countervailing duty rates for Gunawan and Jaya Pari are zero, these companies will be excluded from the suspension of liquidation, and the order, if one is issued.

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 the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If 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. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

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 Administrative Protective Order (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 is published pursuant to sections 704(g) and 777(i) of the Act.

Dated: December 13, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–33231 Filed 12–28–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–805]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Indonesia

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

EFFECTIVE DATE: December 29, 1999.

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

The Applicable Statute: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to the regulations at 19 CFR Part 351 (1999).

Final Determination: We determine that certain cut-to-length carbon-quality steel plate products (''CTL Plate'') from Indonesia are being sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the preliminary determination (*Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon Quality Steel Plate Products from Indonesia,* 64 FR 41206 (July 29, 1999)) (*Preliminary Determination*), the following events have occurred:

On July 23, 1999, the Department received Krakatau's response to the Department's July 8, 1999, supplemental questionnaire. Even though the Department received Krakatau's response three days after the questionnaire response deadline, Department officials examined the data to determine whether Krakatau fully responded to the Department's questionnaire. On July 28, 1999, the Department informed Krakatau that it was not going to proceed with verification of Krakatau's response because it did not adequately address the sales-related and cost-related questions. Also, on July 28, 1999, the petitioners [1] alleged ministerial errors in the preliminary determination. On July 29, and 30, 1999, Krakatau submitted letters objecting to the Department's decision not to conduct verification.

On August 4, 1999, PT Gunawan Dianjaya Steel (''Gunawan'') and PT Jaya Pari Steel Corporation (''Jaya Pari'') submitted a proposal for a suspension agreement to the Department. Department officials subsequently met with counsel for Gunawan/Jaya Pari and an official from the Indonesian government to discuss the likelihood of a suspension agreement (*see* Memorandum to the File from Wendy Frankel, Special Assistant to the Deputy Assistant Secretary, dated August 27, 1999). In that meeting, Department officials indicated that a suspension agreement in this case was unlikely because the proposed agreement did not meet the requisite conditions.

From August 10 through 19, 1999, we conducted verification of Gunawan/Jaya Pari's sales and cost responses to the antidumping questionnaire. On August 17, 1999, the Department issued the amended preliminary determination, correcting certain ministerial errors, and postponed the final determination until no later than 135 days after publication of the preliminary determination (*see Notice of Amendment of the Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products from Indonesia,* 64 FR 46341, August 25, 1999) (''*Amended Prelim*'').

On August 24, 1999, Krakatau requested a hearing. In response to numerous improperly filed letters sent by Krakatau between August 12 and 24, 1999, the Department issued a letter to Krakatau on August 25, 1999, explaining the procedures for submitting case and rebuttal briefs and extending the deadlines for submitting such documents.

During September and October 1999, we issued our verification reports for Gunawan/Jaya Pari. The petitioners and Gunawan/Jaya Pari submitted case briefs on October 19, 1999, and rebuttal briefs on October 25, 1999. The Department received Krakatau's case brief on October 14, 1999, and rebuttal brief on October 25, 1999. On October 27, 1999, the Department held a public hearing.

On November 22, 1999, the petitioners alleged that one of the respondents either had not reported certain U.S. sales made during the period of investigation (''POI'') or had not reported price reductions for certain U.S. sales made during the POI. Because we do not have sufficient information on the record to substantiate this allegation, and because this allegation was made at a very late stage of the proceeding, we did not consider it for purposes of this final determination. However, if an antidumping duty order is ultimately issued in this case, we will

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

examine carefully all sales of this company in any future review.

Scope of Investigation

For purposes of this investigation, the products covered by the scope of this investigation are certain hot-rolled carbon-quality steel: (1) universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (''HSLA'') steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (''HTSUS'') definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of this investigation unless otherwise specifically excluded. The following products are specifically excluded from this investigation: (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.,* USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to this investigation is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

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

Facts Available

Because we did not receive an adequate questionnaire response from Krakatau, we could not conduct verification and, therefore, could not use its data for the final determination. For the reasons explained in detail below, we have applied to Krakatau an adverse facts available margin, the highest margin alleged in the petition (52.42 percent), for purposes of the final determination.

1. Application of Facts Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(c)(1), (d) and (e), facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that, if an interested party promptly notifies the Department that it is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the Department shall take into consideration the ability of the party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Pursuant to section 782(e) of the Act, notwithstanding the Department's determination that the submitted information is ''deficient'' under section 782(d) of the Act, the Department shall not decline to consider such information if all of the following requirements are satisfied: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this investigation, Krakatau failed to provide the information necessary to properly calculate a dumping margin, in the form and manner requested by the Department. As explained below, in response to Krakatau's request for assistance under section 782(c)(1), the Department attempted to assist Krakatau under section 782(c)(2) in understanding the Department's reporting requirements by visiting its facilities to respond to its questions and issuing it various supplemental questionnaires and instructional letters prior to the preliminary determination. We also provided Krakatau with an opportunity to supplement its questionnaire response after the preliminary determination in order to

address numerous deficiencies and omissions of data which rendered its previous response inadequate for use in the preliminary determination. Krakatau's supplemental response continued to contain numerous deficiencies and omissions of data, and did not provide alternative methodologies, which prevented the Department from conducting verification and using its data in the final determination. Thus, pursuant to sections 776(a)(2)(A) and (B) of the Act, and having satisfied the requirements under sections 782(c)(2), (d) and (e), the Department must apply facts otherwise available in this case.

2. Selection of Facts Available

Section 776(b) of the Act provides that adverse inferences may be used in selecting from the facts available if a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) also authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' See the Statement of Administrative Action (''SAA'') at 870.

In this case, Krakatau, a *pro se* company, had requested the Department's assistance in responding to the questionnaire under section 782(c) of the Act. In response to Krakatau's request for assistance, the Department helped Krakatau to understand the reporting requirements. The Department's assistance in this regard included sending staff to Krakatau's facilities in Jakarta, Indonesia, to clarify and elaborate on the Department's reporting requirements contained in the questionnaire and numerous subsequent Departmental letters instructing Krakatau of the Department's reporting requirements in general and informing it of its reporting deficiencies in particular. Krakatau was provided numerous opportunities and extensions of time to fully respond to the Department's questionnaire (*see Preliminary Determination* at 64 FR 41207, 41209). However, despite the assistance offered by the Department's staff, Krakatau failed to provide a questionnaire response that addressed the most important deficiencies identified by the Department in its May 27 and July 8, 1999, supplemental questionnaires. Moreover, Krakatau failed to provide a reasonable explanation for its failure to comply with these standard requests for information. Accordingly, the Department finds that Krakatau did not act to the best of its ability to provide the information requested, despite the extensive assistance provided by the Department. Therefore, we have used an adverse inference in selecting the facts available to determine Krakatau's final margin.

In the preliminary determination, recognizing Krakatau's effort to comply with the Department's information requests and in light of its claimed reporting difficulties up until that time, the Department assigned Krakatau the simple average of the margins contained in the petition under section 776(b) of the Act, which the Department corroborated, to the extent practicable, from independent sources reasonably at its disposal under section 776(c) of the Act (*see Preliminary Determination* at 64 FR 41209, and *Memorandum to the File regarding the Facts Available Rate and Corroboration of Secondary Information* dated July 19, 1999). However, for the final determination, we have determined it is more appropriate to assign Krakatau the highest margin in the petition, 52.42 percent, which is also higher than the rate calculated for the only other respondent in this investigation, because Krakatau did not provide an adequate response that the Department could verify and use in the final determination, despite the numerous opportunities and extensive assistance afforded to it by the Department as explained above. (*See* Krakatau Comment 1 in the ''Interested Party Comments'' section of this notice for further discussion.) We continue to find this margin corroborated for the reasons discussed in the preliminary determination.

Fair Value Comparisons

We made our fair value comparisons in the manner described in the preliminary determination (*see Preliminary Determination* at 64 FR 41209). Gunawan/Jaya Pari argued that the Department should use two averaging periods in its margin calculations to account for the effect of low inflation during the second half of the POI. We continued to find that Indonesia experienced significant inflation throughout the POI, as measured by the Wholesale Price Index, published in the September 1998—September 1999 issues of International Monetary Fund's (''IMF's'') *International Financial Statistics* (*see* Memorandum from the Team to the File, ''Inflation Data Used and Statistical Analysis Performed for Determining Whether High Inflation Was Present During the Period of Investigation,'' dated December 13, 1999). For the reasons discussed in detail in Comment 1 of the ''Gunawan/Jaya Pari Interested Party Comments'' section of this notice below, we continued to use monthly averages within one averaging period for purposes of this final determination

Product Comparisons

We made our product comparisons using the same methodology as in the preliminary determination (*see Preliminary Determination* at 64 FR 41209).

Level of Trade

Consistent with our preliminary determination, we continue to find that no level of trade (''LOT'') adjustment under section 773(a)(7)(A) of the Act is warranted because the U.S. sales and home market sales made by Gunawan and Jaya Pari were at the same LOT (*see Preliminary Determination* at 64 FR 41210).

Export Price

As in the preliminary determination, for both Gunawan and Jaya Pari, we used export price (''EP'') methodology, in accordance with section 772(a) of the Act, because the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price (''CEP'') methodology was not otherwise indicated.

Gunawan/Jaya Pari

We calculated EP using the same methodology as in the preliminary determination, with the following exceptions:

Based on our verification findings, we made the following revisions to Gunawan's U.S. sales database: (1) for some sales, we deducted an amount from EP for Indonesian port handling charges and loading charges; (2) we revised the reported U.S. inland freight expenses from the factory to the port of exportation to reflect actual expenses for all sales; (3) we corrected an amount reported for a quantity discount noted for one sales invoice; and (4) we corrected an amount reported for bank charges noted for a different sales invoice (*see* September 16, 1999,

Gunawan verification report for further discussion).

Based on our verification findings, we made the following revisions to Jaya Pari's U.S. sales database: (1) we revised the reported U.S. inland freight expenses from the factory to the port of exportation to reflect actual expenses for all sales; (2) and we corrected the reported advertising expenses because Jaya Pari used an incorrect allocation factor (*see* September 23, 1999, Jaya Pari verification report for further discussion).

Normal Value

After testing home market viability and whether home market sales were made at prices below the cost of production (''COP''), we calculated normal value (''NV'') as noted in the ''Price-to-Price Comparisons'' and ''Price-to-CV Comparisons'' sections of this notice. As noted in the preliminary determination, we did not conduct an arm's-length test on affiliated party transactions because we continued to find that Gunawan and Jaya Pari met the criteria for collapsing affiliated companies. Therefore, we continued to treat Gunawan and Jaya Pari as a single entity for purposes of our analysis (*see Preliminary Determination* at 64 FR 41209–41210).

1. Cost of Production Analysis

As discussed in the preliminary determination, we conducted an investigation to determine whether Gunawan/Jaya Pari made sales of the foreign like product in the home market during the POI at prices below the COP within the meaning of section 773(b)(1) of the Act. We calculated COP based on the same methodology used in the preliminary determination on a model-specific basis, except where we modified the margin calculation program to reflect certain adjustments and updated cost data based on verification findings (*see* Final Calculation Memorandum, dated December 13, 1999). Specifically, we relied on the respondents' COP and CV amounts except as follows:

A. We adjusted the reported nominal monthly depreciation expense figures to reflect each month's currency levels.

B. We adjusted the reported costs based on the corrections provided by Gunawan and Jaya Pari at the first day of verification.

C. We revised Jaya Pari's reported per-unit variable and fixed overhead to include the company's year-end audit adjustments.

D. We recalculated the yield adjustment factor applied to direct labor, variable and fixed overhead by dividing the rupiah/kilogram cost by the yield adjustment factor, rather than multiplying by the yield adjustment factor.

E. For those months in which Jaya Pari had no production, we allocated the factory overhead and labor costs incurred to the months where production occurred.

F. For months in which Gunawan and Jaya Pari had no purchases of slabs, as a surrogate cost, we used the most recent previous month's average purchase price indexed for inflation. However, we used Gunawan's average purchase price for slab in January 1998 as a surrogate for Jaya Pari's January 1998 slab costs.

G. We revised the scrap offset by indexing the monthly scrap sales revenue before calculating an annual average, and then calculated the scrap offset for each month by indexing the annual average back to each month.

H. We revised Jaya Pari and Gunawan's reported general and administrative (''G&A'') expense and interest expense by indexing each month's nominal G&A expense, interest expense, and cost of sales figure for inflation. We excluded the interest on accounts receivable included in ''other income'' as an offset in the G&A expense calculation.

I. We recalculated Gunawan and Jaya Pari's total indexed foreign exchange gains attributable to accounts payable as a percentage of the indexed cost of sales and multiplied this percentage by the total cost of manufacturing (''COM'') of each product control number.

J. We corrected the error made in calculating total COM based on the petitioners' comments on page 23 of their case brief.

K. We corrected our calculation of the indexed, weight-averaged costs based on the petitioners' comments on pages 23 and 24 of their case brief.

L. We revised Gunawan's reported conversion costs to account for cost differences associated with rolling products of different thicknesses. In making this adjustment, we have applied adverse facts available to Gunawan's reported conversion costs, as explained in detail below.

Gunawan allocated monthly conversion costs to all products based on total production quantities each month. This assignment of conversion costs does not allow for the accurate accounting of cost differences between products. For example, products with different thicknesses require different amounts of processing (*i.e.*, reduction). Critical to the Department's calculation of a dumping margin is the establishment of proper comparisons between prices of similar products sold in Indonesia and the United States. Without accurate difference-in-merchandise (''DIFMER'') cost data for the various products, the Department cannot properly account for the differences in physical characteristics and associated price differences between products sold in Indonesia and the United States. Additionally, without costs that accurately account for cost differences associated with physical differences (*e.g.,* differences in thickness) for each product sold in Indonesia, we cannot conduct a meaningful cost test to evaluate whether products have been sold in Indonesia at less than the COP.

Gunawan responded to Sections B, C and D of the antidumping duty questionnaire on April 26, 1999. On May 21, 1999, the Department issued a supplemental questionnaire requesting further clarification of Gunawan's method of allocating conversion costs. The Department received Gunawan's response to the supplemental questionnaire on June 14, 1999, in which Gunawan indicated that it could not provide more product-specific costs. At verification, we found that there were differences in the amount of reduction required to produce a given thickness of plate. Therefore, we believe that Gunawan could have developed a way of differentiating costs based on the reduction necessary to produce the various thicknesses of plate.

Because Gunawan did not submit the conversion cost data as requested, we have determined that it did not act to the best of its ability. Therefore, application of adverse facts available is warranted in accordance with section 776(b) of the Act (*see* standard for the application of facts available set forth above in ''Facts Available'' section of this notice). However, because the company was otherwise cooperative, we have not drawn the most adverse inference. (*See e.g., Krupp Stahl AG* v. *U.S.*, 822 F. Supp. 789, 793 (Ct. Int'l Trade 1993), which referenced a Court of Appeals' opinion sanctioning the Department's practice to take into account the level of respondents' cooperation; and *Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Germany,* 63 FR 8953, 8955 (February 23, 1998).) Specifically, we have relied on the reported control-number-specific direct material costs and variable overhead costs. However, for the fixed overhead costs, we identified the largest expense (depreciation) and allocated the portion attributable to rolling based on reduction time. We first calculated the average reduction required to produce

all thicknesses of plate and then compared the average reduction to each thickness reported. We found that one thickness of plate required more reduction on average than all other plates produced. We calculated the percentage difference between the average reduction and the reduction required to produce this thickness of plate and increased the depreciation expense attributable to rolling by this percentage.

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

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

2. Calculation of CV

We calculated CV using the same methodology as in the preliminary determination, except where we made certain adjustments, as discussed above, and updated cost data based on verification findings and revised our calculation of CV profit based on the petitioners' comments on pages 23 and 24 of their case brief (*see* ''Cost of Production Analysis'' section of this notice and Final Calculation Memorandum, dated December 13, 1999 for further discussion).

Price-to-Price Comparisons

For price-to-price comparisons, we calculated NV based on the same methodology used in the preliminary determination, with the following exceptions based on verification findings: (1) we corrected the amount reported for commissions for certain Gunawan home market sales; (2) we determined that Gunawan's reported early payment discounts are, in fact, billing adjustments and deducted these reported amounts, where applicable, from the gross unit price; (3) we corrected the amounts reported for advertising expenses for all of Jaya Pari's home market sales; and (4) for one Jaya Pari sales invoice, we corrected the amount reported for inland freight from the plant to the customer (*see* September 16, 1999, Gunawan verification report, September 23, 1999, Jaya Pari verification report, and Comment 2 in the ''Interested Party Comments'' section of this notice for further discussion).

Price-to-CV Comparisons

For price-to-CV comparisons, we applied the same general methodology used in the preliminary determination (*see Preliminary Determination* at 64 FR 41212).

Critical Circumstances

Section 735(a)(3) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there would be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

As noted in the preliminary critical circumstances determination, we are not aware of any existing antidumping order in any country on CTL plate from Indonesia. Therefore, we examined whether there was importer knowledge. In determining whether an importer knew or should have known that the exporter was selling the subject merchandise at less than its fair value and thereby causing material injury, the Department normally considers margins of 25 percent or more for EP sales (and margins of 15 percent or more for CEP sales) sufficient to impute knowledge of dumping (*see Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China,* 62 FR 9160 (February 28, 1997); and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan*, 64 FR 30574 (June 8, 1999) (*Stainless Steel Sheet and Strip in Coils from Japan*)). All respondents in this proceeding have made EP sales to the United States.

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

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

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

To determine whether imports of subject merchandise have been massive over a relatively short period, we compared Gunawan/Jaya Pari's export volume for the four months subsequent to the filing of the petition (March-June 1999) to that during the four months prior to the filing of the petition (November 1998–February 1999). These

periods were selected based on the Department's practice of using the longest period for which information is available from the month that the petition was submitted through the date of the preliminary determination.

Based on our analysis, we find that the increase in imports was not greater than 15 percent with respect to Gunawan/Jaya Pari, as our verification findings indicate that these companies had no exports of subject merchandise to the United States during the period March-June 1999 (*see* July 9, 1999, submission; page nine of September 16, 1999, Gunawan verification report; and page eight of September 23, 1999, Jaya Pari verification report). Therefore, we do not find critical circumstances with respect to Gunawan/Jaya Pari.

Because the margin we have assigned to Krakatau is 52.42 percent, and thus exceeds 25 percent, we have imputed knowledge of dumping to Krakatau. However, information on the record sufficiently establishes that Krakatau's exports of subject merchandise to the United States have not increased massively since the filing of the petition. U.S. Customs import data indicate that Gunawan/Jaya Pari accounted for the vast majority of imports of subject merchandise into the United States during the POI. Moreover, since the filing of the petition, U.S. Customs import data do not indicate evidence of massive imports of subject merchandise from Indonesia (*see* July 19, 1999, *Memorandum to the File Regarding Import Statistics Used for Preliminary Critical Circumstances Determination*). Thus, we continue to determine that no critical circumstances exist for Krakatau.

Because the margin for all other Indonesian exporters/producers of the subject merchandise is 42.36 percent (*i.e.*, Gunawan/Jaya Pari's margin), and thus exceeds 25 percent, we have imputed knowledge of dumping to ''All Others.'' However, we considered that the increase in imports was not greater than 15 percent with respect to Gunawan/Jaya Pari. We also considered U.S. Customs data on overall imports from Indonesia of the products at issue. Based on our review of Gunawan/Jaya Pari's shipment data and the U.S. Customs import data, we find that imports from all non-investigated exporters (*i.e.*, ''all others'') were also not massive during the relevant comparison periods. Given these factors, the Department determines that there are no critical circumstances with regard to ''all other'' imports of CTL Plate from Indonesia (*see Stainless Steel Sheet and Strip in Coils from Japan* at 64 FR 30585).

Currency Conversion

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

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Gunawan/Jaya Pari for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by Gunawan/Jaya Pari.

Interested Party Comments

Gunawan/Jaya Pari Comments

Comment 1: Application of the High-Inflation Methodology to the POI

The respondents contend that the Department should divide the POI into two separate parts when accounting for the effect of inflation on the COP in order to make a fair comparison between home market costs and home market prices and between home market sales and U.S. sales. Specifically, the respondents state that the IMF wholesale price indices indicate that the Indonesian economy was experiencing hyperinflation only in the first six months of the POI, based on applying the Department's monthly and annual high inflation benchmarks of five and 50 percent, respectively. In support of their position, the respondents cite to the *Preliminary Results of Antidumping Duty Administrative Review and Extension of Final Results of Administrative Review: Gray Portland Cement and Clinker from Mexico*, 64 FR 48778, 48783 (September 8, 1999) (*Cement*). The respondents further note that the inflation rate in Indonesia declined significantly during the fourth quarter of the POI and continued to decline after the POI. The respondents also point out that section 777A(d)(1)(A) of the Act and section 351.414(d)(3) of the Department's regulations grant the Department the authority to use averaging periods less than the POI when NV, EP (or CEP) varies significantly over the POI, and that the Department has exercised its authority in prior antidumping duty cases to apply shorter weighted-average periods to investigations involving a country experiencing high inflation. In support of this position, the respondents cite to numerous cases where the Department split the POI or period of review (''POR'') for various reasons (*see, e.g., Preliminary Results of Antidumping Duty Administrative Review: Certain Pasta from Turkey*, 64 FR 43157, 43158 (August 9, 1999) (*Pasta*); *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, 56620 (October 22, 1998) (*Mushrooms*); *Final Results of Antidumping Duty Administrative Review: Certain Fresh Cut Flowers from Colombia*, 62 FR 53287, 53299 (October 14, 1997) (*Flowers from Colombia*); *Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses from Colombia*, 60 FR 6980, 6993 (February 6, 1995) (*Roses*); and *Final Determination of Sales at Less Than Fair Value: Salmon from Chile,* 63 FR 31432 (June 9, 1998) (*Salmon*)). Furthermore, the respondents state that the Department has recognized in prior antidumping duty cases that it should not apply the high inflation methodology to the period in which no high inflation exists, and as a result, the Department has separated the POI into high-inflation and non-high-inflation periods. In addition, the respondents claim that the Department has stated in previous high inflation cases that the monthly averaging method is not dispositive when examining the entire POI to determine high inflation. In support of these positions, the respondents cite to the *Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers from Peru*, 52 FR 7000, 7002 (March 6, 1987) (*Flowers from Peru*); *Final Results of Antidumping Duty Administrative Review: Ferrosilicon from Brazil*, 61 FR 59407, 59408 (November 22, 1996) (*Ferrosilicon*); and *Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey*, 62 FR 51629, 51630 (October 2, 1997) (*Pipe and Tube from Turkey*). Therefore, the respondents claim that the Department has recognized in the past that under certain circumstances, the appropriate high inflation period may not be the entire POI, which applies in this case, as well. Finally, the respondents claim that the Department has in practice determined shorter-than-POI, weighted-average periods to avoid distortive effects on dumping margins. In support of this claim, the respondents cite to the *Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30664, 30676 (June 8, 1999) (*Steel Sheet and Strip*); *Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*,

63 FR 8909, 8925 (February 23, 1998) (*SRAMs*); *Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea*, 58 FR 15467, 15476 (March 23, 1993) (*DRAMS*); and *Final Determination of Sales at Less Than Fair Value: Erasable Programable Read Only Memories from Japan*, 51 FR 39680, 39682 (October 30, 1986) (*EPROMs from Japan*).

The petitioners contend that Indonesia did experience high inflation during the second half of the POI, and that even if it had not, the Department's normal practice is to apply its high inflation methodology to the entire POI, not just to a particular segment of that period. The petitioners also maintain that the calculation performed by the respondents to determine whether high inflation existed in the second half of the POI is flawed because it did not include July 1998's inflation figure, nor did it take into account the compounding effects of inflation.

DOC Position: We agree with the petitioners. Based on the respondents' request, we have examined the issue of whether the Department should apply its high-inflation methodology based on whether Indonesia experienced high inflation throughout the POI. As a matter of practice, when the Department uses its high-inflation methodology, we index the costs reported in each POI month, even if inflation was absent during certain portions of the period for which the costs were reported (*i.e.*, the POI), and make sales comparisons on a monthly average basis, rather than on a POI average basis, in order to minimize the effects of inflation on our analysis.

The reason for this methodology is that in order to calculate a weighted-average cost for the POI, all monthly costs during the POI must be restated on an equivalent currency value basis using inflation indices during that period. The POI weighted-average cost is then restated to the currency value of each respective POI month in order to minimize the distortive impact of inflation. The Department's high-inflation methodology does not increase actual costs, but rather, allows the Department to calculate the weighted-average period cost from monthly data that is stated in different currency levels. *See Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey*, 63 FR 35190 (June 29, 1998)

Although the Department's past practice has been to treat an economy as hyperinflationary if the annual inflation rate is greater than 50 percent, since *Pipe and Tube from Turkey* the Department has modified its practice and used a 25 percent per annum inflation rate as a general guide for assessing the impact of inflation on an economy and for determining whether an economy experienced high inflation rather than hyperinflation during the POI or POR (*see Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from South Korea,* 64 FR 137, 139 (January 4, 1999)). The Department's use of this benchmark was illustrated in *Cement* where the Department found that a 16 percent Mexican annual inflation rate did not warrant application of the Department's high-inflation methodology (*see Cement* at 64 FR 48778). In *Pipe and Tube from Turkey,* where the POR extended from May 1, 1993, through April 30, 1994, the Department indicated that it separately examined the inflation rate during two segments of the POR because each segment covered portions of different years and we had to determine what the annual inflation rate was during the POR. In this context, the Department applied its then existing benchmark of 50 percent to determine whether high inflation existed in either 1993 or 1994. The Department did not restrict its examination of the issue to quarters within a year, but instead examined the two years in their entirety, which overlapped the POR and the months in the POR as a whole, in order to determine whether Turkey should be treated as hyperinflationary during the POR. Moreover, in *Pipe and Tube from Turkey,* the Department expressed a clear preference not to break the POR into discrete periods for high-inflation analysis, and stated that its finding in *Flowers from Peru,* made over 10 years ago, where the Department split the POI in its application of inflation methodology, was not a reflection of the Department's more recent practice in conducting inflation analysis. Rather, the Department stated a desire to examine the high-inflation issue by examining and considering the entire review period. The respondents in this case claim that a decline in the inflation rate in the fourth quarter of 1998 and a continuing decline in the inflation rate during the first quarter of 1999 are compelling reasons for departing from this methodology. The Department disagrees that it should perform its high-inflation analysis on a quarterly basis or consider the impact of inflation during periods extending past a POI or POR.

Though the facts in our case are different from those present in *Ferrosilicon,* where the Department determined not to apply its high-inflation methodology, the methodology employed in the present case is consistent with the one in *Ferrosilicon* in that the existence or absence of high inflation during the relevant portion of the review or investigatory period was the single most important contributing factor in determining whether to apply the high-inflation methodology to the POI or POR as a whole. Moreover, the approach taken in *Ferrosilicon* for examining whether high inflation existed during the POR as a whole (*i.e.,* focusing on the annualized rate of inflation over the entire POR or POI rather than quarters or abbreviated time periods) is also consistent with *Pipe and Tube from Turkey,* which, as noted above, is more relevant to our particular situation (*see Ferrosilicon* at 59408).

Unlike in *Flowers from Colombia, Mushrooms, Salmon and Roses,* the issue in our case is not whether to adjust or exclude certain cost items which have a significant impact on home market prices without applying our high-inflation methodology. In the present case, our current practice of applying an annualized benchmark to determine the existence of high inflation during the POI shows that Indonesia experienced high inflation during the entire POI at a level which requires the use of the Department's high-inflation methodology (*see,* Memorandum from the Team to the File, ''Inflation Data Used and Statistical Analysis Performed for Determining Whether High Inflation Was Present During the Period of Investigation,'' dated December 13, 1999). No individual adjustments are necessary beyond those warranted by the application of the Department's high-inflation methodology. Accordingly, we have continued to apply our high inflation methodology to the entire POI.

Since we have determined that inflation existed throughout the POI, there is no need to consider splitting the POI into two averaging periods under 19 CFR 351.414(d)(3).

The effect of currency devaluations resulting from the Asian financial crisis of 1997, as opposed to the existence or absence of inflation, was the principal reason for splitting up the POI in the more Korean case involving *Steel Sheet and Strip.* In that case, the Department determined that the precipitous drop in the value of the home market currency caused significant differences in home market prices and, thus, warranted the POI split. As for the recent Taiwanese case involving *SRAMs,* the Department did use shorter averaging periods to avoid distortive effects due to declining costs and prices. The Department did

not, however, apply different methodologies to different parts of the POI. Finally, as is the case with the Department's outdated inflationary analysis and decision made in *Flowers from Peru,* decisions made by the Department in *EPROMs from Japan* are also not a reflection of the Department's current practice with respect to the inflation issue. Accordingly, the Department has continued to apply its high-inflation methodology over the entire POI in this case.

Comment 2: Home Market Early Payment Discount

The petitioners contend that the Department should disallow Gunawan's early payment discount because it constitutes a post-sale price adjustment that is not part of Gunawan's normal business practice. Specifically, the petitioners maintain that information in Gunawan's response indicates that Gunawan grants the discount in question to its home market customers on a discretionary basis, and that the discount percentage is not specified on documentation, or linked to the quantity or value of the sale. Rather, the petitioners allege that the discount is set by Gunawan's sales department on an *ad hoc* basis since the customer is unaware at the time of sale of any terms or conditions it must meet to receive the discount. Finally, the petitioners contend that the Department should disallow this adjustment to NV because Gunawan failed to demonstrate at verification that the discount was part of its normal business practice. In support of their position, the petitioners cite to numerous cases where the Department granted a post-sale price adjustment if it reflected the respondent's normal business practice. *See, e.g., Final Results of Antidumping Duty Administrative Review: Certain Corrosion-Resistant Carbon Steel Flat Products from Japan,* 64 FR 12951, 12958 (March 16, 1999); *Final Results of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker from Mexico,* 64 FR 13148, 13167 (March 17, 1999); *Final Results of Antidumping Duty Administrative Review: Antifriction Bearings and Parts Thereof from France,* 63 FR 33320, 33327 (June 18, 1998) and 60 FR 10900, 10930 (February 28, 1995); and the *Final Results of Antidumping Duty Administrative Review: Certain Corrosion-Resistant Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada,* 61 FR 13815, 13823 (March 28, 1996).

Gunawan maintains that the Department should continue to allow Gunawan's early payment discount because the Department verified that the *ad hoc* method by which Gunawan grants the discount is its normal business practice. Gunawan also states that the Department examined at verification Gunawan's policy for granting this discount and its reporting of this discount in the sales listing, and found no discrepancies in its reported discount programs. With regard to the administrative cases relied upon by the petitioners, Gunawan points out that this proceeding is an investigation and that the likelihood that it can manipulate its dumping margin by granting the discount in the future is not germane to a LTFV proceeding.

DOC Position: We agree in part with Gunawan. After reviewing data referenced in the Gunawan sales verification report (*i.e.,* verification exhibit 30), we note that the record evidence indicates the post-sale adjustment, referred to as an ''early payment discount'' by both Gunawan and the petitioners, is actually a billing adjustment associated with defective merchandise sold in the home market. Based on the invoices examined at verification, the Department found that the disputed amounts were noted on credit memos which were issued after the sale invoices were sent to home market customers, and that the credits were mostly associated with claims of defective merchandise which was not returned to Gunawan. Therefore, we are treating the amounts at issue as billing adjustments and deducting them, where applicable, from the gross unit price. Finally, the above-referenced administrative cases relied upon by the petitioners have no applicability in this case because, unlike those cases where the issue was whether a respondent granted rebates in its normal course of business, the issue in this proceeding is whether to make a deduction to Gunawan's home market price based on credit memos noting returns of defective merchandise which Gunawan issues to its customers in the normal course of business.

Comment 3: Depreciation Expenses

The petitioners state that the Department should adjust Gunawan's depreciation expenses to account for the effects of inflation and to permit a more appropriate matching of costs and prices based on equivalent currency units. The petitioners argue that Gunawan's reported depreciation expenses are based on the nominal value of assets, since they were last revalued, and reflect neither the inflation experienced in Indonesia since the last revaluation nor the inflation experienced during the POI. The petitioners argue that the Department should adjust the depreciation expenses for the effects of inflation occurring prior to the POI, as well as for the effects of inflation during the POI.

The respondents argue that the Department has already taken into account the effects of inflation by indexing the total amount of reported fixed overhead expenses (*i.e.,* the account in which depreciation expense was recorded) in its cost calculation and, therefore, should not further index for inflation. According to respondents, further indexing the monthly amount of depreciation expense will result in double counting. The respondents argue that the Department's long-standing practice is to rely on data from a respondent's normal books and records if they are prepared in accordance with the generally accepted accounting principles (''GAAP'') of the exporting country.

DOC Position: We agree with the petitioners, in part. The depreciation expense at issue is included in fixed overhead expense. Because the depreciation expense reported for each month was based on fixed assets values recorded in currency levels at the beginning of the POI, it is not enough to index each monthly depreciation expense from that month to the end of the period. Each monthly depreciation expense must be indexed, on a monthly basis, to account for the full change in currency value between the beginning and the end of the POI, before an average COP for the period can be calculated. The reported monthly depreciation expense figures are all stated in the currency level of the first month of the POI and, therefore, must all be indexed for inflation on a monthly basis over the full POI. In this case, the monthly inflation rates during the POI were significant.

We disagree with the petitioners that the nominal monthly depreciation expenses should be adjusted for inflation that occurred prior to the POI. We note that one of the two collapsed respondents revalued their assets during the last quarter of 1998 and the other revalued its assets in 1996. Inflation in Indonesia since this pre-POI revaluation has not been significant. Thus, we do not consider it appropriate to adjust the pre-POI fixed asset valuations as recorded in their normal books and records. For the final determination, we have indexed the monthly depreciation expense to account for the high inflation during, but not prior to, the POI.

Comment 4: First-Day Verification Corrections

The petitioners argue that the Department should, pursuant to 19 CFR 351.301(b), reject the undisclosed and untimely major modifications contained in Gunawan's August 24, 1999 and Jaya Pari's September 1, 1999 submissions. The petitioners argue that it is the Department's longstanding policy not to accept the submission of new information at verification unless: (1) The need for that information was not evident previously, (2) that information makes minor corrections to information already on the record, or (3) that information corroborates, supports, or clarifies information already on the record. According to the petitioners, the corrections submitted by Gunawan and Jaya Pari on the first day of verification significantly affect the financial expense calculation and the foreign exchange gains and losses on accounts payable. The petitioners claim that these ''major'' modifications cannot be characterized as ''minor corrections'' and, therefore, should be rejected as new information.

The respondents argue that the Department should reject the petitioners' claim that the corrections submitted by Gunawan and Jaya Pari at verification constitute an untimely submission of new factual information. The respondents argue that these minor corrections were made timely on the first day of verification and included worksheets showing the effects of the corrections which the Department verified. The respondents argue that the corrections were minor in nature and significance, and were related only to exchange gains and losses, which represent a minor part of the total reported costs. The respondents argue that these corrections went in both positive and negative directions, which in turn had an insignificant impact on the margin calculation, and, therefore, the Department should include these corrections in its calculation of the respondents' dumping margin in the final determination.

DOC Position: We agree with the respondents that the corrections presented on the first day of verification were minor and were of the type typically identified by the respondents during preparation for verification. These corrections were minor in that they affected only specific accounts, did not change the reporting methodology, and corroborated, supported, and clarified information already on the record. Therefore, we have included the corrections for purposes of the final determination.

Comment 5: Slab Costs

The petitioners argue that the Department should adjust the respondents' reported slab costs. The petitioners argue that where Gunawan and Jaya Pari had no purchases of slabs in a given month, the Department should construct a current monthly cost by using the most recent preceding month's cost, adjusted for the effects of inflation, instead of the unadjusted slab costs reported by the respondents. In addition, the petitioners disagree with the respondents' claim that all slab costs were denominated in U.S. dollars. According to the petitioners, it is not clear from the record how much of the slab purchases were made in U.S. dollars or Indonesian rupiah. The petitioners argue that as a surrogate for Jaya Pari's January 1998 mild slab costs the Department should use Gunawan's January 1998 mild slab purchases, because Gunawan's average January purchase price is more representative of January slab costs than is the price reported by Jaya Pari, a price from the previous year.

The respondents argue that the Department should not adjust the purchase price of slab for inflation, but instead use the slab costs as reported. The respondents are opposed to the petitioners' argument that the respondents' reported slab costs for a month in which there were no purchases should be adjusted by the Indonesian inflation indices. The respondents argue that when they produce subject merchandise in a month in which there are no purchases, they are consuming slab from inventory, which was purchased in previous months. Therefore, they argue that the cost of slab in any given month was equal to the slab cost of the previous month, irrespective of inflation in Indonesia because they did not incur any additional acquisition costs for these slabs. Accordingly, the Department should not revalue the slab costs for those months in which there were no purchases.

The respondents also argue that the Department should not use Gunawan's January 1998 mild slab purchase price as a surrogate for Jaya Pari's January 1998 mild slab costs as suggested by the petitioners. The respondents state that they purchased all of their material inputs in U.S. dollars from sources outside of Indonesia and there were no significant price increases during the POI. The respondents argue that because the acquisition cost of slabs in U.S. dollars is not affected by Indonesian market conditions and is also not affected by inflation, no adjustments should be made to the slab purchase price.

Lastly, the respondents argue that since the IMF's wholesale price indices show that Indonesia has not had high inflation subsequent to July 1998, the Department's high-inflation methodology should not be applied to costs during the period from July through December 1998.

DOC Position: We agree with the petitioners that replacement cost (*i.e.*, the purchase price for the current month) should be used to value slabs for Gunawan and Jaya Pari. Moreover, we agree that for those months in which there were no slab purchases, the preceding month's purchase price, adjusted for the effects of inflation, should be used. In cases where the respondent experiences inflation in the comparison market during the POI, the Department requires the respondent to report current costs for the calculation of COP and CV. This methodology entails valuing any materials used to produce the subject merchandise at the average purchase price of those materials during the month of consumption (*i.e.,* the normal inventory value of consumed raw materials is replaced by the average monthly purchase price for those materials).

We disagree with the respondents that all purchases of slabs were made in U.S. dollars. In fact, some purchases, and all of the miscellaneous acquisition fees, were made in rupiah. Moreover, we disagree that when slab purchases are made in U.S. dollars the book value is not affected by inflation. This is because the U.S. dollar-denominated purchase price is converted to rupiah in the month of purchase. Since the company was experiencing high inflation during the POI, its currency was losing value in relation to the U.S. dollar and, therefore, in Indonesian rupiah terms the slabs were increasing in price.

We also agree with the petitioners that it is more appropriate to use Gunawan's weighted-average, per-unit purchase price in January 1998 for mild slab as a surrogate for Jaya Pari's January 1998 mild slab costs. Gunawan's average January purchase price is more representative of January slab costs than the price Jaya Pari paid months ago. Simply indexing the price paid in the previous period would only account for increases in the purchase price due to inflation, but would not reflect other market-based pressures on slab prices. We note further that Jaya Pari has been collapsed with Gunawan as a single respondent for margin calculation purposes, and also that it purchased slab from Gunawan during the POI. Therefore, we find that it is appropriate

to used Gunawan's slab cost as a surrogate for Jaya Pari's slab cost in January 1998.

Finally, we disagree with the respondents' argument that the Department's high-inflation methodology should not be applied to the period from July through December 1998. First, we note that the IMF's wholesale price indices show that Indonesia continued to experience inflation through September 1998. Second, our practice is to use the high-inflation methodology for the entire POI if a country experiences a significant level of inflation throughout that period, as was the case in Indonesia. The Department's high-inflation methodology does not increase costs, but rather, allows the Department to calculate the weighted-average period cost from monthly data that is stated in different currency levels. Therefore, we have continued to apply the high-inflation methodology in our calculation of the POI costs.

Comment 6: G&A Expenses

The petitioners argue that the Department should exclude Gunawan's ''other income,'' resulting from interest on accounts receivable, as an offset in the calculation of its G&A expense factor. The petitioners argue that this interest on accounts receivable was from a company that did not pay its invoices on time and is not related to Gunawan's production operations.

The respondents argue that the Department should not exclude interest income from accounts receivable, which was included in ''other income,'' from the calculation of G&A expenses because it is directly related to subject merchandise. Alternatively, the respondents argue that this interest income should be deducted from the respondents' indirect selling expenses.

DOC Position: We agree with the petitioners that the interest on accounts receivable, which was included in ''other income,'' should not be used as an offset in the G&A expense calculation. Interest income earned on accounts receivable is treated as an adjustment to the selling price. The Department's standard questionnaire directs a respondent to report such interest income in a separate field on the sales database in order to allow for the adjustment to the selling price. Accordingly, we have disallowed this interest income on accounts receivable as an offset to G&A expense. We do agree with the respondents that the interest income should be deducted from the respondents' indirect selling expenses and have done so for the final margin calculation.

Comment 7: Scrap Sales

The petitioners argue that because of the high inflation experienced in Indonesia, the Department should first index the monthly scrap sales revenue before calculating an annual average.

The respondents agree that the Department should first index the monthly amounts of scrap before calculating an average, but argue that the indexing should be limited to data for the period from January through June 1998.

DOC Position: We agree with the petitioners that because of the high inflation experienced in Indonesia, we should first index the monthly scrap sales revenue before calculating an annual average. Gunawan calculated the scrap offset by dividing the total scrap sales revenue for the year by the total quantity of plate produced during the year. Since the monthly scrap sales revenue that was summarized to obtain the total scrap sales revenue was in different currency levels, we have first indexed the monthly amounts using the Wholesale Price Index as reported in the *International Financial Statistics* before calculating an annual average. We then calculated the scrap offset for each month by indexing the annual average back to each month. Finally, we disagree with the respondents concerning their argument that the indexing should be limited to the period from January through June 1998, consistent with our decision to apply high-inflation methodology to the entire POI. *See* DOC Position to Comment 1 above for further discussion.

Comment 8: Foreign Exchange Loss on Accounts Payable

The respondents argue that the Department should not include the exchange losses on accounts payable attributable to the purchase of slab in the calculation of the COP. The respondents argue that, because costs included in CV are eventually converted into U.S. dollars, the Department should base slab purchase costs on the U.S. dollar-denominated purchase price to avoid the conversion from U.S. dollars to Indonesian rupiah and back to U.S. dollars which creates a loss that does not exist in dollar terms. The respondents argue that the exchange loss on accounts payable arose solely from different exchange rates used between the date of recording purchases in their books and the date of payment. The respondents also argue that the Department should exclude this exchange loss since it was only a ''book'' loss which did not add to the real COP.

In addition to the above argument, the respondents state that by indexing the slab purchase price and then including the exchange loss on accounts payable from the purchase of slab, the Department has double counted costs in the calculation of the COP. The respondents state that they are being made to record exchange losses in their books due to the Indonesian rupiah depreciating against the U.S. dollar which, in turn, was due to inflation in the Indonesian economy.

The petitioners argue that the Department should continue to include the respondents' foreign exchange losses on accounts payable in the calculation of COP and CV. They argue that the respondents must convert their slab costs into Indonesian rupiah since their normal books and records are maintained in Indonesian rupiah, and as a result of doing so, they realize exchange gains and losses on accounts payable. The petitioners state that these foreign exchange gains and losses on accounts payable are a result of the Indonesian rupiah depreciating between the time slab is purchased and the time payment is made. The petitioners claim that this is a real economic loss, which is recognized by the respondent and is recorded in their financial accounting system. The petitioners argue that the conversion of these Indonesian rupiah costs back into U.S. dollars for purposes of calculating CV does not create the loss, it is simply a convention of the dumping analysis. In addition, the petitioners argue that the Department has consistently held that foreign exchange losses on accounts payable must be included in costs. *See Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod From Trinidad & Tobago,* 63 FR 9177, 9182 (February 24, 1998) (*Steel Wire Rod*).

DOC Position: We disagree with the respondents. Foreign exchange losses realized in connection with accounts payable should be included in the COP and CV calculations. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire from Korea,* 64 FR 17342 (April 9, 1999) and *Steel Wire Rod* at 63 FR 9182. The foreign exchange losses on accounts payable were a result of the Indonesian rupiah depreciating between the time the slab was purchased and the time the payment was made. In simple terms, when the payment is made it takes more Indonesian rupiah than the original amount recorded for the purchase. This is a real economic loss, which was recognized by the respondents and was recorded in their financial accounting system. The Department includes these losses in the COM because they are the

direct result of purchasing inputs for the manufacturing process. We also disagree with the respondents' argument that if the slabs were purchased in U.S. dollars and paid out of the company's U.S. dollar reserves, there is no exchange loss. Even if the payment of slabs were made from U.S. dollar reserves, there is still an exchange loss on the payment of the slabs, because the originally agreed upon price in rupiah terms has increased. We further note that any exchange gain on U.S. dollar reserves would be included by the Department in the calculation of financial expense.

Moreover, we disagree with the respondents' assertion that the Department has double counted costs by both including the exchange losses and indexing the monthly slab costs in its calculation of the COP and CV. The indexing simply allows the Department to calculate an average period cost from monthly amounts that are denominated in different currency levels. The average cost is then restated in currency levels for each month in which a sale took place. The inclusion of the foreign exchange loss recognizes that the respondent paid a higher amount for the slab than originally recorded.

Comment 9: Foreign Exchange Gains on Accounts Receivable

The respondents argue that the Department should include the foreign exchange gains from accounts receivable as an offset to the foreign exchange loss from accounts payable. The respondents argue that, by excluding this offset amount, the Department departed from the objectives and principles of GAAP, which is to ensure that each company fairly presents its financial position, operating position and any change to its financial position. The respondents state that in their normal financial practices, the companies do not manage specific accounts, but instead manage their net exposed position. Therefore, any change in relative currency values will be offset with no cost to the company. The respondents argue that if the gains on accounts receivable were excluded, a distortion in the real financial position of the company would occur because the cost of exchange losses actually suffered would be overstated.

The petitioners argue that the Department should not include foreign exchange gains from accounts receivable in the calculation of the respondents' costs. They state that it is the Department's practice to include foreign exchange gains and losses on financial assets and liabilities in the COP and CV calculations, provided that the gains and losses are related to the company's production operations. Since the foreign exchange gains and losses incurred on accounts receivable are related to sales operations, rather than to production, the petitioners maintain these amounts should not be included in the calculation of COP and CV. *See Notice of Final Results of Antidumping Duty Administrative Review: Canned Pineapple Fruit From Thailand,* 63 FR 7392, 7401 (February 13, 1998) and *Steel Wire Rod* at 63 FR 9182.

DOC Position: We agree with the petitioners that foreign exchange gains and losses arising from sales transactions should not be included in the calculation of COP and CV. The Department's longstanding practice is to exclude exchange gains and losses on accounts receivable. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Circular Welded Non-Alloy Steel Pipe and Tube from Mexico,* 62 FR 37014,37026 (July 10, 1997) (Comment 31) (where the Department did not include exchange gains and losses on accounts receivables, because these gains and losses related to selling activities rather than production activities); and *Pipe and Tube from Turkey* at 62 FR 51629–01 (October 2, 1997). The Department normally includes in its calculation of COP and CV foreign exchange gains and losses resulting from transactions related to a company's manufacturing operations (*e.g.,* purchases of inputs). *See, e.g., Final Determination of Sales Less Than Fair Value: Polyethylene Tenephthalate Film, Sheet, and Strip From the Republic of Korea,* 56 FR 16305, 16313 (April 22, 1991). We do not consider foreign exchange gains and losses arising from sales transactions to relate to manufacturing activities of a company. Accordingly, for the final determination we included in COP and CV exchange gains and losses arising from purchase transactions (accounts payables) (*see* Comment 8), but disallowed exchange gains and losses arising from sales transactions.

Krakatau Comments

Comment 1: Application of Facts Available

Krakatau maintains that the Department's use of facts available in its case violates Articles 2.2.1.1 and 6.8 of the Antidumping Duty Agreement of the World Trade Organization because the Department could have used its questionnaire response to arrive at a calculated margin for Krakatau without undue difficulties. Krakatau further maintains that the Department's insistence that Krakatau provide costs on a control-number-specific basis based on its cost records and Krakatau's inability to provide such costs are no justification for rejecting Krakatau's response and applying facts available.

The petitioners maintain that the Department should assign Krakatau the higher of the highest dumping margin alleged in the petition or calculated in the final determination, rather than the simple average of the dumping margins alleged in the petition, because Krakatau has not provided an adequate questionnaire response. The petitioners argue that if the Department assigns Krakatau the simple average of the petition dumping margins, Krakatau might receive a lower rate than it might otherwise have received if it had cooperated, thus rewarding Krakatau for not providing complete and accurate information in a timely manner.

DOC Position: We agree with the petitioners. We did not request that Krakatau provide cost and sales information that other respondents in numerous antidumping duty proceedings have not been able to provide, without undue hardship, in response to the Department's antidumping duty questionnaire. Furthermore, Krakatau was given significant guidance and assistance by the Department throughout this investigation, but was unable to provide the Department with an adequate response that could be verified and used in the final determination. Consequently, the Department has no choice but to continue to resort to facts available with respect to Krakatau in the final determination as explained in detail below.

We provided Krakatau with numerous opportunities and guidance throughout this proceeding to enable it to submit its cost and sales data on a control-number-specific basis, as requested by the Department's questionnaire, for purposes of calculating a margin for Krakatau based on its own data. Despite the Department's numerous attempts to assist Krakatau, Krakatau failed to provide critical information needed for calculating a margin, thereby rendering its information severely deficient and unusable. Specifically, prior to the preliminary determination, the Department issued Krakatau a number of instructional letters, including a second supplemental questionnaire which was explicit regarding the information the Department needed from Krakatau in order to further consider its response for verification and the final determination (*see* July 8, 1999, letter from the Department to Krakatau). In the July 8, 1999, letter, the Department requested for each sales control number, production costs and

sales expenses unique to the control number, along with worksheets showing how Krakatau arrived at its calculations for the requested costs and sales expenses. Moreover, we requested Krakatau to provide the costs for each control number on a monthly basis since evidence suggested that Indonesia experienced high inflation throughout the POI. In addition, the July 8, 1999, letter provided Krakatau with step-by-step instructions for submitting the requested information noted above. The July 8, 1999, letter also stated that if Krakatau could not establish a unique cost for each product, it must describe in detail the reason it could not provide such information. In summary, this letter was designed to assist Krakatau and give Krakatau one final opportunity to comply with the Department's reporting requirements because the Department was fully aware that Krakatau was a *pro se* company and had requested assistance in a timely manner under section 782(c)(1) of the Act. Having received the Department's assistance in this regard under section 782(c)(2) of the Act, the ultimate burden was on Krakatau to supply the Department with the requested information.

In its response to the Department's July 8, 1999, letter, Krakatau (1) did not report control-number-specific, monthly costs (critical for making fair value comparisons); (2) did not provide the requested worksheets necessary for determining whether it properly reported its sales expenses on a per-unit basis; and (3) did not explain in detail why it was not able to provide the sales and cost information the Department routinely requests and receives from respondents in other antidumping duty cases. Furthermore, Krakatau offered no alternative methodologies for meeting the Department's request for information given its alleged inability to provide such information in the manner requested by the Department. Rather, Krakatau continued to report a standard sales expense amount irrespective of the POI month for each control number reported in its home market and U.S. sales listings without showing or explaining its calculation methodology, and one standard production cost for each POI month which did not differentiate between control numbers. With these significant deficiencies still present in Krakatau's July 23, 1999, supplemental response, we notified Krakatau on July 27, 1999, that the Department was unable to conduct a meaningful verification of its response and that the supplemental information Krakatau submitted on July 23, along with the information previously submitted on June 25, 1999, did not provide the Department with an appropriate basis on which to calculate an antidumping duty margin for Krakatau in the final determination (*see* July 27, 1999, letter from the Department to Krakatau).

Because Krakatau did not provide an adequate response that the Department could verify and use in the final determination, despite numerous opportunities and assistance afforded to it by the Department, the Department does not consider Krakatau to have cooperated to the best of its ability in this proceeding. Therefore, the Department has relied on adverse facts available in accordance with section 776(b) of the Act in making its final determination with respect to Krakatau. Accordingly, the Department has assigned Krakatau the highest dumping margin alleged in the petition, which is higher than the margin calculated for Gunawan/Jaya Pari. *See* also ''Facts Available'' section of this notice.

Comment 2: Exclusion From Investigation

Krakatau claims that its negligible exports of subject merchandise to the U.S. market during the POI could not possibly cause or threaten material injury to the domestic industry. Therefore, Krakatau maintains that the Department should not impose antidumping duties on Krakatau's U.S. exports of the subject merchandise.

The petitioners did not comment on this issue.

DOC Position: We disagree with Krakatau. The ITC, not the Department, determines whether imports of the subject merchandise from Indonesia have caused or threaten material injury to the domestic industry. Therefore, Krakatau's argument is not one in which the Department has jurisdiction to address. The Department determines whether dumping exists. If we find dumping and the ITC finds material injury, we must impose antidumping duties.

Comment 3: Adequacy of Questionnaire Response

Krakatau claims that it did not know how to report its information in the format requested by the Department's original and supplemental questionnaires because it was unfamiliar with the requirements of the U.S. antidumping duty law and because it could not afford the services of a consultant to prepare its response due to the adverse impact of the Indonesian economic crisis on its operations. Instead, Krakatau points out that it used its own resources to respond to the Department's questionnaires to the best of its ability. In addition, Krakatau alleges that the Department's guidance was inadequate in terms of assisting it in reporting its cost and sales information in the format requested by the Department. Therefore, Krakatau maintains that the Department should not resort to facts available with respect to Krakatau because Krakatau was unable to provide the Department with certain requested information (*i.e.*, assigning product control numbers and reporting control number-specific costs) for which Krakatau did not maintain or record in its accounting records.

The petitioners did not comment on this issue.

DOC Position: We disagree with Krakatau. As discussed in the Department's position to Comment 1, the Department provided Krakatau with numerous opportunities to submit in a timely manner critical cost and sales information in the format requested in the Department's antidumping duty questionnaire. In the final supplemental questionnaire the Department issued to Krakatau on July 8, 1999, the Department provided Krakatau with the actual calculation steps it needed to follow in order to report its sales expenses in the manner requested by the antidumping duty questionnaire. Additionally, in the supplemental questionnaire, the Department outlined for Krakatau how it could comply with the Department's request to report monthly, control-number-specific cost data based on Krakatau's description of its own cost records. Krakatau failed to provide the requested information despite the Department's assistance efforts. In addition to these detailed explanations and guidelines, we took the unusual step of sending a Department official to Jakarta to answer any questions Krakatau staff had concerning the contents of the Department's questionnaires. Having received this assistance, the burden was on Krakatau to provide the requested information. It did not. Therefore, the Department has no alternative but to resort to adverse facts available in Krakatau's case. (*See* ''Comment 1 above and ''Facts Available'' section of this notice for discussion of adverse facts available rate assigned to Krakatau.)

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise that are entered, or withdrawn from warehouse, for

consumption on or after the date of publication of the final determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Gunawan/Jaya Pari	42.36
PT Krakatau Steel	52.42
All Others	42.36

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

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

Dated: December 13, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–33232 Filed 12–28–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–837]

Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea

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

EFFECTIVE DATE: December 29, 1999.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Tipten Troidl, Office of CVD/AD Enforcement VI, Group II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2786.

Final Determination: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain cut-to-length carbon-quality steel plate from the Republic of Korea. For information on the countervailing duty rates, see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Gulf States Steel, Inc., IPSCO Steel Inc., Tuscaloosa Steel Corporation, and the United Steelworkers of America (petitioners).

Case History

Since the publication of our preliminary determination in this investigation on July 26, 1999 (*Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 64 FR 40445 *(Preliminary Determination*)), the following events have occurred:

On September 13, 1999, we issued supplemental questionnaires to Pohang Iron & Steel Co., Ltd. (POSCO), Dongkuk Steel Mill Co., Ltd. (DSM), and the Government of Korea (GOK). We received the respondents' questionnaire responses on October 5, 1999. We conducted verification of the countervailing duty questionnaire responses from October 25 through November 9, 1999. Because the final determination of this countervailing duty investigation was aligned with the final antidumping duty determination (*see* 64 FR 40416), and the final antidumping duty determination was postponed (*see* 64 FR 46341), the Department on August 25, 1999, extended the final determination of this countervailing duty investigation until no later than December 13, 1999 (*see* 64 FR 40416). On November 19, 1999, we issued to all parties the verification reports for POSCO, DSM, and the Meetings with Banking Experts in Korea. We later issued on November 23, 1999, the verification report for the GOK. Petitioners and respondents filed case briefs on November 29, 1999. Rebuttal briefs were submitted to the Department by petitioners and respondents on December 3, 1999. A public hearing on the case was held on December 6, 1999.

On November 23, 1999, we discontinued the suspension of liquidation of all entries of the subject merchandise entered or withdrawn from warehouse for consumption on or after that date, pursuant to section 703(d) of the Act. *See* the ''Suspension of Liquidation'' section of this notice.

Scope of Investigation

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

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

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

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or