

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Tariff Act.

Dated: September 21, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

## Appendix I—Issues in Decision Memo

### Comments and Responses

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C–549–818]

### Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand

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

**ACTION:** Notice of final affirmative countervailing duty investigation.

**SUMMARY:** On April 20, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of certain hot-rolled carbon steel flat products from Thailand. Based on our analysis of the questionnaire responses, verification, and comments submitted by interested parties, we determine that subsidies are being conferred on the manufacture, production and export of certain hot-rolled carbon steel flat products in Thailand. The subsidy rates in this final determination differ from those in the preliminary determination. The revised final subsidy rates for the investigated producers/exporters are listed below in the “Suspension of Liquidation” section of this notice.

**EFFECTIVE DATE:** October 3, 2001.

**FOR FURTHER INFORMATION CONTACT:** Dana Mermelstein at (202) 482–1391,

Sean Carey at (202) 482–3964, Javier Barrientos at (202) 482–2243, or Scott Lindsay at (202) 482–3782, 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.

### SUPPLEMENTARY INFORMATION:

#### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department’s regulations are to the regulations codified at 19 CFR part 351 (2000).

#### Background

On April 20, 2001, the Department published the results of its preliminary determination in the investigation of certain hot-rolled carbon steel flat products from Thailand. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 20251 (April 20, 2001) (*Preliminary Determination*). We invited interested parties to comment on the preliminary determination.

In early May, we issued a supplemental questionnaire to the Royal Thai Government (RTG) and Sahaviriya Steel Industries Public Company Limited (SSI) (the respondents). On May 30, 2001, we received questionnaire responses from SSI and the RTG. On June 13, 2001, the Department published its notice, postponing the final determination in this investigation until September 17, 2001, pursuant to the postponement of the final determination in the companion antidumping duty investigation of certain hot-rolled carbon steel flat products from Thailand, with which this investigation is aligned. *See Notice of Postponement of Final Antidumping Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand; and Notice of Postponement of Final Countervailing Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products from Thailand and South Africa*, 66 FR 31888 (June 13, 2001).

On June 14, 2001, 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), submitted a new subsidy allegation in this investigation pursuant to section 351.311 of the Department’s regulations. *See* section 775 of the Act and 19 CFR 351.311(b). Petitioners alleged that benefits were provided to Thai hot-rolled steel producers under the Ministry of Industry’s (MOI’s) Steel Industrial Restructuring Plan (SIRP). On June 28, 2001, the Department decided to initiate on this program. *See Memorandum to the File Regarding MOI’s SIP Allegation*. We subsequently issued supplemental questionnaires to the RTG and SSI. On July 9, 2001, we received the RTG’s and SSI’s responses to these supplemental questionnaires.

On July 9, 2001, we received comments from the petitioners regarding the verification of the questionnaire responses. Verification of the questionnaire responses submitted by the RTG and SSI took place from July 16 through 27, 2001. Respondents and petitioners submitted timely case and rebuttal briefs in this investigation. A public hearing was held on September 6, 2001.

Although the deadline for this determination was originally September 17, 2001, in light of the events of September 11, 2001 and the subsequent closure of the Federal Government for reasons of security, the timeframe for issuing this determination has been extended by four days.

#### Scope of the Investigation

The merchandise subject to this investigation is certain hot-rolled carbon steel flat 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* (HTSUS), 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., American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).

- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.

- Ball bearings steels, as defined in the HTSUS.

- Tool steels, as defined in the HTSUS.

- Silico-manganese (as defined in the HTSUS) 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 HTSUS.

The merchandise subject to this investigation is classified in the HTSUS 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 carbon steel flat products 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 HTSUS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

#### Analysis of Programs and Analysis of Comments Received

The programs under investigation, as well as the issues raised in the case and rebuttal briefs submitted in this countervailing duty investigation are discussed and addressed in the *Issues and Decision Memorandum in the Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, from Joseph A. Spetrini, Deputy Assistant Secretary for AD/CVD Enforcement III, to Faryar Shirzad, Assistant Secretary for Import Administration, dated September 19, 2001 (*Decision Memorandum*), which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the programs under investigation, as

well as a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of the programs and issues raised in this investigation, and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit, in Room B-099. In addition, the *Decision Memorandum* can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov>, under the heading "Federal Register Notices." The paper copy and electronic version of the *Decision Memorandum* are identical in content.

#### Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated a rate for the company under investigation. We have determined that the total estimated countervailable subsidy rate for SSI is 2.38 percent *ad valorem*. With respect to the "all others" rate, section 705(c)(5)(A)(i) of the Act requires that the "all others" rate equal the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates. Therefore, because SSI is the only producer/exporter, we are using its rate as the "all others" rate.

Producer/exporter	Subsidy rate (Percent)
Sahaviriya Steel Industries Public Company Ltd.	2.38 <i>Ad Valorem</i>
All others .....	2.38 <i>Ad Valorem</i>

In accordance with our preliminary affirmative determination, we instructed the U.S. Customs Service (Customs) to suspend liquidation of all entries of certain hot-rolled carbon steel flat products from Thailand, which were entered or withdrawn from warehouse for consumption on or after April 20, 2001, the date of the publication of our preliminary determination in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated in the Preliminary Determination. In accordance with section 703(d) of the Act, we instructed Customs to discontinue the suspension of liquidation for merchandise entered on or after August 18, 2001, but to continue the suspension of liquidation of entries made between April 20, 2001 and August 17, 2001.

We will reinstate suspension of liquidation under section 706(a) of the

Act for all entries if the ITC issues a final affirmative injury determination, and we will require a cash deposit of the estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publically or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

### Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination and notice are issued and published in accordance with sections 705(d) and 777(i) of the Act.

Dated: September 21, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

### Appendix I: Issues and Decision Memorandum

#### I. Subsidies Valuation Information

- A. Allocation Period
- B. Discount Rates
- C. Calculation of *Ad Valorem* Subsidy Rate

#### II. Programs Determined to Confer Subsidies

- A. Incentives Under the Investment Promotion Act
  1. Duty Exemptions on Imports of Machinery Under IPA Section 28
  2. Duty Exemptions on Imports of Raw and Essential Materials Under IPA Section 30

3. Duty Exemptions on Imports of Raw and Essential Materials Under IPA Section 36(1)

4. Additional Tax Deductions Under IPA Section 35

- B. Provision of Electricity For Less Than Adequate Remuneration

#### III. Programs Determined Not to Confer Subsidies

- A. SSI and PPC Debt Restructuring
- B. VAT Exemptions under the Investment Promotion Act

#### IV. Programs Determined to be Not Used

- A. Duty Exemptions to PPC under Investment Promotion Act Section 29
- B. Corporate Income Tax Exemptions under IPA Section 31
- C. Incentive Under Investment Promotion Act Sections 36(2) and 36(4)
- D. Ministry of Industry's Steel Industrial Restructuring Plan
- E. Loans from the Industrial Finance Corporation of Thailand and the Thai Export-Import Bank
- F. Other Loans and Loan Guarantees from Banks Owned, Controlled, or Influenced by the RTG

- G. Export Packing Credits

- H. Pre-shipment Finance Facilities

- I. Trust Receipt Financing for Raw Materials

- J. Export Insurance Program

- K. Tax Certificates for Export

- L. Import Duty Exemptions for Industrial Estates

- M. Export Processing Zone Incentives

#### V. Programs Determined Not to Exist

- A. IPA Subsidies for Construction of SSI's On-Site Power Plant

- B. Provision of Water Infrastructure for Less Than Adequate Remuneration

#### VI. Analysis of Comments

Comment 1: Availability of IPA benefits to companies and industries within Thailand

Comment 2: Tariff Rate for Duty Exemptions for Raw and Essential Materials Under IPA Sections 30 and 36

Comment 3: Countervailability of Section 36(1) Benefits

Comment 4: Countervailability of a Portion of Section 36(1) Benefits

Comment 5: Benefits under IPA Section 35(3)

Comment 6: Countervailability of Section 28 Imports Identified by Respondents as Recurring

Comment 7: Methodology for Calculating IPA Section 28 Benefits

Comment 8: The Time Value of Money and Countervailability of VAT Exemptions under the Investment Promotion Act

Comment 9: IPA Benefits and Investments by SSI's Initial Investors

Comment 10: Provision of Electricity as General Infrastructure

Comment 11: The Uniform National Tariff and Specificity

Comment 12: Provision of Electricity and Adequate Remuneration

Comment 13: PEA's Financial Performance and Adequacy of Remuneration

Comment 14: Provision of Electricity and Adjustment of Benefit

Comment 15: CDRAC List of 351 and Specificity

Comment 16: Objective and Neutral Criteria and RTG Discretion

Comment 17: SSI's BOI Certificate and Debt Restructuring

Comment 18: Specificity and Facts Available

Comment 19: SSI Loans before Debt Restructuring and Creditworthiness of PPC

Comment 20: Benefit from Restructured Loans from Private Creditors

Comment 21: Benefit from Private Creditors' Loans and Equity Infusions

Comment 22: RTG Financial Contribution and SSI's Debt Restructuring

Comment 23: Financial Contribution: The Bangkok Approach and CDRAC

Comment 24: Terms of SSI's and PPC's Debt Restructuring and Financial Contribution from the RTG

#### VII. Total Ad Valorem Rate

#### VIII. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-791-810]

### Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from South Africa

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

**ACTION:** Notice of Final Affirmative Countervailing Duty Investigation.

**SUMMARY:** On April 20, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of certain hot-rolled carbon steel flat products from South Africa.

The subsidy rates in the final determination differ from those in the preliminary determination. The revised final subsidy rates for the investigated producers/exporters are listed below in the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** October 3, 2001.

**FOR FURTHER INFORMATION CONTACT:** Sally C. Gannon at (202) 482-0162, Mark Hoadley at (202) 482-0666, or Julio Fernandez at (202) 482-0190, 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.

**SUPPLEMENTARY INFORMATION:**