

above except if the rate is *de minimis*, then no cash deposit will be required; (2) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 4.73 percent, the "all-others" rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of administrative review for a subsequent review period.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: February 12, 2001.

**Timothy J. Hauser,**

*Acting Under Secretary for International Trade.*

#### **Appendix—Issues in Decision Memorandum**

##### **Comments**

1. Ministerial Errors
2. Allocation Methodology Used to Calculate U.S. Indirect Selling Expenses

[FR Doc. 01-4283 Filed 2-20-01; 8:45 am]

**BILLING CODE 3510-DS-P**

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**[C-401-401]**

#### **Certain Carbon Steel Products from Sweden: Rescission of Countervailing Duty Administrative Review**

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

**ACTION:** Notice of rescission of countervailing duty administrative review.

**SUMMARY:** On December 3, 1999, in response to a request from respondent, the Department of Commerce initiated an administrative review of the countervailing duty order on carbon steel products from Sweden. The review covers the period January 1, 1998 through December 31, 1998. In accordance with 19 CFR 351.213(d)(1), the Department is now rescinding this review because SSAB Svenskt Stal AB (SSAB) (respondent) has withdrawn its request for review.

**EFFECTIVE DATE:** February 21, 2001.

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

**SUPPLEMENTARY INFORMATION:** On October 29, 1999, the Department received a request for an administrative review of the countervailing duty order on certain steel products from Sweden from SSAB, for the period January 1, 1998 through December 31, 1998. On December 3, 1999, the Department published in the **Federal Register** (64 FR 67846) a notice of "Initiation of Countervailing Duty Administrative Review" initiating the administrative review. On September 7, 2000, the Department published in the **Federal Register** (65 FR 54229) a notice of "Preliminary Results of Countervailing Duty Administrative Review and Extension of Time Limit for Final Results of Countervailing Duty Administrative Review." On November 2, 2000, the International Trade Commission (ITC) made a negative determination in the sunset review of *Certain Steel Products from Sweden*; thus the order was to be revoked by the Department of Commerce effective January 1, 2000. On December 15, 2000, the Department published in the **Federal Register** (65 FR 78467) a notice of "Revocation of Antidumping and Countervailing Duty Orders" which

revoked the countervailing duty order on certain carbon steel products from Sweden, effective January 1, 2000.

On January 17, 2001, respondent withdrew its request for review because of the revocation of the order. The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review, the Secretary will rescind the review. Although the request for recession was made after the 90 day deadline, in accordance with 19 CFR 351.213(d)(1), the Secretary may extend this time limit if the Secretary decides it is reasonable to do so. Due to the fact that SSAB was the only party to request an administrative review, we find it reasonable to accept the party's withdrawal of its request for review. Moreover, we have received no other submissions regarding SSAB's request for withdrawal of the administrative review. Therefore, we are rescinding this review of the countervailing duty order on certain carbon steel products from Sweden for SSAB covering the period January 1, 1998, through December 31, 1998.

This notice is issued and published in accordance with 19 CFR 351.213(d)(4) and 777(i) of the Act.

Dated: February 13, 2001.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. 01-4289 Filed 2-20-01; 8:45 am]

**BILLING CODE 3510-DS-P**

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**[C-357-815]**

#### **Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina**

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

**ACTION:** Notice of preliminary affirmative countervailing duty determination.

**EFFECTIVE DATE:** February 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** Eric B. Greynolds at (202) 482-6071 or Darla Brown at (202) 482-2849, Office of AD/CVD Enforcement VI, Group II, Import

Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**Preliminary Determination:** The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of certain hot-rolled carbon steel flat products from Argentina. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section of this notice.

#### SUPPLEMENTARY INFORMATION:

##### Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, Gallatin Steel Company, IPSCO Steel Inc., LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., U.S. Steel Group, a unit of USX Corporation, Weirton Steel Corporation, Independent Steelworkers Union, and the Independent Steelworkers of America (the petitioners).

##### Case History

Since the publication of the notice of initiation in the **Federal Register** (see *Notice of Initiation of Countervailing Duty Investigations: Certain Hot-Rolled Carbon Steel Flat Products From Argentina, India, Indonesia, South Africa, and Thailand*, 65 FR 77580 (December 12, 2000) (*Initiation Notice*), the following events have occurred: On December 8, 2000, and December 20, 2000, we issued countervailing duty questionnaires to the Government of Argentina (GOA).<sup>1</sup> On January 16 and 17, 2001, Siderar Sociedad Anonima Industrial & Commercial (Siderar), a company identified by petitioners as a producer/exporter of the subject merchandise, and the GOA informed us that they were not going to respond to our questionnaire.

##### Scope of the Investigation

The merchandise subject to this investigation is certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in

successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of definitions in the *Harmonized Tariff Schedule of the United States* (HTS), are products in which: (i) iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or  
2.25 percent of silicon, or  
1.00 percent of copper, or  
0.50 percent of aluminum, or  
1.25 percent of chromium, or  
0.30 percent of cobalt, or  
0.40 percent of lead, or  
1.25 percent of nickel, or  
0.30 percent of tungsten, or  
0.10 percent of molybdenum, or  
0.10 percent of niobium, or  
0.15 percent of vanadium, or  
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, ASTM specifications A543, A387, A514, A517, A506).

- SAE/AISI grades of series 2300 and higher.

- Ball bearings steels, as defined in the HTS.

- Tool steels, as defined in the HTS.

- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.

- ASTM specifications A710 and A736.

- USS Abrasion-resistant steels (USS AR 400, USS AR 500).

- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).

- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this investigation is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90.

Certain hot-rolled flat-rolled carbon-quality steel covered by this investigation, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

##### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to

<sup>1</sup> Upon the issuance of the questionnaires, we informed the GOA that it was the government's responsibility to forward the questionnaires to all producers/exporters that shipped subject merchandise to the United States during the period of investigation (POI).

the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

### Injury Test

Because Argentina is a "Subsidy 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 Argentina materially injure or threaten material injury to a U.S. industry. On January 4, 2001, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Argentina of subject merchandise. *See Hot-Rolled Steel Products from Argentina, China, India, Indonesia, Kazakhstan, Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine*, 66 FR 805 (January 4, 2001).

### Alignment With Final Antidumping Duty Determination

On January 31, 2001, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the antidumping duty investigation of hot-rolled carbon steel flat products from Argentina.

### Period of Investigation

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

### Use of Facts Available

Siderar and the GOA failed to respond to the Department's questionnaire. Sections 776(a)(2)(A) and 776(a)(2)(B) of the Act require the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. As described in more detail below, Siderar and the GOA have failed to provide information explicitly requested by the Department; therefore, we must resort to the facts otherwise available.

Furthermore, section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that a party has failed to cooperate to the best of its ability. In this investigation, the Department requested Siderar and the GOA to submit the information requested in the initial questionnaire. On January 16 and 17 of 2001, Siderar and the GOA informed the Department that they would not participate in the investigation.

The Department finds that by not providing necessary information specifically requested by the Department and failing to participate in any respect in this investigation, Siderar and the GOA have failed to cooperate to the best of their ability. Therefore, in selecting facts available, the Department determines that an adverse inference is warranted.

When employing an adverse inference, the statute indicates that the Department may rely upon information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review, or section 762 review; or (4) any other information placed on the record. *See* 19 CFR 351.308(c) (2000). As adverse facts available in this preliminary determination, we have relied upon information in the petition, as well as public information from a number of sources, including other countervailing duty proceedings involving steel products from Argentina. The Department's selection of the information used as adverse facts available is discussed in more detail in the program-specific sections below.

Finally, the Statement of Administrative Action accompanying the URAA clarifies that information from the petition is "secondary information." *See* Statement of Administrative Action, accompanying H.R. 5110 (H.R. Doc. No. 103-316) (1994) (SAA), at 870. If the Department relies on secondary information as facts available, section 776(c) of the Act provides that the Department shall, "to the extent practicable," corroborate such information using independent sources reasonably at its disposal. The SAA further provides that to corroborate secondary information means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See also*, 19 CFR 351.308(c) (2000).

Therefore, to satisfy itself that such information has probative value, the

Department will examine, to the extent practicable, the reliability and relevance of the information used. However, unlike other types of information, such as publicly available data on the national inflation rate of a given country, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. The only source for such information is administrative determinations. Thus, if the Department chooses as facts available information based on the Department's prior determinations concerning particular subsidy programs, it is not necessary to question the reliability of the benefit data for that time period.

With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render benefit data not relevant. Where circumstances indicate that the information is not appropriate as adverse facts available, the Department will not use it. *See, cf., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996) (where the Department disregarded the highest dumping margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). As discussed in more detail below, we do not have any information on the record that would change our determination to rely on previously submitted benefit information from the GOA's supplemental questionnaire responses in another proceeding or other information that was included in the November 13, 2000 petition when analyzing the programs at issue in this investigation.

For those programs in which petitioners did not provide direct information from the GOA or Siderar, we used publicly available sources on the record in another proceeding which we placed on the record of this investigation as necessary. Specifically, for information on equity infusions and government assistance provided during the privatization of the producer of the subject merchandise, we obtained from the Central Records Unit (CRU), room B099 of the main Commerce building, the public version of Attachment 70 of the GOA's November 26, 1993 questionnaire response that was originally placed on the record of the 1991 and 1992 administrative reviews of the CVD order on Cold-Rolled Carbon Steel Flat-Rolled Products from

Argentina (C-357-005). This information is included in the February 7, 2001, memorandum to the file, "Calculations for the Preliminary Determination of the Countervailing Duty Investigation: Certain Hot-Rolled Carbon Steel Flat Products from Argentina," a public document on file in room B099 of the CRU. Portions of the GOA's November 26, 1993 supplemental questionnaire response, as well as its February 24, 1994 supplemental questionnaire response from the same proceeding, were also submitted with petitioners' November 13, 2000 petition at Exhibits III-1 and III-2. As discussed more fully in the program-specific sections below, because this information was provided by the GOA with respect to the identical programs alleged in this investigation and the same company, and there is nothing on the record to indicate that the use of such information is not appropriate, we determine that this information is both reliable and relevant for use as facts available in this investigation.

On November 29, 2000, we held consultations with the GOA regarding the countervailing duty petition on certain hot-rolled carbon steel flat products from Argentina. During the consultations, the GOA indicated that Acindar Industria Argentina de Aceros Sociedad Anonima (Acindar) did not ship subject merchandise to the United States during the POI and, thus, should not be subject to the investigation. For more information, see the November 29, 2000, memorandum to the file, "Consultations with the Government of Argentina Regarding the Countervailing Duty Petition on Certain Hot-Rolled Carbon Steel Flat Products from Argentina," a public document on file in room B099 of the CRU. We preliminarily determine that Acindar did not ship subject merchandise during the POI and, thus, we have not calculated a facts available rate for Acindar nor for the Tax Abatement Program that was included in our *Initiation Notice*.<sup>2</sup> If Acindar subsequently ships subject merchandise to the United States, the "All Others" rate noted in the "Suspension of Liquidation" section of this notice will apply to its imports for cash deposit purposes.

<sup>2</sup> We note that the Tax Abatement Program dealt with regionally specific subsidies allegedly provided to one of Acindar's subsidiaries. Because this allegation is specific to Acindar, we are not including it among the programs preliminarily determined to confer subsidies.

### Change in Ownership

In 1989, the GOA embarked upon a reform program designed to restructure the economy, reduce public sector debt, and stabilize the currency. A central element of this program was the privatization of large public enterprises. That same year the GOA codified the privatization procedures under Chapter II of Law 23696. Sociedad Mixta Siderurgica Argentina (SOMISA), whose privatization took place in 1992, was among those companies covered by the law.

During the course of privatization, the GOA restructured SOMISA. In this restructuring, portions of SOMISA's productive assets were transferred to a newly formed company, Aceros Parana S.A. (APSA), while the liabilities and nonproductive assets remained with SOMISA. In 1992, the GOA privatized APSA by selling it in a share transaction to the Technit Group via its subsidiary Propulsura Siderurgica S.A.I.C. (Propulsura). Then, in 1993, APSA was merged with four smaller companies, none of which produced subject merchandise, to form Siderar.

As discussed in further detail below, petitioners contend that SOMISA/APSA received numerous subsidies prior to the restructuring and privatization in 1992. Moreover, they contend that the company remained, for all intents and purposes, the same corporate entity throughout the restructuring and privatization. As a result, petitioners argue that all non-recurring subsidies received by SOMISA and APSA are fully attributable to Siderar.

In this preliminary determination, we have applied our new privatization approach, first announced in a remand determination on December 4, 2000, following the decision of 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*). We have also applied this new approach recently in *Grain-Oriented Electrical Steel from Italy: Final Results of Countervailing Duty Administrative Review*, 66 FR 2885 (January 12, 2001).

Under this approach, the first requirement is to determine whether the person to which the subsidies were given is, in fact, distinct from the person that produced the subject merchandise exported to the United States. If the two persons are distinct, the original subsidies may not be attributed to the new producer/exporter. The Department would, however, consider whether any subsidy had been bestowed upon that

producer/exporter as a result of the change-in-ownership transaction.

On the other hand, if the original subsidy recipient and the current producer/exporter are considered to be the same person, 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" has been received by the "person" that is the firm under investigation. Assuming that the original subsidy had 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 entity to be the same person as the pre-sale entity if, based on the totality of the factors considered, we determine that the entity sold in the change-in-ownership transaction can be considered a continuous business entity because it was operated in substantially the same manner before and after the change in ownership.

Using the approach described above, we analyzed the facts available in the petition to determine whether the subsidies received by SOMISA and APSA continued to benefit Siderar during the POI. As noted in the "Use of Facts Available" section of this notice, the GOA and Siderar have declined to participate in this investigation. Therefore, in determining that all of SOMISA's and APSA's non-recurring subsidies are attributable to Siderar, we relied on adverse inferences with respect to the use of facts available, as mandated by section 776(b) of the Act.

Information in the petition indicates that SOMISA, APSA, and Siderar are, for all intents and purposes, the same corporate entity. For example, the petition contains evidence that APSA, the predecessor of Siderar, was sold to Propulsura via a share transaction, suggesting, without other available information, that all assets and

liabilities of APSA were transferred. In addition, page 38 of an article in the *Colombia Journal of World Business*, which was included as Exhibit IV-4 of the November 13, 2000 petition, states that, as of 1993, SOMISA produced hot-rolled steel at its manufacturing facility in San Nicolás. Furthermore, Siderar's website indicates that the company continues to produce hot-rolled steel at the San Nicolas facility.<sup>3</sup> This information demonstrates that SOMISA, APSA, and Siderar all produced hot-rolled steel at the same manufacturing facility, which is indicative of the continuity of the enterprise. In addition, the fact that the same facility produced hot-rolled steel throughout and after the restructuring and privatization periods indicates a continuity of the plant's assets. See e.g., P. Marcus and K. Kirsis, "Siderar: Argentina's Privatization Success Story," *World Steel Dynamics*, a Paine Webber report that was included as Exhibit IV-11 of the November 13, 2000 petition.<sup>4</sup>

On this basis, we preliminarily determine that all subsidies received by SOMISA and APSA are attributable to Siderar. With our "person" determination, all of the elements of a subsidy are established with regard to Siderar.

We also note that information in the petition indicates that the substantial majority of the countervailable non-recurring subsidies were provided to the producer of the subject merchandise during the course of its sale to private interests and were specifically provided for in the bidding and sales documents and contract, as well as in the GOA's law and decrees governing the privatization of the company. Because of our determination that SOMISA, APSA, and Siderar are, for all intents and purposes, the same person, we need not decide whether some of the subsidies at issue have been provided directly to the post-sale entity.

#### Allocation Period

19 CFR 351.524(d)(2) (2000) states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System, as updated by the Department of Treasury. The presumption will apply unless a party claims and

establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

In this investigation, the Department is considering non-recurring subsidies. Regarding non-recurring subsidies, we have allocated, where applicable, all of Siderar's non-recurring subsidies over the AUL listed in the IRS tables for the steel industry and used in the most recently completed administrative review for Argentine steel companies (see *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Results of Countervailing Duty Administrative Review*, 62 FR 52974 (October 10, 1997) (*Final Results of 1991 Cold-Rolled Flat Products*)). Therefore, in accordance with 19 CFR 351.524(d)(2) (2000), the Department is using, for the purposes of the preliminary determination, an allocation period of 15 years.

#### Equityworthiness

The Department has previously determined SOMISA to be unequityworthy for the years 1986 through 1987 and 1988 through 1990 (see *Certain Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Countervailing Duty Review*, 56 FR 28527, 28528 (June 21, 1991) (*Cold-Rolled Flat Products*); *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Preliminary Results of Countervailing Duty Administrative Review*, 62 FR 38257 (July 17, 1997) and *Final Results of 1991 Cold-Rolled Flat Products* (collectively referred to as *1991 Cold-Rolled Flat Products*)). No new information or evidence of changed circumstances has been submitted in this review that would lead us to reconsider these findings.

#### Calculation of Discount Rate and Creditworthiness

For years 1986 through 1990, we used U.S. dollar-denominated discount rates (see Private Creditors Interest Rate in U.S. dollars for Argentina as reported in the 1993-1994 *World Debt Tables*). These rates were the same as those used in the most recently completed administrative review for Argentina. See *1991 Cold-Rolled Flat Products*, 62 FR 38257, 38260.

In the petition, petitioners alleged that SOMISA, the corporate predecessor of Siderar, was uncreditworthy in 1991 and 1992. To support this allegation, petitioners stated that the company had

negative operating margins and negative return on sales in each of these two years. Petitioners have stated that financial data for the years prior to 1990 is not publically available. In our initiation, we stated that we did not plan to investigate SOMISA's alleged creditworthiness in 1991 and 1992 on the grounds that the presence of "non-current bank and financial debt" on its 1991-1992 Financial Statement indicated that the company was able to obtain commercial financing. See page 14 of the December 4, 2000, Initiation Checklist that accompanied the *Initiation Notice*, the public version of which is on file in room B099 of the CRU.

However, on January 29, 2001, petitioners submitted additional information supporting their claim that SOMISA was uncreditworthy in 1992. Specifically, petitioners contend that in making its decision not to initiate a creditworthy investigation, the Department mistakenly relied on 19 CFR 351.505(a)(4)(ii) (2000), which states that the presence of long-term commercial financing with a government guarantee generally constitutes dispositive evidence that a firm is creditworthy. Petitioners point out that in the preamble to the CVD Regulations, the Department states that:

We do not believe that the presence of commercial loans is dispositive of whether a government-owned firm could have obtained long-term financing from conventional commercial sources. This is because in our 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 default. Accordingly, paragraph (a)(4)(ii) provides that the presence of comparable commercial loans will be dispositive of creditworthiness only for privately owned companies.

CVD Regulations, 63 FR 65348, 65367.

In addition, further review of the information in the petition indicates that Siderar was in financial distress as of 1992. According to a 1993 article from the *Colombia Journal of World Business* that was included as Exhibit IV-4 of the November 13, 2000 petition, by the start of the 1990s the company was losing approximately 20 million dollars a month. Moreover, the article states that at the time of its privatization, "SOMISA was not a viable economic entity on its own and was in a state of technical insolvency." The article goes on to state that at the time of its sale, SOMISA was having difficulty securing letters of credit and that its suppliers had begun to ship materials on a cash receipt basis, both of which strongly suggest that the

<sup>3</sup> See the February 7, 2001, memorandum to the file that placed the information from Siderar's website onto the record of this investigation.

<sup>4</sup> We note that the information in the report was based on a trip to Siderar that Paine Webber representatives took on June 6, 1994.

company was unable to fulfill its obligations to its creditors.

Based on the information provided by petitioners, we find there is sufficient evidence on the record of this investigation to warrant investigating whether SOMISA was uncreditworthy in 1992. Because the producer of the subject merchandise and the GOA have declined to participate in this investigation, we are relying on adverse facts available and, therefore, have preliminarily determined that the company was uncreditworthy in 1992.<sup>5</sup>

As our 1992 discount rate, we used the peso-denominated lending rate as reported by the International Monetary Fund's (IMF's) *International Statistics*, as published in June 1993. Because we have preliminarily determined the producer of the subject merchandise to be uncreditworthy in 1992, we adjusted this discount rate upwards using the uncreditworthy discount rate methodology as described in 19 CFR 351.505(a)(3)(iii) (2000).

### Programs Preliminarily Determined To Confer Subsidies

#### 1. Equity Infusions Bestowed From 1986 Through 1990

Petitioners allege that predecessors of Siderar received equity infusions from the GOA during the years 1986 through 1990, a period in which petitioners contend Siderar's predecessor was unequityworthy. Specifically, petitioners requested that the Department examine the equity infusions provided to SOMISA, a predecessor of Siderar, from 1986 to 1987 and additional infusions provided to SOMISA from 1988 through 1990.

In *Cold-Rolled Flat Products*, we determined that under Decree 2887/78 the GOA provided SOMISA with countervailable equity infusions from 1986 through 1987, a period during which the Department found SOMISA to be unequityworthy. See 56 FR 28527, 28528. We also determined in 1991 *Cold-Rolled Flat Products* that under the same decree the GOA provided SOMISA with additional countervailable equity infusions from 1988 through 1990, a period in which the Department again found SOMISA to be unequityworthy. See 62 FR 38257, 38259.

In accordance with 19 CFR 351.507(c) (2000), we treated the equity infusions as non-recurring subsidies. For each of the infusions received during the years

1986 through 1990, we allocated the subsidy over the time period corresponding to the AUL beginning in the year in which the equity infusions were received using our standard grant allocation methodology. We note that the amounts of the individual equity infusions were obtained from Attachment 70 of the public version of the November 26, 1993 supplemental questionnaire response of the GOA.

In addition, consistent with our treatment of the equity infusions in past proceedings, we have converted the equity infusions into U.S. dollars in order to take into account the periods of high inflation in Argentina and the changes in the Argentine currency that occurred during the time in which the equity infusions were received. See, e.g., 1991 *Cold-Rolled Flat Products*, 62 FR 38257, 38260. Because we converted the equity infusions into U.S. dollars, we used as our discount rate the U.S. dollar-denominated private creditor's interest rate for Argentina as reported in the *World Debt Tables* for 1993 and 1994.

To calculate the net subsidy rate, we then divided the benefit amount allocable to the POI by Siderar's estimated U.S. dollar total sales as of June 30, 2000, which was calculated based on facts available in the petitioners' submission. We converted Siderar's total sales as of June 30, 2000 into U.S. dollars using the average peso/U.S. dollar exchange rate for 1999.<sup>6</sup> On this basis, we preliminarily determine the net countervailable subsidy to be 0.18 percent *ad valorem*.

#### 2. GOA Assumption of SOMISA Debt

Petitioners explain that the GOA restructured SOMISA in 1992 by transferring SOMISA's productive assets to a company named APSA. Petitioners allege that, as a part of this restructuring, the GOA directly assumed 1,237 million pesos of SOMISA's debt. Petitioners allege that APSA should have been liable for this debt and, therefore, APSA (a predecessor of Siderar) received countervailable subsidies that benefitted subject merchandise during the POI.

<sup>6</sup> The sales value used for the POI for Siderar is based upon the company's Financial Statement at June 30, 2000, which covers the fiscal year July 1, 1999 through June 30, 2000. Siderar's Financial Statement was included as Exhibit IV-3a in the November 13, 2000 petition. To determine an FOB sales value, we deducted the freight and transportation costs reported for the company's selling expenses (8,650,744 pesos) from the company's sales income of 958,440,592 pesos. We also note that the peso and dollar exchange rate is set basically on a one for one basis, thus exchanging the peso sales value to a dollar sales value results in approximately the same value.

In 1991 *Cold-Rolled Flat Products*, we reviewed the 1992 privatization of SOMISA. See, 62 FR 38257, 38262. As explained in that review, the general privatization law (Chapter II of Law 23,696) enabled the GOA to (1) decide which assets would be privatized; (2) reorganize going concerns and transfer assets and liabilities from those concerns prior to privatization; and (3) assume the debt of public enterprises undergoing privatization. Further, debt acquired by SOMISA up to April 1, 1991, was forgiven by the GOA. As stated above in the "Use of Facts Available" section of this notice, the GOA and Siderar declined to participate in this investigation. Therefore, as adverse facts available, we preliminarily determine that the GOA's assumption of debt constitutes a countervailable subsidy within the meaning of 771(5) of the Act. Because the debt assumption is limited to the producer of the subject merchandise and to government-owned companies in the process of being privatized, we preliminarily determine that the debt assumption is specific under section 771(5A) of the Act. The debt forgiveness also constitutes a financial contribution in the form of a grant because it is effectively a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.

In accordance with 19 CFR 351.508(c) (2000), we treated the GOA's 1992 assumption of SOMISA's debt as a non-recurring grant. We allocated the subsidy over the time period corresponding to the AUL beginning in 1992 using our standard grant allocation methodology.<sup>7</sup> We obtained the amount of SOMISA's debt forgiveness from Attachment 8 of the public version of the GOA's February 24, 1994 supplemental questionnaire response, which was included as Exhibit III-2 of the petition. According to this document, the GOA assumed 1,237 million pesos of the company's debt in the course of the company's privatization.

As stated above in the "Creditworthiness and Calculation of Discount Rate" section, we have preliminarily determined that the company was uncreditworthy in 1992. Therefore, when employing our standard grant allocation methodology, we calculated a discount rate in accordance with the formula for constructing a long-term benchmark

<sup>7</sup> We note that by January 1, 1992, the year in which SOMISA's debt was forgiven, Argentina had pegged its currency to the U.S. dollar. This action, in part, resulted in the abatement of the high inflation rates in the country. Therefore, we did not dollarize non-recurring subsidies received since 1992.

<sup>5</sup> As noted above, petitioners also alleged that SOMISA was uncreditworthy in 1991. However, we preliminarily determine that no non-recurring subsidies were given in 1991, and, therefore, it is not necessary to make a determination regarding Siderar's creditworthiness in 1991.

interest rate for uncreditworthy companies as stated in 19 CFR 351.505(a)(3)(iii) (2000) and applied that discount rate when utilizing our standard grant allocation methodology.

To calculate the net subsidy rate, we divided the benefit amount allocable to the POI by Siderar's estimated total sales as of June 30, 2000. On this basis, we preliminarily determine the net countervailable subsidy to be 21.79 percent *ad valorem*.

## 2. Relief From Liquidation Costs

Petitioners allege that, upon transferring SOMISA's productive assets to APSA, the GOA agreed to cover the liquidation costs of SOMISA Residual.<sup>8</sup> These alleged costs include closing down and dismantling redundant facilities and environmental liabilities. Petitioners provided a portion of the contract between the GOA and APSA for the transfer of shares. See the GOA's November 26, 1993 supplemental questionnaire response, which was included as Exhibit IV-16 of the November 13, 2000 petition. Petitioners explain that section 5.9.1(i)-(iv) of this contract stipulates that the GOA will compensate APSA for any obligation or damages incurred due to environmental liabilities which occurs during the first 18 months after privatization. They also state that section 5.8 of the contract stipulates similar indemnities regarding occupational health and safety liabilities.

As explained above, the GOA had the discretion to reorganize going concerns and transfer assets and liabilities from those concerns prior to privatization as well as covering liabilities arising from these actions. As stated above in the "Use of Facts Available" section of this notice, the GOA and Siderar declined to participate in this investigation. Therefore, based on adverse facts available, we preliminarily determine that the above-mentioned information in the petition indicates that the GOA undertook liquidation costs that should have been attributed to APSA. Because this relief of liquidation expenses is limited to the producer of the subject merchandise and to government-owned companies in the process of being privatized, we preliminarily determine that this program is specific under section 771(5A) of the Act. The relief from the liquidation costs also constitutes a financial contribution in the form of a grant because it is effectively a direct transfer of funds

within the meaning of section 771(5)(D)(i) of the Act.

To calculate the countervailable benefit under this program, we treated the GOA's 1992 assumption of liquidation costs as a non-recurring grant. We then allocated the subsidy over the time period corresponding to the AUL beginning in the year in which the liabilities were assumed by the GOA using our standard grant allocation methodology. Because we have preliminarily determined that the company was uncreditworthy in 1992, we used as our discount rate the uncreditworthy benchmark discussed above. We obtained the amount of the liquidation expenses from page 28 of the GOA's November 26, 1993 supplemental questionnaire response, which was included as Exhibit III-1 of the petition. According to this document, the GOA assumed 43,700,000 pesos in claims against the company during the privatization and liquidation process of the company. We have not been able to determine the amount of environmental liabilities assumed by the GOA on behalf of the producer of the subject merchandise. We will continue to try to quantify these liabilities for the final determination. Therefore, for the purpose of this preliminary determination, the estimated subsidy rate is based solely on the reported 43,700,000 figure of assumed relief from liquidation expenses.

To calculate the net subsidy rate, we divided the benefit amount allocable to the POI by Siderar's estimated total sales as of June 30, 2000. On this basis, we preliminarily determine the net countervailable subsidy to be 0.90 percent *ad valorem*.

## 4. Additional Subsidies From Reorganization/Privatization Under Decree 1144/92

Petitioners allege that, pursuant to Decree 1144/92, the GOA cancelled all of SOMISA's debt that it had incurred from April 1, 1991, through January 1, 1992, exempted SOMISA from the stamp tax and from other taxes which were imposed on the transfer of assets and land, and assumed SOMISA's early retirement benefit liabilities that it had incurred prior to its privatization. In 1991 *Cold-Rolled Flat Products*, the Department acknowledged the bestowal of these subsidies under Decree 1144/92 but determined that any potential benefits would have been realized subsequent to the period covered by that proceeding (see 62 FR 38257, 38262).

As stated above in the "Use of Facts Available" section of this notice, the GOA and Siderar declined to participate

in this investigation. Therefore, based on adverse facts available, we preliminarily determine that this program conferred countervailable benefits upon Siderar during the POI in the form of (1) retirement payments to employees made by the GOA on behalf of SOMISA; (2) stamp tax exemptions; (3) SOMISA's retention of labor liabilities that should have passed on to APSA, a Siderar predecessor; and (4) the GOA's forgiveness of SOMISA debt that accrued between April 1, 1991, through January 1, 1992. Because this assistance was limited to the producer of the subject merchandise and to government-owned companies in the process of being privatized, we preliminarily determine that this program is specific under section 771(5A) of the Act. The benefits received under this program also constitute a financial contribution in the form of a grant because they are effectively a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act.

To calculate the benefits under this program, we treated the subsidies described above as non-recurring grants received in 1992. With respect to the stamp tax exemption, we note that this exemption was tied to the capital assets of the company. Therefore, we are also determining this tax exemption to be a non-recurring benefit under 19 CFR 351.524(c)(2) (2000). We then allocated the subsidies over the time period corresponding to the AUL using our standard grant allocation methodology. Because we have preliminarily determined that the company was uncreditworthy in 1992, we used as our discount rate the uncreditworthy benchmark discussed above.

We derived the grant amounts for the retirement payments, retention of labor liabilities, and stamp tax exemptions by using information from the public version of the GOA's November 26, 1993 and February 24, 1994 questionnaire responses, which were included as Exhibits III-1 and III-2 of the petition. According to page 35 of the November 26, 1993 GOA questionnaire response, the amount of the stamp tax exemption was equal to 6,396,179.88 pesos. In addition, according to page 18 of the November 26, 1993 GOA questionnaire response, the GOA also assumed 12,576,399.85 pesos of the company's labor and social security obligations during the company's privatization. Furthermore, according to page 8 of the February 24, 1994 supplemental questionnaire response, the GOA paid 164,470,422.93 pesos to restructure the company's workforce during its privatization.

<sup>8</sup> SOMISA Residual is the name that petitioners use to describe the company that they allege was set up by the GOA to assume all of the unwanted assets and liabilities that the government did not want to attribute to APSA.



We derived the grant amount for the forgiveness of debt that accrued between April 1, 1991, through January 1, 1992 by taking the difference between SOMISA's "Other Debt" liabilities between June 30, 1991, and June 30, 1992. Based upon this data, we derived a reported debt assumption of 126,296,883 pesos. We obtained information on SOMISA's liabilities from the company's 1992 Financial Statement, which was included as Exhibit III-15 of the petition. We assumed that the difference in these liabilities was the result of debt assumed by the GOA. We assumed that the reduction in these liabilities was the result of the GOA's debt assumption because the company could not pay its own liabilities because it was losing approximately 20 million dollars a month during this time and its operations were being supported by the accumulation of debt. *See* R. Mooney and S. Griffith, "Privatizing a Distressed State-Owned Enterprise: Lessons Learned through Privatization Work in Argentina's Steel Sector," *Columbia Journal of World Business* (Spring 1993) which was included as Exhibit IV-4 of the November 13, 2000 petition.

To calculate the net subsidy rate for this program, we divided the above-listed benefit amounts allocable to the POI by Siderar's estimated total sales as of June 30, 2000. On this basis, we preliminarily determine the net countervailable subsidy to be 5.46 percent *ad valorem*.

#### 5. Investment Commitment

Petitioners allege that, at the time of the company's privatization in 1992, the GOA required all bidders to infuse \$100 million into the company within two years of the sale. Petitioners allege that the investment commitment constitutes an indirect subsidy induced by GOA action in which the GOA "directed or entrusted" the purchasers of the producer of the subject merchandise to make a \$100 million infusion into the company. Petitioners further allege that Siderar continued to benefit from this \$100 million contribution during the POI. In support of the allegation, petitioners cite to a section of GOA Law 24,045 and to GOA questionnaire responses from a prior proceeding in which the terms of the investment commitment are described.

As stated above in the "Use of Facts Available" section of this notice, the GOA and Siderar declined to participate in this investigation. Therefore, based on adverse facts available, we preliminarily determine that the investment commitment was conducted at the behest of the GOA, and that this

investment conferred countervailable benefits upon Siderar during the POI. Because this assistance was limited to the producer of the subject merchandise, we preliminarily determine that this program is specific under section 771(5A) of the Act. The investment commitment received under this program also constitutes a financial contribution within the meaning of section 771(5)(D)(iv) of the Act.

Information from the GOA's November 26, 1993 questionnaire response, which was included as Exhibit III-1 in the petition, indicates a portion of the investment commitment was made in 1993. Accordingly, we have treated that portion of the investment commitment as a non-recurring grant received in 1993. In addition, we are assuming that the remaining balance of the investment commitment was made in the following year because the full amount of the investment commitment had to be paid within two years of the company's sale. Thus, we have treated the remaining balance as a non-recurring grant received in 1994. We note that information in the petition indicates that the company was transferred by the GOA to private parties in 1992. Therefore, we have used 1992 as the date of approval for the investment commitment.

To calculate the benefits under this program, we treated the investment commitment as a non-recurring grant. We then allocated the subsidies over the time period corresponding to the AUL using our standard grant allocation methodology. Because we have preliminarily determined that the company was uncreditworthy in 1992, we used as our discount rate the uncreditworthy benchmark discussed above.

To calculate the net subsidy rate, we divided the benefit amounts allocable to the POI by Siderar's estimated total sales as of June 30, 2000. On this basis, we preliminarily determine the net countervailable subsidy to be 2.03 percent *ad valorem*.

#### 6. Rebate of Indirect Taxes (Reembolso)

Under the Reembolso program, the GOA provides a cumulative tax rebate paid upon export and the rebate is calculated as a percentage of the f.o.b. invoice of the exported merchandise. In October 1986, the GOA through Decree 1555/86 established three broad rebate levels covering all products and industry sectors. The rates for levels I, II, and III were 10 percent, 12.5 percent, and 15 percent, respectively. According to the petition, the subject merchandise is classified in level I and is eligible for

a 10 percent rebate. The Department has previously found that this program provides a countervailable benefit to Argentine exporters. *See, e.g., Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders: Certain Welded Carbon Steel Pipe and Tube Products From Argentina*, 53 FR 37619 (September 27, 1988).

Under 19 CFR 351.518(a)(4) (2000), the entire amount of the rebate confers a benefit unless the government of the country subject to the investigation has confirmed which inputs are consumed in the production of the exported product and in what amounts, and has confirmed which indirect taxes are imposed on those inputs. We note that according to the company's financial statement covering the POI, it received export rebates under this program during 1999. Because the GOA has not established that the Reembolso rebate only refunds the actual indirect taxes incurred on inputs of items consumed in the production of exports of the subject merchandises, we preliminarily determine that the entire rebate is countervailable under 19 CFR 351.518(a)(4) (2000). Therefore, the calculated net countervailable subsidy for this program during the POI is 10.00 percent *ad valorem*.

#### 7. Pre- and Post-Shipment Export Financing

On September 24, 1982, the Central Bank of Argentina established a post-financing program for exports under Circular OPRAC 1-9. OPRAC 1-9 loans are granted for up to 30 percent of the peso equivalent of the foreign currency in which the export transaction was paid. The term of the loan is 180 days. The interest rate charged on OPRAC 1-9 loans is the regulated rate used by commercial banks, as required under the regulations of the Central Bank of Argentina.

Petitioners allege that Siderar benefitted from pre- and post-export financing during the POI. As stated above in the "Use of Facts Available" section of this notice, the GOA and Siderar declined to participate in this investigation. Therefore, based on adverse facts available, we preliminarily determine that Siderar received countervailable benefits under this program. We note that according to the company's financial statement covering the POI, it received import and export financing during 1999.

In *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 49 FR 18006, 18007 (April 26,



1984) (*Investigation of Cold-Rolled Flat Products*), we determined that SOMISA, a predecessor of Siderar, used and benefitted from pre- and post-shipment export financing. In the absence of a response from the GOA and Siderar, we are assuming, as adverse facts available, that the level of financing Siderar and its predecessors received under this program has remained unchanged since the *Investigation of Cold-Rolled Flat Products*. Therefore, to calculate the net subsidy rate for Siderar under this program, we are using the net subsidy rate calculated for its predecessor, SOMISA, in the *Investigation of Cold-Rolled Flat Products*.

We note that in an attempt to corroborate the net subsidy rate calculated in the *Investigation of Cold-Rolled Flat Products*, we reviewed the information in the petition, including SOMISA's 1991 and 1992 Financial Statements and Siderar's June 30, 2000 Financial Statement. However, the petition and the financial statements did not provide any data that could be used to quantify SOMISA's or Siderar's use of the program. On this basis, we preliminarily determine the net countervailable subsidy to be 0.01 percent *ad valorem*.

#### 8. Zero-Tariff Turn Key Bill

Petitioners allege that the GOA, through the state-owned Investment and Foreign Trade Bank (BICE), provides duty exemptions/reductions that are contingent upon export performance.

Information from a World Trade Organization publication indicates that "direct assistance has been provided to exports under turn key contracts." Furthermore, an article from the newspaper *La Nación* states that under the program, companies designated as turn key plants would benefit from "subsidized import tariffs." We note that both of these articles were included in the petition. See Exhibits IV-5 and IV-9 of the November 13, 2000 petition, respectively. As stated in the "Use of Facts Available" section of this notice, the GOA and Siderar declined to participate in this investigation. Therefore, based on adverse facts available, we preliminarily determine that the information in the petition indicates that Siderar received countervailable benefits under this program. Because this program is only available to exporters, we preliminarily determine that this program constitutes an export subsidy under section 771(5A)(A) of the Act. A financial contribution is also conferred by this program in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act.

The article from *La Nación* states that in 1997 the GOA approved under the turn key bill \$207 million in tariff exemptions for 114 investment projects, including investment projects undertaken by Siderar. As adverse facts available, we are assuming that Siderar's share of exemptions was equal to those received by the other projects. We note that 19 CFR 351.524(c) (2000) states that tax exemptions can be treated as recurring benefits that are allocated (e.g., expensed) in their entirety to the year of receipt. As adverse facts available, we are assuming that Siderar received the tariff exemptions on a recurring basis in an amount equal to the tariff exemptions that we estimated for 1997. On this basis, we preliminarily determine that Siderar received a countervailable benefit under this program during the POI.

To calculate the benefit from this program, we divided the amount of Siderar's 1999 tariff exemptions by its estimated value of total exports for the POI.<sup>9</sup> We used the estimated value of total exports rather than total sales because this program is an export subsidy under section 771(5A)(B) of the Act. We note that Siderar's estimated tariff exemptions were denominated in U.S. dollars. Therefore, we converted the amount of the tariff exemptions into pesos using the average peso/U.S. dollar exchange rate for 1999. On this basis, we preliminarily determine the net countervailable subsidy rate to be 0.42 percent *ad valorem*.

#### Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for the company under investigation, Siderar. With respect to the "all others" rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish an "all others" rate for exporters and producers not individually investigated. In this case, although the rate for the only other investigated company is based entirely on facts available under section 776 of the Act, there is no other information on

the record upon which we could determine an "all others" rate. As a result, we have used the rate for Siderar as the "all others" rate.

Producer/exporter	Net subsidy rate (percent)
Siderar .....	40.79 <i>Ad Valorem</i>
All Others .....	40.79 <i>Ad Valorem</i>

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from Argentina, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

#### ITC Notification

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

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

#### Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the

<sup>9</sup> Using adverse facts available, we estimated Siderar's export sales as of June 30, 2000, by multiplying the ratio of its export to total shipments in net tons by the total sales figure discussed above. We applied this same ratio to the estimated freight figure discussed above. We then subtracted the estimated freight on export sales from the estimated export sales figure to arrive at an estimated f.o.b. export sales figure as of June 30, 2000.

time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: February 7, 2001.

**Bernard T. Carreau,**  
Deputy Assistant Secretary, AD/CVD  
Enforcement II.

[FR Doc. 01-4281 Filed 2-20-01; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-063]

#### Certain Iron-Metal Castings From India: Notice of Court Decision

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

**ACTION:** Notice of court decision.

**SUMMARY:** On January 24, 2001, the United States Court of International Trade (CIT) affirmed the International Trade Administration's remand determination regarding the calculation of subsidies provided under section 80HHC of India's Income Tax Act.

**EFFECTIVE DATE:** February 21, 2001.

#### FOR FURTHER INFORMATION CONTACT:

Robert Copyak, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2786.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under section 80HHC of India's Income Tax Act, exporters of iron-metal castings are eligible to claim tax exemptions based on their export profits. In *Certain Iron-Metal Castings From India; Final Results of Countervailing Duty Administrative Review*, 60 Fed. Reg. 44,849 (Aug. 29, 1995) (the 1990 period of review), the Department calculated these subsidies without adjusting for other subsidies received under India's International Price Reimbursement Scheme (IPRS) and India's Cash Compensatory Support Scheme (CCS). In *Crescent Foundry Co. Pvt. Ltd., et al. v. United States*, Slip Op. 00-148 (CIT Nov. 9, 2000), the court remanded the final results of the 1990 administrative review and directed the Department to recalculate these subsidies by subtracting IPRS rebates and CCS rebate from taxable income before determining any section 80HHC benefit. The Department's subsequent remand determination reflected the Court's instructions and was affirmed in *Crescent Foundry Co. Pvt. Ltd., et al. v. United States*, Slip Op. 01-6 (CIT Jan. 24, 2001).

In its decision in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 USC section 1516a(e), the Department must publish a notice of a court decision which is not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's opinion in *Crescent Foundry Co. Pvt. Ltd., et al. v. United States*, Slip Op. 01-6 (CIT Jan. 24, 2001), constitutes a decision not in harmony with the Department's final affirmative results of countervailing duty administrative review. Publication of this notice fulfills the *Timken* requirement.

Accordingly, the Department will continue to suspend liquidation pending the expiration of the period of appeal, or, if appealed, upon a "conclusive" court decision.

Dated: February 13, 2001.

**Holly A. Kuga,**

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 01-4286 Filed 2-20-01; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

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