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U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from India, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for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

Flat Products from India, Indonesia, South Africa and Thailand: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations, 66 FR 8199 (January 30, 2001)(Extension Notice). 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: 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 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.

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

Injury Test

Because Thailand is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Thailand 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 Thailand of subject merchandise (66 FR 805). The views of the

Commission are contained in the USITC Publication 3381 (January 2001), Hot-Rolled Steel Products from Argentina, China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine; Investigation Nos. 701–TA–404–408 (Preliminary) and 731–TA–898–908 (Preliminary).

Alignment with Final Antidumping Duty Determinations

On March 23, 2001, petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determinations of the antidumping duty investigations of certain hot-rolled carbon steel flat products from Argentina, India, Indonesia, Kazakhstan, the Netherlands, the People's Republic of China, Romania, South Africa, Taiwan, Thailand, and Ukraine. See Initiation Notice. In accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the companion antidumping investigations of certain hot-rolled carbon steel flat products.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is calendar year 1999.

Use of Facts Available

The RTG failed to respond to specific questions in the Department's original and supplemental questionnaires. Section 776(a)(2)(A) of the Act states the Department shall use facts otherwise available in reaching the applicable determination if any interested party ''withholds information that has been requested by the administering authority.'' As described in more detail in the *Debt Restructurings* section below, the RTG withheld information explicitly requested by the Department; therefore, we must resort to the use of facts otherwise available.

Furthermore, section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that a party has failed to cooperate to the best of its ability. In this investigation, the Department requested the RTG to submit information identifying which companies and industries had been targeted for debt restructuring. The Department also requested the CDRAC ''List of 351,'' a list which identifies the first 351 cases ''targeted'' by the RTG for debt restructuring. This information was requested in the initial and supplemental questionnaires, respectively. The Department finds that by not providing necessary information specifically requested by the Department the RTG has failed to cooperate to the best of its ability. Therefore, in selecting facts available, the Department determines that an adverse inference is warranted.

When employing an adverse inference, the statute indicates that the Department may rely upon information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review, or section 762 review; or (4) any other information placed on the record. See section 776(b)(1)–(b)(4) of the Act and 19 CFR § 351.308(c). As adverse facts available in this preliminary determination, we have relied upon information in the record, including other information in the response and information submitted by the petitioners, in order to determine that the information the RTG has withheld may provide necessary insight into the specificity of SSI's and PPC's debt restructurings. The Department's selection of the information used as adverse facts available is discussed in more detail in the *Debt Restructurings* section below.

Subsidies Valuation Information

Allocation Period

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

No party requested, or submitted information which yielded, an industry-wide AUL different from the AUL listed in the IRS tables. We are therefore using the 15-year AUL as reported in the IRS tables to allocate any non-recurring subsidies under investigation which were provided directly to SSI. Petitioners also alleged that Prachuab Port Co., Ltd. (PPC), which is 51 percent owned by SSI and which provides port facilities and services to SSI, received non-recurring subsidies under several programs. For non-recurring subsidies provided to PPC, we are using the AUL of 20 years, as reported in the IRS tables for port facilities.

Creditworthiness and the Calculation of Loan Benchmark and Discount Rates

Both SSI and PPC received exemptions from import duties on the importation of capital equipment (under IPA Section 28), which we have preliminarily determined to be non-recurring benefits. See *Duty Exemptions on Imports of Machinery Under IPA Section 28* section below. SSI received IPA Section 28 exemptions in the years 1992 through 1997 and PPC received IPA Section 28 benefits in 1994 through 1996.

Section 351.524(d)(3) of the regulations directs us regarding the selection of a discount rate for the purposes of allocating non-recurring benefits over time. The regulations provide several options in order of preference. The first among these is the cost of long-term fixed-rate loans of the firm in question, excluding any loans which have been determined to be countervailable, for each year in which non-recurring subsidies have been received. Both SSI and PPC have calculated their annual average cost of long-term fixed-rate loans. SSI has done so for the years 1994 through 1997; PPC has done so for the years 1993 through 1997. Since we are not investigating the countervailability of SSI's or PPC's loans during this period, there is no reason to seek another source of appropriate discount rate information. However, for the years 1992 and 1993, in which SSI received IPA Section 28 benefits, and for which SSI has not provided its cost of long-term fixed-rate loans, we have used as our discount rate the cost of long-term fixed-rate loans reported by PPC for 1993. While the RTG did report the Thailand-wide average cost of fixed-rate debt for the years 1992 through 1999, we believe that PPC's own cost of long-term fixed rate debt more closely satisfies the Department's preference for a company-specific interest rate.

We initiated an investigation of whether SSI was creditworthy for the years 1997 through 1999. However, except for 1999, we have not found benefits granted in those years that are allocable to the POI, under any of the non-recurring subsidy programs under investigation. See *Duty Exemptions on Imports of Machinery Under IPA Section 28* section below. Therefore we need not reach the issue of SSI's creditworthiness in 1997 or 1998.

Furthermore, we declined to initiate an investigation of SSI's creditworthiness for 1996. See *Case History* section above. Therefore, there is no basis for adjusting the discount rates to include an uncreditworthiness risk premium in any of the relevant years. However, both SSI and PPC received loans as part of their restructuring packages in 1999. Therefore, it is necessary to conduct a creditworthiness analysis for 1999, the year in which the terms of the debt restructurings under investigation were agreed to, as discussed in the *Debt Restructurings* section below.

In determining whether SSI was uncreditworthy during 1999, we conducted: (1) an examination of SSI's ability to meet its costs and fixed financial obligations with its cash flow; (2) an analysis of SSI's financial ratios from 1996 to 1998; and, (3) an examination of whether new long-term commercial loans were provided by commercial lending institutions, other than the debt restructuring itself.

In its questionnaire responses, SSI stated that it was unable to meet its principal and interest payment schedules and that defaults occurred on the loans which gave rise to the necessity for restructuring those loans. Information in the responses also shows that by 1999 SSI was unable to meet its financial obligations. Because SSI was a startup, we would expect to see that SSI's capital and other startup-related expenses would absorb revenue in the initial years and would cause the company to experience some difficulty in meeting its debt obligations in its initial years, in this case 1994 through 1995. However, even beyond the first two years, SSI was still having difficulty meeting its debt servicing requirements from 1996 through the first half of 1999.

We also examined the company's financial statements for the three years prior to 1999. In this case, the questionnaire responses provide sufficient SSI financial statement information for 1996, 1997, and 1998 to analyze whether a reasonable private lender would have extended credit to SSI in 1999. When we examined the relevant ratios (Current Ratio, Quick Ratio, Debt-to-Equity) for 1996 through 1998, we see that 1996 starts with SSI below average financial health benchmarks. After 1996, SSI experienced a marked decline in its financial performance in all three of these ratios: for example, the Current Ratio was below financial benchmark averages for 1996 and worsened until 1998; the Quick Ratio exhibited the same trend as the Current Ratio; and the Debt-to-Equity Ratio exhibited a marked increase from 1996 to 1998. This information shows that 1998 was the worst in terms of overall financial health. These ratios normally would be seen by a reasonable private lender as an indication of SSI's declining ability to meet its debt service obligations and thus an indication of its uncreditworthiness. For additional information, see Memorandum from Javier Barrientos through Dana Mermelstein to Barbara E. Tillman: Creditworthiness of SSI (April 13, 2001) (Creditworthiness Memo) (public version on file in the Department's Central Records Unit). Respondents have argued that the debt restructuring itself constitutes commercial long-term financing obtained in 1999, and therefore is indicative of SSI's creditworthiness. The Department, however, has examined the proprietary details of the debt restructuring transaction to determine whether it gives rise to countervailable benefits, and has found that the financing to which respondents refer was part of the debt restructuring package which was achieved on non-commercial terms. See section on *Debt Restructurings* below. Thus, we cannot consider this financing as indicative of SSI creditworthiness during the POI. In addition, respondents have not shown that they received other long-term commercial financing during 1999.

Thus, based on the above information and in accordance with section 351.505 (a)(4) of the Department's regulations, we preliminarily determine that SSI was uncreditworthy in 1999. There is no indication that SSI could have obtained long-term loans from conventional commercial sources.

Because we have preliminarily determined that SSI was uncreditworthy in 1999, we adjusted the loan benchmark rate by adding a risk premium, calculated according to the methodology described in section 351.505(a)(3)(iii) of our regulations, for those subsidies conferred during the fiscal year 1999.

Equityworthiness

We initiated an investigation of SSI's equityworthiness for 1999. The conversion to equity of SSI's convertible debentures which occurred in 1999 was one element of SSI's debt restructuring which was completed in 1999. As discussed in greater detail below, we are continuing to gather information necessary to determine whether the alleged RTG involvement in the debt-for-equity conversion gives rise to countervailable subsidies. Therefore, for purposes of this preliminary determination, we need not reach the issue of SSI's equityworthiness in 1999.

Programs Preliminarily Determined To Be Countervailable

1. Investment Incentives Under the Investment Promotion Act

According to the questionnaire responses, the Investment Promotion Act of 1977 (IPA) is administered by the Board of Investment (BOI) and is designed to provide incentives to invest in Thailand. In order to receive IPA benefits, each company must apply to the BOI for a Certificate of Promotion (license), which specifies goods to be produced, production and export requirements, and benefits approved. These licenses are granted at the discretion of the BOI and are periodically amended or reissued to change benefits or requirements. IPA benefits include VAT exemptions, import duty exemptions, income tax exemptions, and other tax benefits for promoted companies under various sections of the IPA. Each IPA benefit for which a company is eligible must be specifically stated in the license.

According to the responses, Thailand had been considering the establishment of a private domestic steel industry since the 1960's. It was not until the late 1980's, however, that developing market factors made a Thai flat-rolled steel industry feasible. In an effort to encourage private investment into this industry, the BOI solicited bids and offered a package of tax and duty incentives under IPA that it would make available for the creation of a hot-rolled steel sheet facility. The August 2, 1988 Announcement of the Office of the Board of Investment No. Por. 1/1988, Re: Promotion of Steel Sheet Production outlined the criteria for application to this program. Six applications were submitted, and two of these were found to meet the requirements outlined in the above announcement, one of them being SSI's. SSI was then chosen to receive the benefits package because it was considered by the BOI to have a greater likelihood of success than the other applicant. After the BOI approved the benefits package for SSI, the Ministry of Industry (MOI) issued SSI a factory license. The MOI then announced on November 24, 1989, in Ministry of Industry Announcement, Re: Policy on Steel Sheet Industry, that it would ''suspend its consideration for the establishment or the expansion of factories producing hot-rolled, cold-rolled, and surface treatment sheet (plate mill excluded), for a period of ten years.''

When determining whether a program is countervailable, we must examine whether it is an export subsidy or whether it provides benefits to a specific enterprise, industry, or group thereof, either in law (*de jure* specificity) or in fact (*de facto* specificity). See Section 771(5A) of the Act. There are no export requirements in the general legislation of the IPA, although some specific sections of the IPA contain export requirements. There is also no element of the law explicitly limiting eligibility for IPA program benefits from the BOI, to an enterprise, industry, or group thereof. Thus, this program is not *de jure* specific, and we must analyze whether the program meets the *de facto* criteria defined under section 771(5A)(D)(iii) of the Act. Because a specific package of IPA benefits was tailored to meet SSI's requirements and because the MOI announced it would not issue a license to any other companies in the hot-rolled industry for a period of ten years, we preliminarily find SSI's IPA benefits to be *de facto* specific to an enterprise within the meaning of section 771(5A)(D)(iii)(I) of the Act.

In addition to IPA benefits to SSI, petitioners alleged that PPC, the 51 percent-owned subsidiary of SSI, also received a package of benefits under IPA. PPC, which owns and operates the port facility where SSI is located, was established in 1991, after SSI was established and approved for its package of IPA benefits. Although the BOI did not expressly solicit applicants to establish a port facility, the fact that PPC was created after SSI to develop a port facility in the same location as SSI's plant; is owned 51 percent by SSI; and, services SSI's import and export needs, leads us to conclude that the BOI's approval of a package of incentives to PPC was part of its effort to develop a hot-rolled steel industry, and therefore, that PPC's package of incentives is specific in accordance with section 771(5A)(D)(iii)(I) of the Act.

Because the packages of benefits were composed of different types of incentives under different sections of the IPA, we are analyzing the issues of financial contribution and benefit under each relevant section.

a. *Duty Exemptions on Imports of Machinery Under IPA Section 28.* IPA Section 28 allows companies to import machinery and equipment (fixed assets) with an exemption of import duties and VAT (VAT exemptions under IPA Section 28 are provided by section 21(4) of the VAT Act, which is discussed separately below in the section titled *Programs Preliminarily Determined to be Not Countervailable*). According to the questionnaire responses, SSI and PPC received import duty exemptions under IPA Section 28 during the years since the initial BOI Section 28 certificates were issued.

Import duty exemptions provide a financial contribution under section 771(5)(D)(ii) of the Act in the form of foregone revenue that is otherwise due to the RTG. The benefit is the amount of the revenue foregone by the RTG.

Although import duty exemptions are identified as recurring in the illustrative list of recurring benefits in section 351.524(c)(1) of the regulations, petitioners alleged that, since these import duty exemptions were for the purchase of capital equipment, they should be treated as non-recurring in accordance with section 351.524(c)(2)(iii) of the regulations. In the preamble to our regulations, we stated that if a government provides an import duty exemption tied to major 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. See Countervailing Duties; Final Rule, 63 FR 65348, 65393 (November 25, 1998) (Preamble). The benefit received from the exemption of import duties under IPA Section 28 is tied to the capital assets of SSI and PPC. Additionally, proprietary information provided by SSI supports our treatment of Section 28 benefits as non-recurring. Our analysis of this information is contained in the Memorandum from Case Analysts to Barbara E. Tillman, Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Analysis of Business Proprietary Information related to IPA Section 28 (April 13, 2001) (Business Proprietary Memo). Accordingly, we preliminarily determine that it is appropriate to treat the exemption of duties on capital equipment as a non-recurring benefit.

To measure the benefit allocable to the POI, we first conducted the ''0.5 percent test'' for the total Section 28 import duty exemptions. *See* section 351.524(b)(2) of the Department's regulations. For each year in which there were section 28 import duty exemptions, we summed the exemptions provided in that year and divided that sum by the relevant total sales for that year. We thus determined that for certain years Section 28 import duty exemptions should be allocated over time. For those years, we allocated the annual total exemptions, in accordance with section 351.524(d) of the Department's regulations, to determine the Section 28 benefits attributable to the POI (*see Allocation Period* section above). We summed the portions of each year's benefits attributable to the POI and divided that amount by the appropriate total sales during the POI to preliminarily determine a countervailable subsidy of 0.84 percent *ad valorem*.

b. *Duty Exemptions on Imports of Raw and Essential Materials Under IPA Section 30 and Section 36.* IPA Section 30 allows companies reductions of import duties on raw and essential materials that are consumed in production. Under section 30, SSI was originally approved for a 90 percent reduction of duties on imported raw and essential materials; the rate of duty reduction was later changed to 75 percent, which was in effect during the POI. During the POI, SSI used Section 30 on imports of steel slab. Pursuant to section 771(5)(D)(ii) of the Act, Section 30 provides a financial contribution in the form of revenue forgone by the RTG, i.e., the duties which would otherwise be assessed on the imported raw and essential materials. There is a benefit to SSI in the amount of the duties they would otherwise have to pay. According to SSI, the duty rate on steel slab was one percent, and thus SSI paid duties on slab imports at the rate of 0.25 percent. However, the tariff schedule provided by the RTG shows that the ''normal rate'' of duties on steel slab imports was ten percent, while one percent is the ''discount rate.'' Neither the RTG nor SSI explained the difference between the ''normal rate'' and the ''discount rate,'' nor did they explain how or when such discount rates are applied. They also did not explain why SSI would have been entitled to import steel slab at the ''discount rate.'' Because the normal rate of duty that SSI should have paid on steel slab during the POI was ten percent, we are using that rate to calculate the benefit from Section 30 import duty reductions. To measure the benefit, we have calculated the difference between the duties SSI actually paid and the duties that they should have paid absent the Section 30 reduction and access to the discount rate. We divided that difference by the value of SSI's total sales during the POI and we preliminarily determine the countervailable subsidy to be 0.91 percent *ad valorem*.

SSI's benefits under Section 30 expired at the beginning of the POI. However, this expiration does not constitute a program-wide change in accordance with section 351.526(b) of the regulations because the program itself was not terminated and SSI reported that it started receiving duty exemptions under another element of the IPA, Section 36. Section 36 provides companies with export-specific import duty and tax exemptions. Section 36(1) allows companies to import raw and essential materials that are incorporated into goods for export with exemptions on import duties. After SSI's benefits under Section 30 expired, SSI began receiving duty exemptions on imports of raw and essential materials under Section 36(1). SSI reported that it only received exemptions under Section 36(1) on its imports of goods that were consumed in the production of merchandise for export. The RTG reported that Section 36(1) essentially operates as a duty drawback scheme and as such, is not countervailable, as the exemptions on imported raw and essential materials can only be received for imported goods consumed in the production of exports. However, in order to determine whether this program meets the standards for non-countervailability set forth in section 351.519(a)(4) of the regulations, we need additional information to confirm that the Thai customs authority has a system in place to monitor and track the consumption and/or re-export of goods imported under section 36(1) and that there are provisions related to the normal allowance for waste.

c. *Corporate Income Tax Exemptions Under IPA Section 31.* IPA Section 31 provides a three- to eight-year exemption for payment of corporate income tax on profits derived from promoted activities, as well as deductions from net profits for losses incurred during the tax exemption period. SSI and PPC were eligible for Section 31 benefits, but both were in a tax loss position during the POI, and thus, were prevented from claiming these exemptions on the tax returns each filed during the POI. As such, we preliminarily determine that IPA Section 31 was not used by producers or exporters of the subject merchandise to the United States during the POI.

d. *Additional Tax Deductions Under IPA Section 35.* IPA Section 35 provides various income tax deductions and exemptions for promoted firms. During the POI, SSI through Section 35(3), claimed benefits under this program on the tax return filed during the POI. IPA Section 35(3) allows promoted companies to deduct double the cost of transportation, electricity, and water for ten years after the promoted company first derives income. Income tax deductions provide a financial contribution under section 771(5)(D)(ii) of the Act in the form of foregone revenue that is otherwise due to the RTG. The benefit is the amount of the revenue foregone by the RTG. Under the provisions of section 351.509(a)(1) of the Department's regulations, we preliminarily determine that SSI received a benefit under IPA Section 35 during the POI.

To measure the benefit, we assumed, consistent with Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Extruded Rubber Thread from Malaysia, 57 FR 38475 (August 25, 1992), that SSI first used its pool of countervailable tax deductions under IPA section 35, earned in 1998, to reduce its tax liability on its income tax return for 1998, filed during the POI. See Id., Department's Position at Comment 13. See also Extruded Rubber Thread From Malaysia; Final Results of Countervailing Duty Administrative Review, 60 FR 17516 (April 6, 1995), Department's Position at Comment 7. We then determined the extent to which that countervailable tax deduction reduced SSI's taxable income. We calculated the benefit by multiplying the amount of taxable income which SSI was able to offset with its Section 35 tax deduction by the income tax rate. We then divided this benefit by SSI's total sales during the POI. We preliminarily determine the countervailable subsidy to be 0.13 percent ad valorem.

2. Debt Restructurings

Petitioners' allegations with respect to SSI's and PPC's debt restructurings indicated that, in light of SSI's and PPC's financial condition, and as a result of direct or indirect actions of the RTG, the companies' creditors restructured their debt on terms that were not comparable to those which would be offered by commercial lenders or reasonable private investors. The favorable terms included reductions in interest rates, forgiveness of interest and principal, and lengthening of loan terms. Petitioners allege that these actions were specific because the RTG exercised discretion and disproportionately targeted large industries such as the steel industry for debt restructuring.

According to the questionnaire responses, SSI and PPC each underwent comprehensive financial debt restructurings, beginning in 1998 and concluding during the POI, which resulted in all of their debts being restructured, and included the conversion to equity of previously issued converted debentures. We have examined information provided by the RTG and SSI with respect to the operation of the Thai financial sector and the RTG's role therein, including actions of the RTG in response to the financial crisis caused by the collapse of the baht, the RTG's role in corporate debt restructuring in general, and the corporate debt restructurings of SSI and PPC in particular, to determine whether the RTG played a role which would give rise to countervailable subsidies.

a. *Collapse of the Baht and the Thai Economic Crisis.* In July 1997, the RTG floated the baht against other currencies, causing the baht to depreciate by as much as 56 percent against the U.S. dollar by the end of the year and resulting in the general contraction of the Thai economy. The Thai economy subsequently experienced massive failures both of companies and their creditors. The RTG implemented programs to prevent further failure and to get the economy back on its feet. These included implementing the August 14, 1998 Announcement for Comprehensive Financial Restructuring, the RTG's intervention in financial institutions unable to achieve sufficient recapitalization because of their large non-performing loan portfolios, and the injection of new capital into several banks.

b. *Corporate Debt Restructuring Following the Baht's Collapse.* After the collapse of the baht, the RTG implemented plans to facilitate corporate debt restructurings, as part of its broad effort at financial reforms. To do so, the RTG established the Corporate Debt Restructuring Advisory Committee (CDRAC) in 1998. The CDRAC is chaired by the Bank of Thailand (BOT) Governor, and the CDRAC framework (the so-called ''Bangkok Approach'') is set forth in the August 25, 1998 agreement among CDRAC members, the Board of Trade of Thailand, the Federation of Thai Industries, the Thai Bankers' Association, the Association of Finance Companies, and the Foreign Bankers' Association. The record indicates that many, but not all, major corporate debt restructurings were undertaken within the context of the framework established through the CDRAC.

According to the RTG, CDRAC initially focused its attention on the largest and most complicated debts in the economy, without respect to specific industries or regions, and regardless of whether the debtors or creditors were public or private sector entities. In late 1998, CDRAC created a list of the first 351 firms, in 200 groups, as priority cases targeted for debt restructuring and selected to participate in the CDRAC process. According to the questionnaire response, the selection criteria used in developing the list of 351 companies were: (1) Debtors with sizable credit outstanding; (2) debtors proposed by the Thai Bankers' Association, the Foreign Bankers' Association, the Association of Finance Companies, the Federation of Thai Industries and the Board of Trade of Thailand; (3) debtors who expressed their intention to participate in the restructuring process; and, (4) debt restructurings involving multiple creditors. Despite the Department's express request, the RTG, citing confidentiality reasons, has declined to provide this list for the record.

c. *SSI, PPC and Their Restructuring.* SSI's debt restructuring was accomplished pursuant to an agreement, concluded during the POI, which was the final of four amendments to the original Credit Facilities Agreement (CFA) of February 18, 1994. The original CFA, an agreement between SSI and its private creditors, provided for all of SSI's financing needs, baht- and foreign currency-denominated short- and long-term financing from both secured and unsecured lenders as provided by a syndicate of lending institutions, following SSI's initial startup in 1992. PPC's debt restructuring was also accomplished pursuant to an agreement with its creditors during the POI and also involved both short- and long-term financing.

According to the responses, SSI, PPC, and their creditors were prompted to pursue debt restructuring by factors internal and external to the companies and their creditors, including the economic climate following the collapse of the baht in July 1997, and the financial management strategy these companies pursued before and after this collapse. All parties involved had incentives to achieve a loan arrangement that would enable SSI and PPC to continue their operations and repay their debts. The secured loans and unsecured bonds were restructured at the same time to assure all creditors that the restructuring was viable. According to the questionnaire responses, none of the original loans or the restructured loans were provided through, or insured pursuant to, any RTG program.

While the details of the debt restructuring are proprietary, it is sufficient for the purposes of this preliminary determination to characterize the restructurings as having involved the reorganization of SSI's and PPC's short-term and long-term debts to provide repayment terms under which SSI and PPC could service their debt obligations in the coming years, based on general economic and company-specific forecasts. The unsecured bonds, which had been issued on the bond market in 1995 as debentures convertible to equity, were converted to equity on terms under which the private bondholders (some of which were foreign) and SSI agreed would enable SSI to meet its obligations.

The respondents have reported that neither SSI nor PPC was involved with, or participated in, the CDRAC process. Although both SSI and PPC were invited to participate in this process, both restructurings were almost complete by the time CDRAC was operational. SSI and PPC contend that the restructurings were achieved without CDRAC or adherence to the CDRAC procedures, and the companies and the RTG claim that the restructurings did not involve the RTG. SSI and PPC also contend that they were not required to comply with any CDRAC application or reporting requirements to proceed with their restructurings.

d. *Analysis of SSI's and PPC's Debt Restructurings.* In order to find a countervailable subsidy under the Act, the Department must determine that the program is specific (section 771(5A) of the Act), that a financial contribution is provided (section 771(5)(D) of the Act), and that there is a benefit to the recipient (section 771(5)(E) of the Act).

Based on information on the record of this proceeding, we believe that the list of the first 351 firms identified for debt restructuring is critical to our analysis of specificity. In the Department's original questionnaire to the RTG (see Department Questionnaire, December 20, 2000, pg. II–17), we requested any federal or regional legislation targeted at large industries, including the steel industry, that was passed dealing with the debt restructurings. Additionally, we requested the RTG to identify which companies had their debt restructured and in which industries they belonged. The RTG responded by providing information regarding the establishment of CDRAC. The RTG also discussed a list of 351 companies that CDRAC had targeted for restructuring. However, neither this list of 351, nor any other identification of companies that had undergone debt restructuring, was provided, despite our requests. Additionally, in the Department's supplemental questionnaire, we again requested the RTG to identify companies that had undergone debt restructuring, and specifically requested the list of 351 companies that CDRAC had targeted for debt restructuring (see Department Supplemental Questionnaire, February 27, 2001, pg. 7). The RTG declined to provide the list, stating that they were prohibited from providing the list under Thai law because of confidentiality constraints. The Department's questionnaire details the protections afforded respondents for this type of information. Both the statute and the regulations provide protection for business proprietary and confidential information requested by the Department. *See* section 777(b) of the Act, and 19 CFR 351.304–306. The RTG did not explain why it was unable to provide the requested information in accordance with the Department's procedures. In addition, the RTG did not argue that there was a clear and compelling need to withhold this information pursuant to 19 CFR 351.304(a)(1)(ii) and 351.304(b)(2)(i). Without full disclosure of the list of 351 companies, it is not possible for the Department to determine whether the debt restructurings of SSI and PPC were specific.

A 1999 report issued by the BOT, and submitted by petitioners, indicates that the steel industry may have received special consideration prior to the CDRAC process. The report also indicates that the steel industry was identified by the RTG for debt restructuring (see Steel Industry in Crisis, Bank of Thailand, December 1999). The Steel Industry in Crisis report indicates that 32 of the 351 companies found on the list were from the primary metal production sector. It is also not clear whether the RTG's stated qualifications for being placed on the list of 351 firms were applied consistently to all those firms placed on the list or even whether all of the firms on the list were restructured. Additionally, another publicly available report indicates that the RTG, through the Board of Investment, identified five major industries whose survival was vital to economic recovery. The steel industry was included on this list of major industries. See Support for Structural Reform in Five Industries Including Steel—Industrial Revitalization with BOI as the Driving Force, Shukan Tai Keizai (August 9, 1999) (submitted by petitioners). On the record of this investigation, there is certain other information that illustrates the importance of the list of 351 companies in analyzing whether SSI's and PPC's debt restructurings were specific. However, this information is proprietary and cannot be summarized for purposes of this notice. This proprietary information is discussed in the Memorandum from Case Analysts to Barbara E. Tillman, Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Analysis of Business Proprietary Information on SSI and PPC Debt Restructuring (April 13, 2001) (Debt Restructuring Memo). The Department is not able to address these important issues without access to the list of 351 companies that the RTG developed. Because the RTG has not provided this list to the Department, we are applying adverse facts available, and, pursuant to section 771(5A)(D)(iii)(III) and (IV) of the Act, we preliminarily determine the debt restructuring of SSI and PPC to be specific.

With respect to financial contribution, several of SSI's and PPC's creditors were owned or controlled by the RTG at the time the restructurings were completed. The details of this RTG ownership and control are proprietary, and are discussed more fully in the Debt Restructuring Memo; however, the levels of ownership and control are sufficient to support a conclusion that the provision of restructured loans by government-owned or -controlled creditors constitutes a financial contribution within the meaning of section 771(5)(D)(i). At this time, we have insufficient information regarding the privately-owned creditors which provided restructured loans or converted debentures to equity to address whether those creditors have been ''entrusted or directed'' by the government to make a financial contribution to SSI and PPC within the meaning of 771(5)(B)(iii) of the Act.

In determining whether there is a benefit to SSI and PPC from these restructured loans, we compared the interest rates on the loans provided by government-owned or -controlled creditors to a benchmark interest rate which reflects an interest rate on comparable commercial loans which the companies could actually obtain on the market. *See* section 351.505(a) of the regulations. We do not consider the interest rates on the portion of the restructured loans provided by private creditors to be representative of interest rates that the companies could actually obtain on the market. Since these loans were provided as part of the companies' restructuring packages, which included government financial contributions, they cannot be seen as commercial market loans. Furthermore, the interest rates on these loans are below the Minimum Lending Rate (MLR) for commercial loans reported by the BOT. See e.g., Preamble, 63 FR at 65363–64. Therefore, pursuant to section 771(5)(E)(ii) of the Act, the benefit conferred to SSI and PPC is the difference between what SSI and PPC paid on restructured loans versus what they would pay on comparable commercial loans obtained in the commercial market.

All of the restructured loans are variable-rate long-term loans. The RTG did not provide information relating to a national average variable long-term interest rate. Therefore, we are using as our benchmark the annual average Minimum Lending Rate (''MLR'') which is reported as BOT data through the following internet address: *www.scb.co.th/~scbri/ecogrp.htm.* We are adding to the MLR a spread that is typical of that offered to commercial borrowers (and was reported by SSI to have been a feature of the debt SSI obtained prior to restructuring). Since we have only made specificity and financial contribution determinations with respect to government-owned or -controlled creditors, we have only measured the benefits from that portion of each restructured loan provided by the government-owned or -controlled creditor. For purposes of calculating the benefits from the restructurings during the POI, we are following section 351.505(c)(4) for long-term variable interest rate loans. We have determined the difference between the amount paid by the SSI on the government-provided loan and the comparison loan. We determined the difference between the restructured loan interest rate and the benchmark interest rate (which for SSI includes an uncreditworthy risk premium as discussed in the *Creditworthiness and the Calculation of Loan Benchmark and Discount Rates* section above). We accounted for the number of days the loans were outstanding during the POI, and then multiplied the entire principal amount for each loan by this rate (the entire principal amounts were outstanding during the POI). We summed the resulting loan benefits and divided them by the relevant sales value to preliminarily determine a countervailable subsidy of 4.01 percent *ad valorem.*

3. Provision of Electricity for Less Than Adequate Remuneration

Petitioners have alleged that SSI is receiving countervailable benefits under the electricity system that exists in Thailand: electricity is largely supplied by state-owned agencies, and a uniform electricity tariff policy exists which is supported by a central electricity agency which prices electricity differently to the two state-owned distribution agencies. Petitioners alleged that this system results in countervailable subsidies to the extent that the RTG is providing electricity for less than adequate remuneration.

According to the questionnaire responses, the RTG owns and controls most of the generation and transmission of electricity in Thailand. The ministry responsible for Thailand's electricity policy is the Prime Minister's Office. More specifically, rate-setting policy is developed by the National Energy Policy Council (NEPC). This policy addresses both the rates charged by the generating agency, as well as the distribution agencies. The generating agency is the Electricity Generating Authority of Thailand (EGAT) and the two distributing authorities are the Metropolitan Electricity Authority (MEA), which serves Bangkok and the immediate surrounding areas, and the Provincial Electricity Authority (PEA), which serves the remainder of the country. The RTG maintains a ''uniform tariff policy'' that aims to provide the same rates to all consumers in the same customer category regardless of whether they are in MEA's distribution area or PEA's distribution area.

Other than EGAT, which supplies approximately 73 percent of the electricity used in Thailand, there are Independent Power Providers (IPP) and Small Power Providers (SPP). IPPs generate approximately 15.4 percent of Thailand's electricity, and SPPs generate approximately 9 percent. Thailand also imports approximately 2.4 percent of its electricity from Laos and Malaysia. IPPs sell electricity only to EGAT. SPPs sell electricity to EGAT, as well as to end users in industrial estates. IPPs and SPPs are privately owned. The SPPs that sell to end users are prohibited from selling electricity at rates higher than those charged by the agencies owned by the RTG. The RTG provided to the Department a document entitled Concession of Electricity Business, which was issued by the Ministry of Interior and states that the rates charged by SPPs shall not exceed those charged by PEA.

The questionnaire responses state that PEA's cost of delivery to some of its customers in the region it serves is higher than MEA's cost of delivery. In order to implement the uniform tariff policy that the RTG had in place during the POI, EGAT provided a discount to PEA and charged MEA a surcharge on the electricity generated by EGAT.

According to the RTG National Energy Policy Office (NEPO) Recommendations to Cabinet Report (the NEPO Report), dated September 26, 2000, the original objectives of the RTG's uniform tariff policy, which has been in place since 1991, were to establish a tariff that reflects the economic costs and secures the financial status of the three power utilities, and to promote efficiency of electricity usage and equity for all power consumer categories. The RTG's tariff policy consists of the base tariff, plus an automatic adjustment mechanism which ensures that the electricity charges cover fluctuations in marginal costs. There are four criteria the RTG used in determining the electricity tariff structure: (1) marginal costs; (2) load pattern; (3) revenue requirements of the power utilities and financial criteria; and, (4) social criteria for the electricity tariff determination. The social criteria require that uniform tariffs be applied across the country for each customer category. Also, the social criteria call for subsidization of small, residential customers with low usage. Finally, the social criteria maintain that the structure of the electricity tariffs for customer groups other than small residential customers should reflect marginal costs as closely as possible.

According to the NEPO Report, prior to 1997, the electricity tariff was established on a flat-rate basis. Under this system, EGAT sold electricity at a lower rate to PEA than it did to MEA. This bulk supply tariff afforded a cross-subsidization of PEA via the higher rates charged to MEA because the distribution cost for PEA was higher than for MEA. In November of 1996, the NEPC approved a modification of the bulk supply tariff to go into effect in January 1997. This modification altered the bulk supply tariff from the initial flat rate to a time-of-use rate. The time-of-use rates were based on usage during peak and off-peak hours. The modification also created a cross-subsidization of PEA in the form of a surcharge added to the bulk supply tariff EGAT charged to MEA and a deduction from the bulk supply tariff that EGAT charged PEA. The NEPC has altered the surcharge and deductions charged to PEA and MEA on three separate occasions thus far. On May 22, 1997, an adjustment was made so the surcharge and deduction would correspond with the former average bulk supply tariff. This change was retroactive to January 1997. On October 8, 1997, the surcharge and deduction were altered again as a result of the economic crisis in Thailand, and the changes were retroactive to July 1997. On March 20, 2000, the third alteration of the surcharge and deduction was made, retroactive to October 1998, in order to keep the power utilities in line with the financial criteria established when the electricity tariff structure was created.

The retail tariff structure used by MEA and PEA varies depending upon the category of consumer. The following are the categories of consumers: Residential; Small General Services; Medium and Large General Services, and Specific Business Services; Government Institutions and Non-Profit Organizations; and, Agricultural Pumping Service. SSI is considered to be a Large General Services customer. SSI and PPC purchased all of the electricity consumed during the POI from PEA.

In order to find a countervailable subsidy under the Act, the Department must determine that a financial contribution is provided (section 771(5)(D) of the Act), that there is a benefit to the recipient (section 771(5)(E) of the Act), and that the program is specific (section 771(5A) of the Act). The government's provision of electricity constitutes a financial contribution as defined in 771(5)(D)(iii).

To determine whether there is a benefit from the provision of a good, the Act specifies that the Department must examine whether the good was provided for less than adequate remuneration. According to section 771(5)(E) of the Act, the adequacy of remuneration with respect to a government's provision of a good or service, ''* * * shall be determined in relation to prevailing market conditions for the good or service being provided or the goods being purchased in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of purchase or sale.'' In the regulations, we set forth, in order of preference, the benchmarks that we will examine in determining the adequacy of remuneration (see section 351.511). Under the regulations, the first preference is to compare the government price to a market-determined price stemming from actual transactions within the country. However, in the preamble, we made clear that if the government provider constitutes a majority of the market, we would have to resort to other alternatives, including world market prices, and if no such market-determined prices were available, we would examine whether the government applied market principles in setting its price. See 19 CFR 351.511(a)(2)(iii) and Preamble, 63 FR 65378.

In this instance, EGAT is the major generator of electricity and MEA and PEA are the major distributors of electricity. Of the two types of private electricity producers, IPPs sell their product to EGAT and not to end users, and SPPs are prohibited by the RTG from charging prices higher than PEA's. Regarding import prices or other types of market reference prices, while Thailand does import a small percentage of electricity (2.4 percent), this electricity is purchased by EGAT and sold through the same tariff structure that is described above. Additionally, any exports of electricity are sold through the government agencies. Therefore, any in-country, market-determined prices we might use as a point of comparison would ultimately be distorted by the involvement of a government agency or the government's ceiling on market prices. In the preamble to section 351.511, we discuss the fact that the nature of the provision of electricity would normally prevent us from examining a ''world market price.'' *See* Preamble, 63 FR at 65377–65378.

Therefore, based on the situation in Thailand, it becomes necessary to examine whether the price charged for electricity is consistent with market principles, in accordance with section 351.511(a)(2)(iii) of the regulations. As discussed in the preamble, in assessing whether the government price was set in accordance with market principles, we will analyze such factors as the government's price-setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination. The preamble further explains that these factors are not listed in any hierarchy, and that we may rely on one or more of these factors in any particular case. *See* Preamble, 63 FR at 65378. Based on our analysis of the RTG's price-setting (i.e., rate-setting) policy for electricity, as described above, the NEPC takes into account marginal costs, usage, financial and revenue criteria, and maintains an adjustment mechanism which accounts for inflation and changing fuel prices in creating Thailand's electricity tariff structure.

However, in this case, the evidence indicates that there is also price discrimination in the provision of electricity by the RTG. As is stated in the NEPO Report, a cross-subsidization is required in order to maintain the uniform tariff structure (see NEPO Report at 8), hence the surcharge MEA pays to EGAT and the deduction PEA receives from EGAT. Absent the uniform tariff policy, MEA would be incurring costs much lower for its distribution of electricity than would PEA and therefore, in accordance with market principles, MEA's retail prices to its customers would be lower than PEA's. Absent the policy, PEA would be incurring much higher costs for its distribution of electricity, and hence, its customers would be paying higher prices because PEA's cost of distribution would be higher.

A report commissioned by the RTG to conduct a review of the tariff structure in Thailand also illustrates that price discrimination currently exists. The PriceWaterhouseCoopers' report, Review of Electric Power Tariffs Final Report (PWC Report), issued in January, 2000, notes that the ultimate goal is privatization of the utility, a component of which is the necessary phase-out of the uniform tariff policy. Notably, the report states that the transition from public to private sector ownership, which will introduce new suppliers of electricity, may create instances where some customers will begin to purchase their electricity from the new, independent suppliers in order to avoid paying for the cross-subsidy to other customers.

Without the cross-subsidization mandated by the RTG to ensure that PEA's prices are no higher than MEA's prices, PEA's customers would, based on market principles, be charged a higher price, and as such, we preliminarily determine that electricity is provided by the RTG for less than adequate remuneration in accordance with section 771(5)(E)(iv) of the Act.

Since this tariff structure only benefits PEA's customers, we find this provision of electricity to be specific in accordance with section 771(5A)(D)(iv) of the Act (see also The Statement of Administrative Action Accompanying the Uruguay Round Agreements Act (SAA), H.Doc. 103–316, Vol. 1 (1994) at 262) because it is limited to users who are located in a specific geographical region within Thailand (i.e., all customers outside the Bangkok metropolitan area).

To determine the benefit from this provision of electricity, we calculated the difference, on a per kilowatt hour basis, between the rate paid by MEA during the POI (bulk supply tariff plus surcharge) and the rate paid by PEA during the POI (bulk supply tariff minus deduction). We then multiplied that difference by kilowatt hours consumed. We then divided that figure by the relevant total sales value during the POI to determine a countervailable subsidy of 0.66 percent ad valorem.

Programs Preliminarily Determined To Be Not Countervailable

1. Exemptions From VAT Under Section 21(4) of the VAT Act

According to the questionnaire responses, under provisions of Section 21(4) of the VAT Act, companies that were granted Section 28 benefits under the IPA before January 1, 1992, are not required to pay VAT on imports of fixed assets. SSI received its IPA Section 28 certificate prior to this date, and is therefore eligible for this program. The respondents have argued that this exemption from VAT on imports of fixed assets did not constitute a benefit to SSI because all companies, promoted and non-promoted alike, are effectively exempted from VAT on their imports of fixed assets. According to Section 82 of the VAT Act, the VAT liability is computed by subtracting the ''input tax'' (the VAT paid) from the ''output tax'' (the VAT collected). Consequently, companies that pay VAT on imports of fixed assets are effectively exempted from this VAT payment as they receive a credit for the VAT they paid on purchases of inputs, including imports of fixed assets, when their monthly VAT liability is computed. According to the questionnaire responses, under the VAT system, companies receive credit for the VAT paid on the purchases of inputs and, as a result, no VAT is effectively paid by companies on these purchases.

SSI has not been granted any VAT exemptions under Section 21(4) on imports of capital equipment since early 1997. VAT liability is computed on a monthly basis, and the RTG has reported the estimated shortest, average, and longest periods of time for which a company might wait to receive a VAT refund. Even when applying the longest estimated period of time a company might wait to receive a VAT refund, any time-value-of-money benefit received by SSI under Section 21(4) of the VAT Act would either fall short of the POI or be insignificant. On this basis, we preliminarily determine that with regard to SSI, the exemption from the VAT on imports of fixed assets under Section 21(4) of the VAT Act does not constitute a countervailable benefit.

In addition, we note that SSI also received VAT exemptions on its imports of inputs under section 36(1) of the IPA. Since we have not reached a decision on Section 36(1), we need not address the VAT exemptions for purposes of this preliminary determination. We will examine the VAT exemptions for the final determination.

Programs Preliminarily Determined To Be Not Used

We preliminarily determine that the producer/exporter of subject merchandise did not apply for or receive benefits attributable to subject merchandise under the following programs during the POI.

1. *Loans From the Industrial Finance Corporation of Thailand (IFCT) and the Thai Export-Import Bank*
2. *Other Loans and Loan Guarantees From Banks Owned, Controlled, or Influenced by the RTG*
3. *Export Packing Credits*
4. *Pre-shipment Finance Facilities*
5. *Export Insurance Program*
6. *Trust Receipt Financing for Raw Materials*
7. *Tax Certificates for Export*
8. *Duty Exemptions to PPC Under IPA Section 29*
9. *Import Duty Exemptions for Industrial Estates*
10. *Export Processing Zone Incentives*
11. *LPN Debt Restructuring*

LPN did not produce or export subject merchandise to the United States during the POI. Therefore, we have not examined LPN's debt restructuring, its equityworthiness, or its creditworthiness.

Programs Preliminarily Determined Not To Exist

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

SSI reported that a power plant was never constructed on-site. Therefore, IPA incentives were not used for construction of such a power plant.

2. Provision of Water Infrastructure for Less Than Adequate Remuneration

The water pipeline and reservoir which were allegedly built specifically for SSI were not built.

Verification

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

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for the company under investigation, SSI. We have preliminarily determined that the total estimated countervailable subsidy rate is 6.55 percent ad valorem for SSI. 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. Since SSI was the sole producer/exporter during the POI, we are using SSI's rate as the ''all others'' rate.

Producer/exporter	Countervailable subsidy rate (in percent)
SSI	6.55 ad valorem.
All others	6.55 ad valorem.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from Thailand produced or exported by SSI or any other company, 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 non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

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

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, 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, 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, unless otherwise informed by the Department, 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 five days from the date of filing of the case briefs. An interested party may make an oral 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, Import Administration.

[FR Doc. 01–9861 Filed 4–19–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–791–810]

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

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

EFFECTIVE DATE: April 20, 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, N.W., Washington, D.C. 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 from South Africa. 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 United Steelworkers of America (collectively, 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 8, 2000, we issued a questionnaire to the Government of South Africa (GOSA), requesting the GOSA to forward the questionnaire to the producers/exporters of the subject merchandise. The GOSA identified three producers which exported subject merchandise to the United States during the period of investigation: Highveld Steel and Vanadium Corporation Limited (Highveld); Iscor, Ltd. (Iscor); and Saldanha Steel (Pty.) Ltd. (Saldanha). We received a response from Highveld on January 26, 2001, and from Iscor, Saldanha, and the GOSA on February 5, 2001.

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 December 22, 2000, petitioners alleged that additional subsidies were conferred by the GOSA. On January 10, 2001, Saldanha objected to the new allegations. On January 29, 2001, the Department decided to investigate the newly alleged subsidies. *See Memorandum from Barbara E. Tillman for Joseph A. Spetrini,* dated January 29, 2001. On January 31, February 20, and February 27, 2001, we issued supplemental questionnaires to the GOSA and all three producers/exporters. We received responses from the three producers/exporters and the GOSA on February 16, February 20, March 5, March 6, March 8, and March