Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope of this proceeding is dispositive.

# **Injury Test**

Because Austria is a "country under the Agreement" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission ("ITC") is required to determine whether imports of OCTG from Austria materially injure, or threaten material injury to, a U.S. industry. On August 24, 1994, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from Austria of the subject merchandise (59 FR 43591, August 24, 1994).

#### Petitioners

The petitioners are Koppel Steel Corporation; U.S. Steel Group, a unit of USX Corporation; and USS/Kobe Steel. Co-petitioners in this investigation are IPSCO Steel, Inc.; Maverick Tube Corporation; and North Star Steel Company.

## Corporate History of Respondent Kindberg

Prior to 1987, the subject merchandise was produced in the steel division of VAAG, a large conglomerate which also had engineering and finished products divisions. In 1987, VAAG underwent a major restructuring and several new companies were formed from the three major divisions of VAAG. The steel division was incorporated as Voest-Alpine Stahl GmbH, Linz ("VA Linz"). The production facilities at Kindberg and Voest-Alpine Stahl Donawitz GmbH ("Donawitz") were separately incorporated, with Kindberg and Donawitz becoming subsidiaries of VA Linz. VAAG became a holding company for these new companies.

In 1988, VAAG transferred its ownership interest in VA Linz to Voest-Alpine Stahl AG ("VAS"). At the same time, Kindberg became a subsidiary of Donawitz. Donawitz and other companies were owned by VAS, which in turn was owned by VAAG.

In 1989, VAS and all other subholdings of VAAG were transferred to Industrie und Beteiligungsverwaltung GmbH ("IBVG"). In 1990, IBVG, in turn, was renamed Austrian Industries AG ("AI"). VAAG remained in existence, but separate from IBVG and AI, holding only residual liabilities and non-steel assets.

In 1991, as part of the reorganization of the long products operations, Donawitz was split into two companies. The rail division remained with the existing company (*i.e.*, Donawitz), however, the name of the company was changed to Voest-Alpine Schienen GmbH ("Schienen"). In addition to producing rails, Schienen also became the holding company for Kindberg and the other Donawitz subsidiaries. The metallurgical division of the former Donawitz was incorporated as a new company and was named Voest-Alpine Stahl Donawitz ("Donawitz II").

#### Equityworthiness

As discussed below, we have determined that the GOA provided equity infusions, through Österreichische Industrieholding-Aktiengesellschaft ("ÖIAG"), to VAAG in the years 1983, 1984, and 1986, and to Kindberg in 1987. In order for the Department to find an equity infusion countervailable, it must be determined that the infusion is provided on terms inconsistent with commercial considerations. Petitioners have alleged that VAAG and Kindberg were unequityworthy in the years in which they received equity infusions and that the equity infusions were, therefore, inconsistent with commercial considerations. According to § 355.44(e)(2) of the Department's proposed regulations, for a company to be equityworthy, it must show the ability to generate a reasonable rate of return within a reasonable period of time. A detailed equityworthiness analysis can be found in Appendix I of the Concurrence Memorandum dated January 17, 1995. A summary of that analysis follows.

In *Certain Steel*, the Department determined VAAG to be unequityworthy for the years 1978–84 and 1986. Respondents have not questioned this determination and no additional information concerning that period has come to light. Therefore, we preliminarily determine VAAG to be unequityworthy during the period 1978–84, and for 1986.

With respect to the equityworthiness of Kindberg in 1987, the Department would normally analyze financial statements of the company in question for three years prior to the infusion and also consider any outside studies. In this case, however, since Kindberg was incorporated effective 1987, its performance before that year is included in the financial statements of VAAG. An in-depth analysis of VAAG's financial ratios in the three years prior to the restructuring was undertaken in *Certain Steel*. In that case, the Department concluded that VAAG's financial statements showed poor results during the relevant period (*see* the Department's Final Concurrence Memorandum in *Certain Steel*, at Appendix 2).

Respondents have submitted information pertaining to the expected results of the 1987 restructuring to be considered in making our equityworthiness determination for Kindberg in 1987. Specifically, they have provided a one page excerpt from a study titled "VA Neu" and a profit and loss forecast. However, the VA Neu study is not translated, and neither document contains any narrative description or analysis of the figures contained within it. Moreover, it is not clear from the responses when these plans were developed or what conclusions they contain. Absent this information, we are unable to conclude that a reasonable private investor would be able to properly analyze the significance of these figures. Therefore, the information contained in these documents has not been considered in the Department's analysis.

Because we are not able to take this information into account, we are basing our preliminary equityworthy finding for Kindberg on VAAG's financial history. While we recognize that VAAG's financial data includes companies other than Kindberg, without any additional information we are compelled to rely on the unequityworthiness of VAAG alone. This is consistent with the analysis in Certain Steel, where the 1987 equityworthiness determination for another VAAG subsidiary was based on the past performance of VAAG. Therefore, we preliminarily determine Kindberg to be unequityworthy in 1987.

## **Allocation of Non-Recurring Benefits**

As discussed below, we found that countervailable equity infusions and grants have benefited the production of the subject merchandise. Moreover, we found these benefits to be non-recurring because the benefits are exceptional and the recipient could not expect to receive them on an ongoing basis (*see, GIA*, at 37226).

The *Proposed Regulations* require us to allocate non-recurring grants and equity infusions over a period equal to the average useful life of assets in the