarantee. According to the GOI's response, loan guarantees are normally extended to "Public Sector Companies" in particular industrial sectors. SAIL was the only producer/exporter of subject merchandise that reported loans outstanding during the POI on which it had received GOI loan guarantees. These long-term loans were denominated in several foreign currencies.

In *CTL Plate from India,* we determined that the loan guarantees issued by the GOI constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act. 64 FR at 73137. In addition, in that investigation we determined that the GOI's provision of loan guarantees were specific under section 771(5A)(D)(iii)(II) of the Act because they were limited to certain companies selected by the GOI on an *ad hoc* basis. 64 FR at 73134. No new information has been submitted on the record of this investigation to warrant any reconsideration of these findings.

Under 19 CFR 351.506, a benefit exists from a loan guarantee 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 a government loan guarantee confers a benefit, we compare the total amount paid by the company (*i.e.,* the effective interest and guarantee fees) for the loan with the total amount it would have paid for a comparable commercial loan.

Using the foreign currency denominated, long-term interest rate benchmark for SAIL that was discussed in the "Benchmarks for Loans and Discount Rate" section of this preliminary determination, we found that the total amounts SAIL paid for its GOI-guaranteed loans were less than the total amounts SAIL would have otherwise paid for comparable commercial loans. Thus, we preliminarily determine that the loan guarantees from the GOI conferred a benefit on SAIL equal to the difference between these two amounts. We then divided the benefit SAIL received under this program by its total sales for the POI. On this basis, we preliminarily determine the net countervailable subsidy from this program to be 0.06 percent *ad valorem* for SAIL.

SAIL also received several GOI-guarantees on loans that were issued by international lending and development institutions. In *CTL Plate from India,* 64 FR at 73137, we did not include in our benefit calculations the loans that SAIL received from international lending and development institutions. In the concurrent CVD investigation of the subject merchandise from South Africa, the Department has preliminarily determined that the government loan guarantees provided to South African companies on loans from international lending and development institutions are countervailable to the extent that the guarantee fees charged by the government are lower than the fees which would have been charged by commercial banks. Based on the decision in *CTL Plate,* we did not solicit information on guarantee fees charged by commercial banks in India. Therefore, we are unable to determine whether the GOI guarantees provided to SAIL on loans from international lending and development institutions provide a countervailable benefit.

During verification we will gather information on guarantee fees charged by commercial banks in India. We will report this benchmark information in our verification report and encourage interested parties to comment on this issue in their case and rebuttal briefs.

10. Exemption of Export Credit From Interest Taxes

Under the Interest Tax Act of 1974, a tax is levied on the chargable interest accruing to a credit institution in a given year. Under Section 28 of the Act, the GOI may exempt any credit institution or class of credit institutions, or the interest on any category of loan or advances from the levy of the interest tax. Pursuant to this section of the Act, the GOI has exempted working capital loans taken from banks for supporting exports from the interest tax. Loans obtained by producers/exporters of subject merchandise from banks under the pre- and post-shipment export financing program are covered by this exemption. All producers/exporters of subject merchandise used this program.

In the *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India,* 61 FR 64676, 64686 (December 6, 1996) (*1993 Castings*), we determined that, in the absence of this program, banks would pass along this interest tax to borrowers in its entirety. As a result, in *1993 Castings*, we determined that this tax exemption is an export subsidy, and thus countervailable, because only interest accruing on loans and advances made to exporters in the form of export credit is exempt from the interest tax. We reached the same conclusions in *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review,* 65FR 31515, May 18, 2000 (*1997 Castings*). No new information or evidence of changed circumstances has been submitted in this investigation to warrant reconsideration of this finding. Therefore, in accordance with sections 771(5)(D) and (E) of the Act, we continue to find this program countervailable because it results in a financial contribution by the government in the form of revenue forgone and provides a benefit to the recipient in the amount of the interest tax savings. Moreover, because receipt of the interest tax exemption is contingent upon export performance, we continue to find the program to be an export subsidy under section 771(5A)(B) of the Act.

To calculate the benefit for each producer/exporter of subject merchandise, we first determined the total amount of interest paid by each producer/exporter during the POI by adding the interest payments made on all pre- and post-shipment export loans. We then multiplied this amount by the tax rate to which the interest amount would have been subject, if not for the exemption during the POR. In its response, the GOI indicated that during the POI the rate of interest tax exempted was two percent of the basic interest rate. Next, we divided the benefit by the value of each producer/exporter's total exports or total exports of subject merchandise to the United States, depending on the type of sales to which the export financing was tied. On this basis, we preliminarily determine the net countervailable subsidy from this program to be 0.01 percent *ad valorem* for SAIL, less than 0.005 percent *ad valorem* for Essar, 0.05 percent *ad valorem* for Ispat, and 0.10 percent *ad valorem* for TISCO. As facts available, we preliminary determine a rate of 0.10 percent *ad valorem* for Jindal.

The GOI indicated that pursuant to the Finance Act of 2000, the tax exemptions under this program were discontinued as of April 1, 2000. However, the GOI has not yet submitted a copy of the Finance Act of 2000 to substantiate the termination of the program. During verification we will seek to confirm whether this program has been terminated and whether its termination qualifies as a ''program-wide change'' under 19 CFR § 351.526. If we can substantiate during verification that there has been a program-wide change, we will adjust the cash deposit rates to reflect the termination of this program in our final determination.

Program Preliminarily Determined Not To Be Not Used

1. Income Tax Deductions Under Section 80 HHC

2. Grant-In-Aid Reported on SAIL's Annual Reports

SAIL's Annual Reports for fiscal years 1995 through 1999 indicate that the company received ''grant-in-aid'' from the GOI under several programs ranging from environmental and labor welfare assistance to research and development grants. We conducted the ''0.5 percent test'' on each of these grants, as prescribed under 19 CFR § 351.524(b)(2). The face amounts of the grants received during the fiscal years 1995 through 1999 did not exceed 0.5 percent of SAIL's total sales. Thus, we determine that these grants would have been expensed in the years of receipt. Because any benefits attributable to these grants would not be allocable to the POI, we find that the program is not used during the POI; therefore, it is not necessary to determine whether these grants are countervailable.

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 703(d)(1)(A)(i) of the Act, we have calculated individual rates for the companies under investigation—SAIL, Essar, TISCO, Ispat, and Jindal. To calculate the ''all others'' rate, we weight-averaged the individual rates of SAIL, Essar, TISCO, and Ispat by each company's respective sales of subject merchandise made to the United States during the POI. We note that we did not include Jindal's net subsidy rate in the ''all others'' rate because Jindal's net subsidy rate was calculated on the basis of facts available. These rates are summarized in the table below:

Producer/exporter	Net subsidy rate (percent *ad valorem*)
Steel Authority of India Limited (SAIL)	17.95
Essar Steel Limited (Essar)	9.08
Ispat Industries Limited (Ispat)	32.05
Tata Iron and Steel Company Limited (TISCO)	8.08
Jindal Iron and Steel (Jindal)	34.27
All Others	15.72

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 non-privileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

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

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Any requested hearing will be 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, N.W., Washington, D.C. 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, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

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

This determination is published pursuant to sections 703(f) and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 13, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–9860 Filed 4–19–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–549–818]

Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products From Thailand

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

ACTION: Notice of preliminary affirmative countervailing duty determination.

EFFECTIVE DATE: April 20, 2001.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein at (202) 482–1391 or Samantha Denenberg at (202) 482–1386, Office of AD/CVD Enforcement VII, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain hot-rolled carbon steel flat products from Thailand. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed, on November 22, 2000, by Bethlehem Steel Corporation, Gallatin Steel Company, IPSCO Steel Inc., LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., U.S. Steel Group, a unit of USX Corporation, Weirton Steel Corporation, Independent Steelworkers Union, and the United Steelworkers of America (the petitioners).

Case History

We initiated this investigation on December 4, 2000. See Notice of Initiation of Countervailing Duty Investigations: Certain Hot-Rolled Carbon Steel Flat Products From Argentina, India, Indonesia, South Africa, and Thailand, 65 FR 77580 (December 12, 2000) (Initiation Notice). Since the initiation, the following events have occurred. On December 20, 2000, we issued a countervailing duty questionnaire to the Royal Thai Government (RTG). On January 3, 2001, the RTG responded to Section I.D. of the Department's questionnaire, identifying Sahaviriya Steel Industries Public Company Limited (SSI) as the only producer/exporter of the subject merchandise to the United States during the period of investigation. On January 17, 2001, petitioners renewed their allegation that SSI was uncreditworthy in 1996. On February 6, 2001, we received questionnaire responses from SSI and the RTG. On February 27, 2001, we issued supplemental questionnaires to the RTG and SSI. On March 7 and March 13, 2001, we received the RTG's and SSI's responses to the Department's supplemental questionnaires. On March 16, 2001, the Department decided not to initiate an uncreditworthiness investigation of SSI for 1996. See Memorandum to the File Regarding Uncreditworthiness Allegation for SSI in 1996.

On January 18, 2001, we issued a partial extension of the due date for this preliminary determination from February 7, 2001, to March 26, 2001. See Certain Hot -Rolled Carbon Steel