presentations will be limited to issues raised in the briefs.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: February 2, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–3122 Filed 2–7–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–274–805]

Preliminary Affirmative Countervailing Duty Determination and Preliminary Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago.

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

ACTION: Notice of preliminary affirmative countervailing duty determination and preliminary negative critical circumstances determination.

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers or exporters of carbon and certain alloy steel wire rod from Trinidad and Tobago. For information on the estimated countervailing duty rates, see infra section on ''Suspension of Liquidation.'' We also determine that critical circumstances do not exist with respect to imports of carbon and certain alloy steel wire rod from Trinidad and Tobago.

DATES: February 8, 2002.

FOR FURTHER INFORMATION CONTACT: Melani Miller or Anthony Grasso, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0116 and (202) 482–3853, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (''the Act''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to 19 CFR Part 351 (April 2001).

Petitioners

The petitioners in this investigation are Co–Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. (collectively, ''petitioners'').

Case History

The following events have occurred since the publication of the notice of initiation in the Federal Register. See Notice of Initiation of Countervailing Duty Investigations: Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey, 66 FR 49931 (October 1, 2001) (''Initiation Notice'').

On September 21, 2001, the petitioners properly filed a new subsidy allegation. Although it was filed prior to the signature of the Initiation Notice, due to a lack of time for proper analysis, we did not include this new allegation in our initiation. Instead, we addressed the allegation in the October 17, 2001 memorandum to Richard W. Moreland entitled ''New Subsidy Allegations''(''October 17 Memorandum''), which is on file in the Department's Central Records Unit in Room B–099 of the main Department building (''CRU'').

On October 9, 2001, we received a request from the petitioners to amend the scope of this investigation to exclude certain tire rod. On November 28, 2001, the petitioners submitted further clarification with respect to their scope amendment request. Also on November 28, the five largest U.S. tire manufacturers and the industry trade association, the Rubber Manufacturers Association (''tire manufacturers''), submitted comments on the proposed exclusion. The tire manufacturers submitted further comments on January 28, 2002. See, infra, ''Scope Comments'' section.

On October 11, 2001, we issued countervailing duty (''CVD'') questionnaires to the Government of Trinidad and Tobago (''GOTT'') and to Caribbean Ispat Limited (''CIL''), the only producer/exporter of carbon and certain alloy steel wire rod (''wire rod'' or ''subject merchandise'') in Trinidad and Tobago.

On October 18, 2001, the petitioners filed a letter raising several concerns with respect to the Department's initiation of this investigation and the concurrent CVD investigations in Brazil, Canada, and Germany. With respect to Trinidad and Tobago, the petitioners also filed a second letter on October 18 resubmitting a subsidy allegation that the Department rejected in the Initiation Notice. The Department addressed the concerns raised in these two letters with respect to Trinidad and Tobago in the December 4, 2001 memorandum to Richard W. Moreland entitled ''Petitioners' Objections to Department's Initiation Determinations,'' which is on file in the Department's CRU.

On November 14, 2001, we postponed the preliminary determination of this investigation until February 1, 2002. See Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Trinidad and Tobago, and Turkey: Postponement of Preliminary Determinations of Countervailing Duty Investigations, 66 FR 57036 (November 14, 2001).

On December 3, 2001, the Department received responses to the Department's questionnaires from CIL and the GOTT (collectively, the ''respondents''). On December 10, 2001, the petitioners submitted comments regarding these questionnaire responses. The Department issued supplemental questionnaires to the GOTT and CIL on December 11, 2001 and January 4, 2002, and received responses to those questionnaires on January 3, and January 11, 2002.

On December 21, 2001, the petitioners submitted a letter alleging that critical circumstances exist with respect to imports of wire rod from Trinidad and Tobago. Supplemental critical circumstances information and arguments relating to Trinidad and Tobago were filed by the American Wire Producers Association on December 31, 2001, the petitioners on January 2, 2002 and January 25, 2002, and by the respondents on January 11, and January 18, 2002. See infra ''Critical Circumstances'' section for a discussion on the Department's critical circumstances analysis for this preliminary determination.

Finally, the petitioners and respondents submitted comments on the upcoming preliminary determination on January 17, and January 18, 2002, respectively. In their comments, the petitioners made two new subsidy allegations, and also resubmitted the subsidy allegation which the Department addressed in its October 17 Memorandum. Under 19 CFR 351.301(d)(4)(A), new subsidy allegations are due no later than 40 days prior to a preliminary determination, a deadline which had passed by January 17, 2002. However, even if these allegations had been timely filed, we would not have included them in our investigation for the reasons outlined below.

The petitioners' first new allegation pertains to the GOTT's Repair Program for the Iron and Steel Company of Trinidad and Tobago's (''ISCOTT'') facilities. According to the petitioners, ISCOTT's financial statements show that ISCOTT continued to incur expenses on its leased assets during the period when CIL leased the ISCOTT facilities (1989 through 1994). Citing to the Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod From Italy, 63 FR 40474, 40485 (July 29, 1998) and the Final Affirmative Countervailing Duty Determination: Stainless Steel Bar from Italy 67 FR 3163 (January 23, 2002), the petitioners allege that the maintenance obligation during the pendency of the lease rested with the tenant. Therefore, the petitioners claim, a subsidy was conferred in the amount of the maintenance payments made.

In making this new subsidy allegation, the petitioners have not demonstrated that a financial contribution or a benefit has been provided by the GOTT to CIL or ISCOTT through this program pursuant to sections 771(5)(D) and (E) of the Act. Furthermore, the Plant Lease Agreement required that ISCOTT hand over the plant to CIL with the plant operating in accordance with its specified design capacities. Information on the record indicates that ISCOTT did not meet this requirement, and the payments made by ISCOTT to CIL with respect to plant maintenance were made in order to allow CIL and ISCOTT to meet these Plant Lease Agreement stipulations. Therefore, unlike the Italian cases, noted above, the evidence in this proceeding supports the conclusion that CIL was not responsible for this maintenance. Consequently, we neither have a basis to investigate these payments, nor have the petitioners properly alleged the elements necessary for the imposition of countervailable duties as required by section 701(a) of the Act.

The petitioners' second new allegation relates to the sale of ISCOTT's assets to CIL. The petitioners allege that the change–in–ownership transaction was not at arm's length because, inter alia, ISCOTT's and CIL's operations were closely intertwined as a result of CIL's having leased ISCOTT's plant. Additionally, according to the petitioners, ISCOTT did not receive fair market value when it sold the assets to CIL. This is evidenced, the petitioners claim, by the fact that ISCOTT received significantly less than the book value of the assets. Thus, the petitioners allege, CIL received a benefit by virtue of the low sales price it paid.

Under the Department's practice, when a change in ownership occurs and we find that the pre–sale and post–sale entities are the same ''person,'' we do not conduct an analysis of whether the transaction reflected fair value. (See ''Final Results of Redetermination Pursuant to Court Remand'' Acciai Speciali Terni S.p.A. v. United States, Court No. 99–06–00364, Remand Order (CIT August 14, 2000).) Because we have determined that the business entity owned by ISCOTT prior to the 1994 sale was the same ''person'' as the business entity owned by CIL after the 1994 sale (see ''Change in Ownership'' section, infra), we do not reach the issue identified by the petitioners in this proceeding and have no basis to investigate this transaction as a possible subsidy.

Finally, the petitioners raised again their allegation that CIL's commitment to invest in the company it had just purchased conferred a subsidy. This allegation had been dismissed by the Department in the October 17 Memorandum, and the petitioners' January 17, 2002 submission did not provide additional evidence in support of their claim. Based on our review of the evidence, there is no indication that revenue was foregone by the GOTT or ISCOTT in selling the wire rod production assets to CIL.

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation (''POI''), is calendar year 2000.

Scope of Investigation

The merchandise covered by this investigation is certain hot–rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.0 mm, in solid cross–sectional diameter.

Specifically excluded are steel products possessing the above–noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (''HTSUS'') definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (i.e., products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0090, 7227.90.6051 and 7227.90.6058 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Scope Comments

In the Initiation Notice, we invited comments on the scope of this proceeding. As noted above, on October 9, 2001, we received a request from the petitioners to amend the scope of this investigation and the companion CVD and antidumping duty (''AD'') wire rod investigations. Specifically, the petitioners requested that the scope be amended to exclude high carbon, high tensile 1080 grade tire cord and tire bead quality wire rod actually used in the production of tire cord and bead, as defined by specific dimensional characteristics and specifications.

On November 28, 2001, the petitioners further clarified and modified their October 9 request. The petitioners suggested the following five modifications and clarifications: (1) Expand the end–use language of the scope exclusion request to exclude 1080 grade tire cord and tire bead quality that is used in the production of tire cord, tire bead, and rubber reinforcement applications; (2) clarify that the scope exclusion requires a carbon segregation per heat average of 3.0 or better to comport with recognized industry standards; (3) replace the surface quality requirement for tire cord and tire bead with simplified language specifying maximum surface defect length; (4) modify the maximum soluble aluminum from 0.03 to 0.01 for tire bead wire rod; and (5) reduce the maximum residual element requirements to 0.15 percent from 0.18 percent for both tire bead and tire cord wire rod and add an exception for chromium–added tire bead wire rod to allow a residual of 0.10 percent for copper and nickel and a chromium content of 0.24 to 0.30 percent.

Also on November 28, 2001, the tire manufacturers submitted a letter to the Department in response to petitioners' October 9, 2001 submission regarding the scope exclusion. In this letter, the tire manufacturers supported the petitioners' request to exclude certain 1080 grade tire cord and tire bead wire

rod used in the production of tire cord and bead.

Additionally, the tire manufacturers requested that the Department clarify whether 1090 grade was covered by the petitioners' exclusion request. The tire manufacturers further requested an exclusion from the scope of this investigation for 1070 grade wire rod and related grades (0.69 percent or more of carbon) because, according to the tire manufacturers, domestic production cannot meet the requirements of the tire industry.

The tire manufacturers stated their opposition to defining scope exclusions on the basis of actual end use of the product. Instead, the tire manufacturers support excluding the product if it is imported pursuant to a purchase order from a tire manufacturer or a tire cord wire manufacturer in the Untied States. Finally, the tire manufacturers urged the Department to adopt the following specifications to define the excluded product: A maximum nitrogen content of 0.0008 percent for tire cord and 0.0004 percent for tire bead; maximum weight for copper, nickel, and chromium, in the aggregate, of 0.0005 percent for both types of wire rod. In their view, there should be no additional specifications and tests, as proposed by the petitioners.

On January 28, 2002, the tire manufacturers responded to the petitioners' November 28, 2001 letter. The tire manufacturers continue to have three major concerns about the product exclusion requested by the petitioners. First, the tire manufacturers urge that 1070 grade tire cord quality wire rod be excluded (as it was in the 1999 Section 201 investigation). Second, they continue to object to defining the exclusion by actual end use. Finally, they reiterate their earlier position on the chemical specifications for the excluded product.

At this point in the proceeding, we recognize that the interested parties have both advocated excluding tire rod and tire core quality wire rod. However, the Department continues to examine this issue. Therefore, for this preliminary determination we have not amended the scope, and this preliminary determination applies to the scope as described in the Initiation Notice.

We plan to reach a decision as early as possible in this proceeding. Interested parties will be advised of our intentions prior to the final determination and will have the opportunity to comment.

Injury Test

Because Trinidad and Tobago is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (''ITC'') is required to determine whether imports of the subject merchandise from Trinidad and Tobago materially injure, or threaten material injury to, a U.S. industry. On October 15, 2001, the ITC transmitted to the Department its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Trinidad and Tobago of the subject merchandise. See Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Turkey, Ukraine, and Venezuela, 66 FR 54539 (October 29, 2001).

Critical Circumstances

On December 21, 2001 petitioners alleged that critical circumstances exist with respect to imports of subject merchandise from, *inter alia*, Trinidad and Tobago. The petitioners provided the Department with additional submissions supporting those allegations. See Collier Shannon Scott submissions, dated December 21, 2001, January 2, 2002, and January 25, 2002. In accordance with 19 CFR 351.206(c)(2)(i), because the petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination.

Section 703(e)(1) of the Act provides that critical circumstances exist if the Department determines that there is a reasonable basis to believe or suspect that (1) an alleged subsidy is inconsistent with the Subsidies Agreement[1], and (2) there have been massive imports of the subject merchandise over a relatively short period of time. In past critical circumstances determinations, the Department has only found ''prohibited subsidies'' under Part II of the Subsidies Agreement to be inconsistent with the Subsidies Agreement. See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination: Certain Softwood Lumber Products from Canada, 66 FR 43186, 43189 (August 17, 2001). In the instant investigation, petitioners argue that the class of subsidies found to be inconsistent with the subsidies agreement should be expanded to include ''actionable subsidies'' under Part III of the Subsidies Agreement.

The Department preliminarily determines that critical circumstances do not exist with respect to subject merchandise from Trinidad and Tobago because we have preliminarily found no subsidies inconsistent with the Subsidies Agreement to exist in Trinidad and Tobago. Thus, the first requirement of Sec. 703(e)(1) of the Act has not been met. More specifically, we have preliminarily found no prohibited subsidies (i.e., Part II of the Subsidies Agreement) to be countervailable in this case. Actionable subsidies, although they may give rise to a right to a remedy (e.g. countervailing duties), are not inconsistent with the Subsidies Agreement within the meaning of Section 703(e)(1) of the Act.

Change in Ownership

On February 2, 2000, the U.S. Court of Appeals for the Federal Circuit (''CAFC'') in Delverde Srl v. United States, 202 F.3d 1360, 1365 (Fed. Cir. 2000), reh'g en banc denied (June 20, 2000) (''Delverde III''), rejected the Department's change–in–ownership methodology as explained in the General Issues Appendix of the Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria, 58 FR 37217, 37225 (July 9, 1993). The CAFC held that ''the Tariff Act, as amended, does not allow Commerce to presume conclusively that the subsidies granted to the former owner of Delverde's corporate assets automatically 'passed through' to Delverde following the sale. Rather, the Tariff Act requires that Commerce make such a determination by examining the particular facts and circumstances of the sale and determining whether Delverde directly or indirectly received both a financial contribution and benefit from the government.'' Delverde III, 202 F.3d at 1364.

Pursuant to the CAFC finding, the Department developed a new change–in–ownership methodology. This new methodology was first announced in a remand determination on December 4, 2000, and was also applied in Grain–Oriented Electrical Steel from Italy; Final Results of Countervailing Duty Administrative Review, 66 FR 2885 (January 12, 2001). Likewise, we have

[1] The term ''Subsidies Agreement'' means the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act. (See Sec. 771(8) of the Act).

applied this new methodology in analyzing the changes in ownership in this preliminary determination.

The first step under this new methodology is to determine whether the legal person (entity) to which the subsidies were given is, in fact, distinct from the legal person that produced the subject merchandise exported to the United States. If we determine the two persons are distinct, we then analyze whether a subsidy has been provided to the purchasing entity as a result of the change–in–ownership transaction. If we find, however, that the original subsidy recipient and the current producer/exporter are the same person, then that person benefits from the original subsidies, and its exports are subject to countervailing duties to offset those subsidies. In other words, we will determine that a ''financial contribution'' and a ''benefit'' have been received by the ''person'' under investigation. Assuming that the original subsidy has not been fully amortized under the Department's normal allocation methodology as of the POI, the Department would then continue to countervail the remaining benefits of that subsidy.

In making the ''person'' determination, where appropriate and applicable, we analyze factors such as (1) continuity of general business operations, including whether the successor holds itself out as the continuation of the previous enterprise, as may be indicated, for example, by use of the same name, (2) continuity of production facilities, (3) continuity of assets and liabilities, and (4) retention of personnel. No single factor will necessarily provide a dispositive indication of any change in the entity under analysis. Instead, the Department will generally consider the post–sale person to be the same person as the pre–sale person if, based on the totality of the factors considered, we determine the entity in question can be considered a continuous business entity because it was operated in substantially the same manner before and after the change in ownership.

The change in ownership being examined in this instance involves the sale of ISCOTT's assets by the GOTT to CIL on December 30, 1994. Although this change in ownership was analyzed in detail in the Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Trinidad and Tobago, 62 FR 55003, 55005 (October 22, 1997) (''1997 Trinidad and Tobago Wire Rod'') under the Department's previous privatization methodology, as noted above, the Department's change–in–ownership methodology has changed. Thus, a new analysis must be carried out pursuant to the methodology currently being followed by the Department.

As noted above, the first step under our current change–in–ownership methodology is to determine whether the legal person, or, more specifically, the business entity to which the subsidies were given, is distinct from the business entity that produced the subject merchandise exported to the United States. As the name of the methodology implies, our analysis is triggered at the time of the actual change–in–ownership event, and is based on a comparison of the business entity before and after that ownership change. In this instance, we have preliminarily determined that the business entity owned by ISCOTT benefitted from subsidies bestowed by the GOTT between 1986 and 1991, and that this entity also received debt relief in 1994. Although CIL leased and updated the wire rod plant from ISCOTT between 1989 and 1994, the actual change in the ownership of the business entity did not occur until December 1994. Therefore, in analyzing whether the subsidies received by ISCOTT continued to benefit CIL, we have compared the business entity that was owned by ISCOTT (but run by CIL) in 1994 prior to the change in ownership to the business entity owned by CIL in 1995 after the change in ownership.

The first of the four criteria examined by the Department, as noted above, is the continuity of general business operations, including whether the successor holds itself out as the continuation of the previous enterprise. This may be indicated, for example, by use of the same name. In both 1994 and 1995, the respondents reported that merchandise manufactured by the entity in question was marketed under CIL's trade name. The respondents also reported that, because the product lines manufactured at the plant are standard throughout the industry (e.g., billets, wire rod, etc.), the product lines have essentially remained the same. Thus, although a shift was being implemented by CIL toward a higher–end line of wire rod products, the plant continued to produce billets, steel wire rod, and direct reduced iron both before and after the change in ownership in December 1994. Thus, CIL's longer–term efforts to revise certain areas of the plant's business operations notwithstanding, the overall business operations of pre– and post– change in ownership were essentially the same.

As for the second and third criteria, continuity of production facilities and assets and liabilities, the respondents reported that major investments were made during the lease period (i.e. prior to the sale of ISCOTT's assets to CIL) and after the sale was completed. The respondents reported that, prior to the purchase of ISCOTT's assets in 1994, significant investments were made to repair and improve the plant with the result that the plant's productivity was increased significantly. The respondents further note that, following the sale, CIL implemented an even more substantial program of major investments and changes to the plant. The respondents also reported that no liabilities were transferred to the new owners. Based on an examination of this information, we note that a comparison of the asset structure in 1994 and 1995 shows an increase in the plant's assets during those two years, ostensibly based on the upgrades being carried out throughout the plant. Thus, we note that changes in the plant's asset structure were likely based on the plant upgrades that occurred both before and after the sale.

Finally, regarding the fourth criterion, retention of personnel, the respondents reported that few changes were made as a result of the change in ownership.

Based on the totality of the factors considered, we preliminarily determine that the pre– and post– sale production entity in question is a continuous business entity because it was operated in substantially the same manner before and after the change in ownership. Although it is evident that long–term changes were being carried out by CIL, the business entity continued to produce substantially the same products under the same name. Thus, for the preliminary determination, we are attributing subsidies received by ISCOTT that continue to be allocable during the POI to CIL's sales during the POI.

Equityworthiness

Section 771(5)(E)(i) of the Act and 19 CFR 351.507 state that, in the case of a government–provided equity infusion, a benefit is conferred if the investment decision is inconsistent with the usual investment practice of private investors. 19 CFR 351.507 states that the first step in determining whether an investment decision is inconsistent with the usual investment practice of private investors is to examine whether, at the time of the infusion, there was a market price for similar newly–issued equity. If so, the Department will consider an equity infusion to be inconsistent with the usual investment practice of private investors if the price paid by the government for newly–issued shares is greater than the price paid by private

investors for the same, or similar, newly–issued shares.

If actual private investor prices are not available, then, pursuant to 19 CFR 351.507(a)(3)(i), the Department will determine whether the firm funded by the government–provided infusion was equityworthy or unequityworthy at the time of the equity infusion.

In making the equityworthiness determination, pursuant to 19 CFR 351.507(a)(4), the Department will normally determine that a firm is equityworthy if, from the perspective of a reasonable private investor examining the firm at the time the government–provided equity infusion was made, the firm showed an ability to generate a reasonable rate of return within a reasonable time. To do this, the Department normally examines the following factors:

1) objective analyses of the future financial prospects of the recipient firm; 2) current and past indicators of the firm's financial health; 3) rates of return on equity in the three years prior to the government equity infusion; and 4) equity investment in the firm by private investors.

19 CFR 351.507(a)(4)(ii) further stipulates that the Department will ''normally require from the respondents the information and analysis completed prior to the infusion, upon which the government based its decision to provide the equity infusion.'' Absent an analysis containing information typically examined by potential private investors considering an equity investment, the Department will normally determine that the equity infusion provides a countervailable benefit. This is because, before making a significant investment, it is the usual practice of private investors to evaluate the potential risk versus the expected return, using the most objective criteria and information available.

Our equity analysis for ISCOTT is described below in the section entitled ''Equity Infusions into ISCOTT.''

Creditworthiness

The examination of creditworthiness is an attempt to determine if the company in question could obtain long–term financing from conventional commercial sources. See 19 CFR 351.505(a)(4). According to 19 CFR 351.505(a)(4)(i), the Department will generally consider a firm to be uncreditworthy if, based on information available at the time of the government–provided loan, the firm could not have obtained long–term loans from conventional commercial sources. In making this determination, according to 19 CFR 351.505(a)(4)(i), the Department normally examines the following four types of information: 1) the receipt by the firm of comparable commercial long–term loans; 2) present and past indicators of the firm's financial health; 3) present and past indicators of the firm's ability to meet its costs and fixed financial obligations with its cash flow; and 4) evidence of the firm's future financial position. If a firm has taken out long–term loans from commercial sources, this will normally be dispositive of the firm's creditworthiness. However, if the firm is government–owned, the existence of commercial borrowings is not dispositive of the firm's creditworthiness. This is because, in the Department's view, in the case of a government–owned firm, a bank is likely to consider that the government will repay the loan in the event of a default. See Countervailing Duties; Final Rule, 63 FR 65348, 65367 (November 28, 1998).

In this investigation, we are examining ISCOTT's creditworthiness from 1986 (the beginning of the average useful life (''AUL'') period, as discussed below in the ''Subsidies Valuation Information'' section) through 1994. In 1997 Trinidad and Tobago Wire Rod, the Department determined that ISCOTT was uncreditworthy during the time period June 13, 1984 through December 31, 1994. In 1997 Trinidad and Tobago Wire Rod, we concluded the following:

> ISCOTT did not show a profit for any year during this period and continued to rely upon support from the GOTT to meet fixed payments. The company's gross profit ratio was consistently negative in each of the years in which it had sales. Additionally, the company's operating profit (net income before depreciation, amortization, interest and financing charges) was consistently negative. The firm continued to show an operating loss in each year it was in production, and was never able to cover its variable costs.

See 1997 Trinidad and Tobago Wire Rod, 62 FR at 55005.

Based on an examination of the information submitted in the instant proceeding with respect to ISCOTT's creditworthiness during the period 1986 through 1994, we have concluded that no new information has been presented that would lead to a different conclusion than the determination made in 1997 Trinidad and Tobago Wire Rod. Therefore, we preliminarily determine that ISCOTT was uncreditworthy from 1986 through 1994.

Subsidies Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(b), non–recurring subsidies are allocated over a period corresponding to the AUL of the renewable physical assets used to produce the subject merchandise. 19 CFR section 351.524(d)(2) creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (the ''IRS Tables''). For wire rod, the IRS Tables prescribe an AUL of 15 years. This is the same AUL period used for CIL in 1997 Trinidad and Tobago Wire Rod. Neither CIL nor any other interested party disputed this allocation period. Therefore, we have used the 15–year allocation period for CIL.

Benchmarks for Discount Rates and Loans

Because we have found CIL's predecessor, ISCOTT, to be uncreditworthy for the period 1986 through 1994 (see supra section on ''Creditworthiness''), we have calculated the long–term uncreditworthy discount rates for the period 1986 through 1994 in accordance with 19 CFR 351.524(d)(3)(ii).

In accordance with 19 CFR 351.524(d)(3)(ii), the discount rate for companies considered uncreditworthy is the rate described in 19 CFR 351.505(a)(3)(iii). To calculate that rate, the Department must specify values for four variables: (1) the probability of default by an uncreditworthy company; (2) the probability of default by a creditworthy company; (3) the long–term interest rate for creditworthy borrowers; and (4) the term of the debt.

For the probability of default by an uncreditworthy company, we have used the average cumulative default rates reported for the Caa– to C– rated category of companies as published in Moody's Investors Service, ''Historical Default Rates of Corporate Bond Issuers, 1920–1997'' (February 1998). For the probability of default by creditworthy companies, we used the cumulative default rates for investment grade bonds as published in Moody's Investor Services: ''Statistical Tables of Default Rates and Recovery Rates'' (February 1998). For the commercial interest rate charged to creditworthy borrowers, we used the weighted–average rate on fixed–rate loans offered by commercial banks in Trinidad and Tobago as reported by the Central Bank of Trinidad and Tobago. For the term of the debt, we used the average cumulative default rates for both uncreditworthy and creditworthy

companies based on a 15–year term, since all of the non–recurring subsidies examined were allocated over a 15–year period.

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I.Programs Preliminarily Determined to Be Countervailable

A. Equity Infusions into ISCOTT

In 1978, ISCOTT and the GOTT entered into a Completion and Cash Deficiency Agreement (''CCDA'') with several private commercial banks in order to obtain a part of the financing needed for construction of ISCOTT's plant. Under the terms of the CCDA, the GOTT was obligated to 1) provide certain equity financing toward completion of construction of ISCOTT's plant, 2) cover loan payments to the extent not paid by ISCOTT, and 3) provide cash as necessary to enable ISCOTT to meet its current liabilities.

In Carbon Steel Wire Rod from Trinidad and Tobago: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order, 49 FR 480 (January 4, 1984) (''1984 Trinidad and Tobago Wire Rod''), the Department determined that payments or advances made by the GOTT to ISCOTT through April of 1983, the end of the original POI, were not countervailable because these advances were consistent with the practice of a reasonable private investor.

Subsequently, in 1997 Trinidad and Tobago Wire Rod, the Department determined that payments or advances made by the GOTT to ISCOTT during the period June 13, 1984 through December 31, 1991 were not consistent with the practice of a reasonable private investor and were countervailable subsidies. Specifically, the Department found that, during the period from 1983 to 1989, ISCOTT and the GOTT commissioned several studies to determine the financially preferable course of action for the company. Despite ISCOTT's continued losses, however, and without any reason to believe that there was any hope of improvement given the conditions in place at that time, the GOTT continued to provide funding for ISCOTT, nor did the GOTT make its continued support contingent upon actions that would have been required by a reasonable private investor.

However, the Department also found in 1997 Trinidad and Tobago Wire Rod that payments or advances made by the GOTT to ISCOTT after December 31, 1991 were consistent with the practice of a reasonable private investor. Based on a review of internal documents, financial projections, and historical financial data, the Department found that, after December 31, 1991, the operations of the ISCOTT plant under CIL and ISCOTT's financial condition improved such that investments in ISCOTT after this date were consistent with the practice of a reasonable private investor.

In the instant investigation, we are investigating these equity infusions based on our previous finding that the investments up to December 31, 1991 were countervailable. Moreover, because of the change in our equity methodology since 1997 Trinidad and Tobago Wire Rod, we initiated an investigation of the payments and advances made between January 1, 1992 and December 31, 1994. The respondents do not contest the Department's prior determination in 1997 Trinidad and Tobago Wire Rod with respect to equity infusions received prior to April 8, 1988. However, the respondents do challenge the Department's determination with respect to the period April 9, 1988 through December 31, 1991.

Based on our finding in 1997 Trinidad and Tobago Wire Rod, and because no new evidence has been submitted that would change that determination, we preliminarily determine that GOTT equity infusions received by ISCOTT from January 1, 1986 through April 8, 1988 are countervailable subsidies. (We note that any benefit related to countervailable equity infusions received prior to January 1, 1986 expired prior to the POI.) As for the GOTT equity infusions in ISCOTT during the period April 9, 1988 through December 31, 1991, the respondents have not provided any information that was not already closely examined in 1997 Trinidad and Tobago Wire Rod. Therefore, consistent with 1997 Trinidad and Tobago Wire Rod, we preliminarily determine that these equity infusions are countervailable subsidies.

Finally, with respect to the GOTT's equity infusions in ISCOTT during the period January 1, 1992 through December 31, 1994, the Department conducted an extensive review of ISCOTT and CIL's internal documents, financial projections, and historical financial data in 1997 Trinidad and Tobago Wire Rod. Much of that evidence has been submitted in this investigation. This evidence shows that the GOTT, from very early in ISCOTT's existence, sought objective outside advice on how to address the problems that arose with respect to ISCOTT's operations.

As noted in 1997 Trinidad and Tobago Wire Rod, 62 FR at 5506, ''during the period 1983 to 1989, the GOTT commissioned several objective, outside studies to determine the financially preferable course of action for {ISCOTT}.'' Although the contents of these studies are proprietary, the studies each consistently focused on the need for ISCOTT and the GOTT to take steps to improve ISCOTT's operations and the management of ISCOTT. For example, an August 27, 1987 International Finance Corporation (''IFC'') report analyzed ISCOTT's position at the time and its future prospects, and concluded that several options, such as leasing the plant to an outside party, were possible to make ISCOTT's operations viable. The IFC report stated that the lease of the ISCOTT plant was likely the best option for making ISCOTT operationally sound.

Subsequent to this study and consistent with its recommendations, the GOTT formed an outside committee to negotiate a lease for ISCOTT. Both this committee and another outside committee created to review the findings of the first committee agreed with the IFC study that leasing the ISCOTT property was the preferred option to make ISCOTT viable. The studies from the two outside committees were completed in late 1987 and early 1988.

Based on these studies and a detailed examination of the available options, ISCOTT took steps to make its operations viable. ISCOTT leased its assets to CIL as of May 1, 1989 according to the recommendations in the studies, and, as noted in 1997 Trinidad and Tobago Wire Rod, by the end of 1991, ISCOTT's financial picture had improved. Although no new studies were performed after CIL's lease of the ISCOTT plant, we preliminarily determine that the studies which led to the lease and ISCOTT's actions in carrying out the recommendations in these studies provided a sound basis for the GOTT to invest in ISCOTT from January 1, 1992 through December 31, 1994. Therefore, we preliminarily determine that the GOTT's investments into ISCOTT from January 1, 1992 through December 31, 1994 were consistent with the actions of a reasonable private investor and, thus, did not provide a countervailable subsidy pursuant to section 771(5)(E)(i).

Based on the above analysis and consistent with 1997 Trinidad and Tobago Wire Rod, we preliminarily determine that the GOTT's equity

infusions in ISCOTT during the period January 1, 1986 through December 31, 1991 are countervailable subsidies within the meaning of section 771(5) of the Act. These equity infusions were a direct transfer of funds under section 771(5)(D)(i) of the Act that confer a benefit pursuant to section 771(5)(E)(i) of the Act because these investments were not consistent with the usual investment practice of private investors. We also determine that these investments were specific within the meaning of section 771(5A) of the Act because they were limited to ISCOTT.

As noted in the ''Change in Ownership'' section, supra, we have determined that subsidies received by ISCOTT prior to the purchase of ISCOTT's assets are attributable to CIL. Therefore, to calculate the benefit to CIL during the POI from this program, consistent with past cases (see 1997 Trinidad and Tobago Wire Rod and 1984 Trinidad and Tobago Wire Rod), we treated the advances from 1986 through 1991 as equity infusions and divided the amount of the equity infusions attributable to the POI by CIL's total sales during the POI. Accordingly, we preliminarily determine that a countervailable benefit of 7.45 percent ad valorem exists for CIL.

B. Debt Forgiveness Provided in Conjunction With CIL's Purchase of ISCOTT

In December 1994, CIL exercised the purchase option in the plant lease agreement and purchased the assets of ISCOTT. After the sale of its assets, ISCOTT was nothing but a shell company with liabilities exceeding its assets. CIL, on the other hand, had purchased most of ISCOTT's assets without being burdened by ISCOTT's liabilities.

The liabilities remaining with ISCOTT after the sale of productive assets to CIL had to be repaid, assumed, or forgiven. In 1995, the National Gas Company of Trinidad and Tobago Limited (''NGC''), which was owned by the GOTT, and the National Energy Corporation of Trinidad and Tobago Limited, a wholly owned subsidiary of NGC, wrote off amounts owed to them by ISCOTT totaling Trinidad and Tobago Dollars (''TTD'') 77,225,775. Similarly, Trinidad and Tobago National Oil Company Limited, also owned by the GOTT, wrote off debts owed by ISCOTT totaling TTD 10,492,830 as bad debt.

In 1997 Trinidad and Tobago Wire Rod, the Department found that this debt forgiveness constituted a countervailable subsidy because it was a direct transfer of funds pursuant to section 771(5)(D)(i) with the benefit being the amount of the debt forgiveness pursuant to section 771(5)(E). The Department also found this transaction to be specific within the meaning of section 771(5A) of the Act because it was limited to one company. No information has been presented in this investigation to warrant a reconsideration of these findings.

We also found in 1997 Trinidad and Tobago Wire Rod that, after the 1994 sale of assets, certain non–operating assets (e.g., cash and accounts receivable) remained with ISCOTT. These assets were used to fund repayment of ISCOTT's remaining accounts receivable. Consistent with 1997 Trinidad and Tobago Wire Rod, in order to account for the fact that certain assets, including cash, were left behind in ISCOTT, we subtracted this amount from the liabilities outstanding after the 1994 sale of assets.

As noted in the ''Change in Ownership'' section, supra, we have determined that subsidies received by ISCOTT prior to the purchase of ISCOTT's assets are attributable to CIL. Therefore, to calculate the benefit to CIL during the POI from this program, we used our standard grant methodology and applied an uncreditworthy discount rate. We then divided the benefit attributable to the POI by CIL's total sales during the POI. Accordingly, we preliminarily determine that a countervailable benefit of 0.93 percent ad valorem exists for CIL.

II. Program Preliminarily Determined to Not Be Countervailable

Provision of Electricity

The Trinidad and Tobago Electric Commission (''TTEC''), which is wholly–owned by the GOTT, is solely responsible for the transmission, distribution, and sale of electric power in Trinidad and Tobago. The sole generators of electric power in Trinidad and Tobago are the Power Generating Company of Trinidad and Tobago (''PowerGen'') and InnCogen, Limited (''Incogen''). Prior to December 23, 1994, TTEC generated the power that it sold, but on and after this date, TTEC divested its power generating assets to PowerGen, which is owned 51 percent by TTEC, 39 percent by Southern Electric International Trinidad Inc., and 10 percent by Amoco Power Resources Corporation.

For billing purposes, TTEC classifies electricity consumers into one of the following categories: residential, commercial, industrial, and street lighting. Industrial users are further classified into one of four categories depending on the voltage at which they take power and the size of the load taken. Under TTEC's customer categories, CIL is classified as a Rate E (Heavy Industrial – Very Large Load) user.

TTEC's rates and tariffs for the sale of electricity are set by the Public Utilities Commission (''PUC''), an independent authority. In setting electricity rates, the PUC takes into account cost of service studies done by TTEC. These studies are submitted to the PUC, where they are reviewed by teams of economists, statisticians, and auditors. Public hearings are held and views expressed orally and in writing. After considering all of the views and studies submitted, the PUC issues detailed orders with the new rates and explanations of how they were calculated. In establishing these rates, the PUC is required by section 32 of the Public Utilities Act to ensure that the new rates will cover costs and expenses and allow for a return. Additionally, section 32 of the Public Utilities Act sets out the guidelines the PUC is to follow in determining the extent of utility rate increases.

The rates in effect during the POI for all rate classes, except Rate D3 (Heavy Industrial – Large Load) and Rate E (Heavy Industrial – Very Large Load), were published in PUC Order No. 80 in October 1992. In July 1998, the electricity rates for industrial users D3 and E were increased by PUC Order No. 85 and were applied retroactively to six months before the date of TTEC's application, i.e., to January 11, 1997. These electricity rates were based on the Cost of Service Study for 1996 and a formal claim filed by TTEC requesting an increase in the rates and charges payable by industrial consumers.

As noted above, TTEC is the only supplier in Trinidad and Tobago of electricity. Consequently, there are no competitively–set, private benchmark prices in Trinidad and Tobago to use in determining whether TTEC is receiving adequate remuneration within the meaning of section 771(5)(E) of the Act. Lacking such benchmarks, and consistent with 1997 Trinidad and Tobago Wire Rod, the only basis we have for determining what constitutes adequate remuneration are TTEC's costs and revenues.

In 1997 Trinidad and Tobago Wire Rod, the Department found that, despite the PUC's mandate to set rates that will cover the costs of providing electricity plus an adequate return, past history indicated that this directive was seldom met. Moreover, the Department found that the evidence in the 1996 Cost of Service Study indicated that TTEC did not receive adequate remuneration for

that year on its sales of electricity to CIL. Consequently, in 1997 Trinidad and Tobago Wire Rod, the Department determined that, under section 771(5)(E) of the Act, the GOTT was bestowing a benefit on CIL through TTEC's provision of electricity during the year of 1996. See 1997 Trinidad and Tobago Wire Rod, 62 FR at 55007.

In the current investigation, the GOTT provided in its questionnaire responses the TTEC Cost of Service Studies for 1999 and 2000. These Cost of Service Studies indicate that TTEC realized profits on its sales under the Rate E customer category. As noted above, in 1997 Trinidad and Tobago Wire Rod, we found this program to bestow a benefit because the 1996 Cost of Service Study indicated that TTEC had incurred losses on its sales to CIL (Rate E). See 1997 Trinidad and Tobago Wire Rod, 62 FR at 55007. Consequently, as TTEC earned a profit on the rate E customer category during the POI, we preliminarily determine that the GOTT did not receive less than adequate remuneration under section 771(5)(E) of the Act for its provision of electricity to CIL.

On this basis, we preliminarily determine that the provision of electricity is not countervailable.

III.Programs Preliminarily Determined Not To Have Been Used

Based on the information provided in the responses, we determine that CIL neither applied for nor received benefits under the following programs during the POI:

A. Export Allowance Under Act No. 14

B. Export Market Development Grants

C. Export Promotion Allowance

D. Corporate Tax Exemptions Under the FiscalIncentives Act

Verification

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

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each manufacturer of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rate for CIL to be the following:

Producer/Exporter	Net Subsidy Rate
Caribbean Ispat Limited	8.38%
All Others	8.38%

In accordance with sections 777A(e)(2)(B) and 705(c)(5)(A), we have set the ''all others'' rate as CIL's rate.

Moreover, in accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of wire rod from Trinidad and Tobago for CIL and for any non–investigated exporters that entered, or were withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the Federal Register, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice. However, this suspension of liquidation may not remain in effect for more than four months pursuant to section 703(d)(3) of the Act.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

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

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

February 1, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–3123 Filed 2–7–02; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0039]

Federal Acquisition Regulation; Submission for OMB Review; Descriptive Literature

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning descriptive literature. A request for public comments was published at 66 FR 58453, November 21, 2001. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of