suspension agreement with Kazakstan, as amended, Kazakstan receives a quota of 700,000 lbs for the period October 1, 1996, to March 31, 1997. The suspension agreement with Uzbekistan, as amended, specifies that Uzbekistan shall have access to its Appendix A quota of 940,000 lbs for the period of October 13, 1996 to October 12, 1997, provided that the calculated price is at or above $12.00 per pound.

Comments

Consistent with the February 22, 1993, letter of interpretation, the Department provided interested parties the preliminary price determination for this period on September 18, 1996. One interested party submitted comments.

UPIS Index Used

Comment 1: The Ad Hoc Committee of Domestic Uranium Producers (the producers) request that the Department correct a minor data error in its spot price segment of the calculation. According to the producers, the Department apparently inadvertently used the UPIS Short-Term Price Indicator data rather than the UPIS Spot Price Indicator data, which is consistent with previous calculations.

Department's Position: The Department agrees with the producers and has corrected the data error.

Long Term Contracts

Comment 2: The producers indicated that the Department made a clerical error in its reporting of the volume of a long term contract (contract number 1) as the Department apparently had two different volumes listed for the same contract.

Department's Position: The Department agrees with the producers and has corrected the error in question.

After the analysis of the above comments, the Department has determined that the observed market price for uranium is $15.78/lb. The Department invites parties to provide pricing information for use in the next price determination. Any such information should be provided for the record and should be submitted to the Department by March 5, 1997.

Dated: October 2, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Antidumping Countervailing Duty—Group III.

[FR Doc. 96–25647 Filed 10–4–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–122–404]

Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews

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

ACTION: Notice of Final Results of Countervailing Duty Administrative Reviews.

SUMMARY: On May 29, 1996, the Department of Commerce (the Department) published in the Federal Register its preliminary results of three administrative reviews of the countervailing duty order on live swine from Canada. We have completed these reviews and determine the net subsidy to be Can$0.0601 per kilogram for the period April 1, 1991 through March 31, 1992, Can$0.0613 per kilogram for the period April 1, 1992 through March 31, 1993, and Can$0.0106 per kilogram for the period April 1, 1993 through March 31, 1994. We will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Final Results of Reviews* section of this notice.

EFFECTIVE DATE: October 7, 1996.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Cameron Cardozo, Office of CVD/AD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 1996, the Department published in the Federal Register the preliminary results of three administrative reviews of the countervailing duty order on live swine from Canada (61 FR 26879). We invited interested parties to comment on the preliminary results. On June 3, 1996, the Canadian Pork Council requested an extension of the time limit for submission of the case briefs from June 28, 1996 until July 8, 1996. We granted this request and on July 8, 1996, case briefs were submitted by the National Pork Producers' Council, petitioners, and by the Government of Canada (GOC), the Government of Quebec (GOQ), and the Canadian Pork Council (CPC), respondents. Rebuttal briefs were submitted by petitioners, the GOC, the GOQ, and the CPC. On June 13, 1996, the GOQ requested a public hearing. The Department denied the request for the hearing because the request was untimely. The Department has now completed these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

The periods covered by these administrative reviews are April 1, 1991 through March 31, 1992, April 1, 1992 through March 31, 1993, and April 1, 1993 through March 31, 1994. These reviews were conducted on an aggregate basis and involve 43 programs.

Applicable Statute and Regulations

The Department is conducting these administrative reviews in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. However, references to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments,* 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Scope of the Reviews

On August 29, 1996, the *Final Results of Changed Circumstances Countervailing Duty Administrative Review, and Partial Revocation* were published (61 FR 45402), in which we revoked the order, in part, effective April 1, 1991, with respect to slaughter sows and boars and weanlings from Canada, because this portion of the order was no longer of interest to domestic interested parties. As a result, the merchandise now covered by the order and by these administrative reviews is live swine except U.S. Department of Agriculture certified purebred breeding swine, slaughter sows and boars and weanlings (weanlings are swine weighing up to 27 kilograms or 59.5 pounds). The merchandise subject to the order is classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 0103.91.00 and 0103.92.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

For each review period, we calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each province subject to the administrative review. We then weight-averaged the rate received by each province using as the weight the province's share of total Canadian exports to the United States of subject merchandise. We then summed the individual provinces' weighted-average rates to determine the subsidy rate from all programs benefitting exports of the subject merchandise to the United States. In prior proceedings, a separate rate was calculated for sows and boars and for all other live swine. Due to the partial revocation with respect to slaughter sows and boars, we are only calculating a rate for live swine.

Analysis of Programs

Based upon our analysis of the questionnaire responses, our verification, and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

1. Feed Freight Assistance

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results, however, we found an error in our calculations which we have corrected. *See Calculation Memorandum* on file in the Central Records Unit, Room B099, of the Main Commerce Building. On this basis, the net subsidies for this program are Can$0.0006 per kilogram for the 1991–92 review period, Can$0.0004 per kilogram for 1992–93 review period, and Can$0.0004 per kilogram for the 1993–94 review period.

2. National Tripartite Stabilization Program (NTSP)

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results. On this basis, the net subsidies for this program are Can$0.0508 per kilogram for the 1991–92 review period and Can$0.0578 per kilogram for 1992–93 review period. The program was not used during the 1993–94 review period.

3. Quebec Farm Income Stabilization Insurance Program (FISI)

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results. On this basis, the net subsidies for this program are Can$0.0050 per kilogram for the 1991–92 review period, Can$0.0001 per kilogram for the 1992–93 review period, and Can$0.0003 per kilogram for the 1993–94 review period.

4. British Columbia Farm Income Insurance Program (FIIP)

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results and our findings remain unchanged in these final results. On this basis, the net subsidies for this program are less than Can$0.0001 per kilogram for the 1992–93 review period, and Can$0.0004 for the 1993–94 review period. British Columbia did not export live swine to the United States during the 1991–92 review period.

5. Saskatchewan Hog Assured Returns Program (SHARP)

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has led us to change our findings from the preliminary results. We are adding interest accrued during the ninth review period to the amount of the deficit written off to calculate the amount of the SHARP grant. Also, in line with our preference to use commercial lending rates rather than government lending rates, we recalculated the benefit from the SHARP grant by using the monthly average medium-term corporate bond rate from the *Bank of Canada Review* as the discount rate in our allocation methodology. On this basis, the net subsidies for this program are Can$0.0010 per kilogram for the 1991–92 review period, Can$0.0007 per kilogram for the 1992–93 review period, and Can$0.0055 per kilogram for the 1993–94 review period.

6. Alberta Crow Benefit Offset Program (ACBOP)

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results. On this basis, the net subsidies for this program are Can$0.0023 per kilogram for the 1991–92 review period, Can$0.0019 per kilogram for the 1992–93 review period, and Can$0.0017 per kilogram for the 1993–94 review period.

7. Alberta Livestock and Beeyard Compensation Program

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is less than Can$0.0001 per kilogram for the 1991–92, 1992–93, and 1993–94 review periods.

8. Ontario Rabies Indemnification Program

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is less than Can$0.0001 per kilogram for the 1991–92, 1992–93, and 1993–94 review periods.

9. Ontario Livestock and Poultry and Honeybee Compensation Program

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is less than Can$0.0001 per kilogram for the 1991–92, 1992–93, and 1993–94 review periods.

10. Saskatchewan Livestock Investment Tax Credit

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is Can$0.0002 per kilogram for the 1991–92, 1992–93, and 1993–94 review periods.

11. Saskatchewan Livestock Facilities Tax Credit Program

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is Can$0.0001 per kilogram for the 1991–92, 1992–93, and 1993–94 review periods.

12. *Saskatchewan Interim Red Meat Production Equalization Program*

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise due to allegations of new subsidies by the petitioner during the 1992–93 review period. We received no comments on our preliminary results and our findings remain unchanged in these final results. On this basis, the net subsidies for this program are Can$0.0002 per kilogram for the 1992–93 review period and Can$0.0021 per kilogram for the 1993–94 review period.

13. Ontario Export Sales Aid Program

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is less than Can$0.0001 per kilogram for the 1991–92 and 1993–94 review periods. The program was not used during the 1992–93 review period.

II. Programs Found Not to Confer Subsidies

In the preliminary results, we found the following programs to be non-countervailable:

A. Canada/British Columbia Agri-Food Regional Development Subsidiary Agreement;

B. Canada/Manitoba Agri-Food Development Agreement;

C. Canada/Quebec Subsidiary Agreement on Agri-Food Development;

D. Net Income Stabilization Accounts (NISA);

E. Saskatchewan Livestock Cash Advance Program;

F. Ontario Farm Tax Rebate Program;

G. Prince Edward Island Pro Pork Assistance Program;

H. Cash Flow Enhancement Program.

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results.

III. Programs Found Not to be Used

In the preliminary results, we found that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs:

A. Agricultural Products Board Program;

B. Federal Atlantic Livestock Feed Initiative (New Brunswick, Newfoundland, Nova Scotia, and Prince Edward Island);

C. Western Diversification Program;

D. British Columbia Special Hog Payment Program;

E. New Brunswick Development Act—Swine Assistance Program;

F. New Brunswick Livestock Incentives Program;

G. New Brunswick Swine Assistance Policy on Boars;

H. New Brunswick Swine Industry Financial Restructuring Program;

I. Newfoundland Farm Products Corporation–Hog Price Support;

J. Newfoundland Weanling Bonus Incentive Policy;

K. Nova Scotia Improved Sire Policy;

L. Ontario Bear Damage to Livestock Compensation Program; and

M. Ontario Swine Sales Assistance Policy.

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results.

IV. Programs Found to be Terminated

In the preliminary results, we found the following programs to be terminated and that no residual benefits were provided during the review periods:

A. New Brunswick Hog Price Stabilization Plan;

B. Canada/Alberta Swine Improvement Program Study;

C. Canada/Ontario Western Agribition Livestock Transportation Assistance Program;

D. Canada/Ontario Stabilization Plan for Hog Producers;

E. Alberta Red Meat Interim Insurance;

F. Ontario Livestock Improvement Program for Northern Ontario;

G. Ontario Pork Industry Improvement Plan;

H. Prince Edward Island Interest Payments on Assembly Yard Loan; and

I. Prince Edward Island Swine Incentive Policy.

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results.

Analysis of Comments

Comment 1: Petitioners argue that the Department should revise its preliminary determination that NISA's farm-fed grain provision does not provide a countervailable benefit to hog producers. They state that the farm-fed provision is a discrete and independent sub-program of NISA and, thus, the Department should analyze NISA's countervailability in the narrower context of the farm-fed grain provision. According to petitioners, such an approach is justified because hog farmers would be ineligible for NISA assistance without this provision. Therefore, the farm-fed grain component of the broader NISA program is sufficiently unique and circumscribed to warrant consideration on an independent basis. Petitioners maintain that this approach is consistent with the Department's analysis of the countervailability of particular subsidies on a sub-program basis in *Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Italy,* 60 FR 31992 (June 19, 1995) (*Italian Pipe*).

The petitioners contend that the farm-fed provision is countervailable because it provides a direct transfer of funds to hog producers and it expressly limits eligibility for the program to livestock producers and hence, is *de jure* specific. Also, the NISA farm-fed grain provision is virtually identical to the ACBOP program, which the Department has recognized as a countervailable subsidy. According to petitioners, both programs share the same basic goal of subsidizing hog farmers who also grow grains. The record contains no compelling legal or factual basis for treating ACBOP as countervailable while allowing NISA to escape the purview of U.S. countervailing duty law. Finally, petitioners state that the farm-fed grain provision constitutes an express mechanism for subsidizing hog farmers by providing these farmers benefits that they otherwise would not be entitled to receive.

The GOC and the CPC counter that the Department properly concluded that NISA is not specific and that petitioners have not challenged this determination. The GOC and the CPC contend that the farm-fed provision cannot be examined separately because of the whole farm nature of the NISA program. Contributions are based on the entire farm's total net sales of all eligible products, and withdrawals are based on overall farm income rather than the income of particular products. Thus, NISA-eligible products cannot be examined separately for purposes of calculating NISA withdrawals. The purpose of the provision is to provide the same coverage to grain farmers that feed some of their grain to livestock and to grain farmers that sell their grain and thus generate sales of an eligible product. By providing this coverage, according to respondents, NISA avoids creating an artificial incentive to farmers to sell their grain rather than feed it on-farm. Thus, any benefit the farm-fed provision may provide to farmers who produce hogs and grow grain is like any other benefit farmers may receive on NISA-eligible products and is, thus, not countervailable.

The GOC and the CPC continue that, contrary to the petitioners' ''sub-program'' theory, the record actually shows that the feed equivalent is one line in the NISA eligible net sales calculation. This one line is blended into a single total eligible net sales number on which the matchable producer contributions are calculated. The GOC and the CPC state that there simply is no separate existence of the farm-fed equivalent provision as a NISA ''sub-program'' in any respect. However, even if the Department were to accept the petitioners' argument, they argue that NISA and its feed equivalent would have to be considered a single program. NISA makes all farmers eligible, offers only one type of benefit, one set of eligibility requirements, one administering agency, one legislative source, and no administrative discretion. Therefore, NISA must be examined as a whole and found not specific.

Finally, the GOC and the CPC claim that the petitioners' attempt to compare the farm-fed grain provision to ACBOP is also incorrect. ACBOP is directed only at purchasers and producers of feed grain and its benefits are tied to grain purchases and actual use in livestock feed by livestock producers. NISA is a program for producers of numerous products and whose ''whole farm'' concept eliminates any link between contributions or withdrawals, on the one hand, and a farmer's purchases of one input in production, such as grain, on the other.

Department's Position: We disagree with the petitioners that the farm-fed grain provision of NISA should be analyzed separately for purposes of our countervailing duty analysis. Rather than a separate sub-component of the NISA program, the farm-fed grain provision is an integral part of the NISA program designed to equalize treatment of farm-fed grains and marketed grains. There are no separate eligibility requirements for receiving NISA assistance under the farm-fed grain provision. Eligible contributions under the farm-fed provision are represented by a single line item in the NISA eligible net sales calculation, which includes net sales of all other NISA-eligible products. All of these net sales of eligible products are combined into a single total eligible net sales number on which the matchable producer and government contributions are calculated. In sum, calculations of benefits under the farm-fed provision are indistinguishable from the other NISA calculations.

Moreover, the NISA farm-fed grain provision is not like Law 675 which we analyzed in *Italian Pipe.* In that case, Law 675 was a single law that encompassed six separate and discrete programs that provided benefits to particular industries. Each program had distinct purposes, types of benefits, application and approval procedures, and administration. *Italian Pipe,* 60 FR 31995–96. The NISA program has one purpose, one type of benefit, one set of eligibility requirements, and one administering agency. For these reasons, we continue to analyze the countervailability of the farm-fed provision within the context of the overall NISA program.

Further, we do not agree that NISA's farm-fed provision is virtually identical to the ACBOP program. ACBOP was found *de jure* specific because it is limited to and directly benefits only purchasers and producers of feed grain (*Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews,* 48 FR 10410 (March 12, 1991)). Because hog producers benefit from a program found to be *de jure* specific, we have countervailed those benefits under ACBOP in our administrative reviews of this order. In the case of NISA, we have found that the program is not *de jure* specific because the legislation does not expressly limit the availability of the program. Furthermore, we have found that NISA is not *de facto* specific because a large majority and wide variety of all agricultural products are covered, there is no evidence of dominant use or disproportionality of benefits by a specific enterprise or industry, and there is almost no government discretion in conferring benefits. Because we have determined that NISA, including the farm-fed grain provision, is a single program, we do not need to address the issue of specificity at the level of the farm-fed grain provision.

Comment 2: Petitioners argue that in calculating the NISA farm-fed grain benefit, the Department should include Farm Support and Adjustment Measures (FSAMs) funds as part of the government's contribution into the NISA program. According to petitioners, since FSAMs reflect federal incentive contributions and federal bonuses for early enrollment in NISA, they are an integral part of the total benefits paid out under NISA. Also, FSAM contributions equaled more than half of total federal government contributions to the NISA program. Yet, in the calculations of estimated NISA benefits submitted by the GOC, FSAM funds were not included. Petitioners state that by not including FSAM contributions, the GOC's calculation fails to reflect the true amount of benefits accruing to hog producers.

Respondents counter that the petitioners are inconsistent when they argue that a line item in the NISA calculation, the farm-fed grain provision, is a separate program, and then argue that FSAMs, which in the respondent's view is a separate program, is one and the same with NISA. In any case, respondents state that FSAMs are non-specific whether viewed as a separate program or as part of NISA. FSAMs were a temporary and transitional measure to assist in getting the NISA and GRIP programs off the ground. As a separate program, FSAMs provided benefits to all of the same products covered by NISA in its first year of operation. Therefore, respondents argue that FSAMs are also non-specific. On the other hand, according to respondents, if FSAMs are integral to the NISA program, then FSAMs are still non-specific since NISA is not specific.

Department's Position: FSAM benefits are indistinguishable from those provided by NISA. Although provided for under additional legislation, FSAMs can only deliver benefits through a previously established program, NISA. Under the NISA program, a farmer can make deposits, up to 2 percent of net eligible sales, into an individual savings account and receive matching government deposits, up to 1 percent of net sales each from the provincial and federal governments. As we stated in our verification report, through FSAMs the federal government contributed to the NISA program in excess of this 1 percent of net sales during NISA's initial year of operation. As a result, more funding was available to farmers for withdrawals from their NISA accounts. However, since we have determined that NISA is not specific, any additional benefits provided under NISA via FSAMs are not countervailable.

Comment 3: The petitioners state that the GOC has understated the NISA farm-fed grain benefit for the eighth review period. According to petitioners, given the verified data pertaining to the seventh review, the Department should reject the GOC's information and calculate farm-fed NISA benefits for the eighth and ninth review using adjusted data from the seventh review.

The GOC responds that the farm-fed grain calculations provided are admittedly complex and NISA's whole-farm approach makes it impossible to account for payments on a product basis. Thus, any calculation methodology necessarily will involve a number of allocations and components. In any case, because NISA is non-specific, the GOC maintains that delving back into these calculations in not necessary.

Department's Position: Since the Department has determined that NISA is not countervailable, the issue of the accuracy of the GOC's NISA benefit calculations is moot.

Comment 4: The GOC argues that the Department's preliminary determination that FIPA does not constitute a single program does not reflect any reasonably clear articulation of the standard to be applied. According to the GOC, the Department's preliminary determination mentions at least eight factors, but does not explicitly identify which of the eight factors are important, which are reflective of past Department decisions, or the priority by which the factors should be considered. The GOC continues that the agency must articulate with reasonable clarity the reasons for a decision, including the standards being applied and the weight accorded to significant facts. As a result, the GOC requests the Department to formulate an appropriate ''single program'' standard based on factors relevant to that inquiry and to redetermine whether FIPA is a single program under that standard.

The petitioners reply that the agency's single program analysis is not dictated by statute or regulation, but rather, constitutes a simple factual analysis undertaken by the agency in its role as decision maker. According to petitioners, when neither the statute nor the regulations prescribe a particular methodology to be used, the agency's decision will be considered a reasonable exercise of discretion as long as it recognizes and considers the relevant facts. In this case, the Department's explanation clearly references and discusses all of the evidence relevant to its separate treatment of the FIPA programs.

Department's Position: Neither the countervailing duty statute nor regulations mandate a specific standard to be used when determining whether a program under review should be treated as a single program or several programs. Under these circumstances, the Department has discretion and must base its determination on a reasonable interpretation of the facts on the record. See *Hercules* v. *United States,* 673 F. Supp. 454, 463 (CIT 1987). The record shows that we extensively analyzed the information submitted by the GOC, as well as our determinations in prior cases, in reaching our determination that we should examine the components of FIPA as separate programs. (*See* Memorandum on Farm Income Protection Act, to Barbara E. Tillman from CVD team dated April 13, 1994, which is on file in the Central Records Unit, Room B099, of the Main Commerce Building, *FIPA Memorandum*.) The *FIPA Memorandum* shows that the Department analyzed in great detail the legislation, structure, and operation of FIPA and its component parts and compared this set of facts with previous decisions of the Department. Whether there is one program or multiple programs is a question of fact, not a legal analysis. Thus, the question can only be addressed through examination of the facts of record. Although a comparison of the facts in this case with the facts of other cases in which we examined the same issue may be part of that analysis, these are case-by-case factual findings. The *FIPA Memorandum* clearly explains the primary facts leading to our conclusion that FIPA encompasses several separate programs: (1) the FIPA legislation authorizes agreements between the GOC and the provincial governments to protect the income of agricultural producers, (2) the federal/provincial agreements that established the operations of NISA, Gross Revenue Insurance Program (GRIP), Crop Insurance, and NTSPs retain significant discretion with respect to FIPA's statutory authority in identifying the type of beneficiary under each program, delineating administrative procedures, and setting up funding commitments among the participants, and (3) NISA, NTSP, GRIP and Crop Insurance have separate and different eligibility criteria and application procedures.

The GOC does not dispute those facts but believes that the Department should have reached a different conclusion given other facts. Specifically, the GOC believes that a ''single legislative enactment'' should assume an elevated role in our analysis. We disagree (see *Department's Position* on *Comment 5*) and continue to find that the facts support our conclusion that these are separate programs. *Matsushita Elec. Co.* v. *United States,* 750 F.2d 927, 933 (Fed. Cir. 1984) (the possibility of two inconsistent conclusions does not warrant reversal of the agency's reasonable determination).

Comment 5: The GOC proposes a new standard for the single program inquiry which includes three prongs: whether the programs in question stem from a single legislative enactment, whether the enactment contains sufficient substantive detail to define the programs with reasonable certainty, and whether the constituent programs involve at least some common administrative oversight. By this standard, the GOC maintains that FIPA should be judged to be a single program.

The petitioners respond that this ''single legislative enactment'' standard contravenes the basic purpose of U.S. countervailing duty law since a critical component of the subsidy analysis is whether a program, as *applied,* provides a specific benefit to an industry. Moreover, even under the application of this standard, FIPA is not a single program since, state petitioners, FIPA did not create the assistance provided under NTSP and Crop Insurance, but attached to these pre-existing programs the same label associated with the newly created GRIP and NISA programs. Accepting the GOC's argument would mean that virtually every time a government enacts a comprehensive initiative to provide assistance to an industry, the Department would be precluded from examining the elements of that initiative on an individual basis.

Department's Position: We disagree with the GOC. As we explained in *Department's Position on Comment 4,* there is no legal or regulatory requirement that the Department develop a ''single program standard.'' In the Department's view, because of the complexity and variety of subsidy programs, a case-by-case analysis represents a more reasonable approach than the development of a standardized test for purposes of this single program analysis. *See e.g., Geneva Steel* v. *United States,* 914 F. Supp. 563, 593 (CIT 1996) (''Commerce is afforded considerable leeway in exacting and applying methodologies to interpret the countervailing duty statute.'') In any case, the GOC's proposed ''three-pronged standard'' would not permit a full analysis of whether there are multiple programs or a single program. A complete analysis requires examining the details of the program—specific purposes of the component parts, eligibility requirements, types of benefits, the administering agency, application and approval procedures, and any administrative discretion.

Apparently, the GOC also recognizes these additional factors since, in its rebuttal argument in *Comment 1,* it argues that NISA and its farm-fed grain provision are one program because NISA offers only one type of benefit, one set of eligibility requirements, one administering agency, one legislative source, and no administrative discretion. The Department has also examined all of these factors with respect to FIPA (see FIPA Memorandum) and determined, based on the facts on the record, that FIPA's components should be treated as separate programs.

Comment 6: The GOC argues that the preliminary determination does not meaningfully distinguish FIPA from prior cases in which the Department has found a single program in a complex, multi-faceted statute. The GOC cites *Italian Steel, Mexican Roses* and *Malaysian Wire Rod* [1] as precedent in which the Department treated a complex set of laws as a single program. In those cases, the programs provided different types of benefits and delivered them in different forms. By contrast, according to the GOC, the FIPA options provide far more consistent benefits, namely income stabilization, than in the above cases. Furthermore, the GOC argues that in the sixth review of this order, the Department determined that the eight revenue insurance options under the NTSP constituted a single program. Similarly, all FIPA options derive from a single legislative enactment and provide one type of assistance, income stabilization. The GOC concludes that these parallels lead to the conclusion that FIPA is also a single program.

According to petitioners, the GOC's attempts to place FIPA within the context of the analysis used in *Mexican Roses* and in the sixth live swine review are unavailing. For example, the Court reviewing the Department's decision in *Mexican Roses* stated that ''[p]rograms bestowing benefits on different enterprises or industries for different policy reasons should not escape countervailability simply because the programs are loosely grouped under one heading, here FIRA.'' 743 F. Supp. at 880. And, regarding the Department's finding with respect to NTSP, the GOC ignores that, without the individual Tripartite agreements that comprise NTSP, the program would not exist. By contrast, petitioners state that FIPA would clearly continue to exist even if one of its individual component programs did not. Similarly, the NTSP agreements operate the same way for each benefiting commodity, while there are clear differences in the operation of the four FIPA components.

Department's Position: We disagree with the GOC. In the *FIPA Memorandum,* we clearly stated why we considered the fact pattern in *Malaysian Wire Rod* and *Italian Steel* as dissimilar to the fact pattern regarding FIPA. In both cases, an overarching program consisted of several components. Companies could only obtain benefits from the component programs by following the application and eligibility requirements established at the overarching program level. Once eligible and approved under the overarching program, there was no restriction on the type of benefits that could be received under the program components. FIPA, on the other hand, allows the federal/provincial agreements to establish different application and eligibility procedures. There is no general eligibility under FIPA, which automatically confers eligibility under NISA, NTSP, GRIP, and crop insurance. Agricultural producers subject to a NTSP agreement are ineligible for either NISA or GRIP unless granted eligibility under the relevant NTSP federal/provincial agreement. Furthermore, GRIP and crop insurance do not cover hogs or other livestock because their acreage-based calculations are inherently inapplicable to livestock.

Also, the GOC's cite to *Mexican Roses* is not persuasive support for finding FIPA a single program. In that case, the Department reaffirmed its position that the agricultural sector constitutes more than a single group of industries for purposes of determining specificity and then found that loans provided to Mexican flower producers granted under the Funds Established with Relationship to Agriculture (FIRA) were not specific since they were not targeted to exports, nor provided to a specific industry or group of industries. Since Mexican flower producers only used loans available under FIRA, we had no need to address whether the other benefits available under FIRA constituted one or several programs. We found that the assistance used by flower growers was provided to more than a specific enterprise or industry or group thereof. Also, in reviewing this case, the CIT stated that individual programs should not escape countervailability simply because they are loosely grouped under one heading. *See Roses, Inc.* v. *United States* 743 F. Supp. 870, 880 (CIT 1990).

We have treated the eight revenue insurance plans that comprise NTSP as one program because, unlike FIPA, we determined that the relevant legislation established a framework for providing a single type of benefit for a single purpose. Each of the insurance plans offered the same types of benefits, had the same application procedures, and the same funding mechanisms. *Live Swine from Canada; Final Results of Countervailing Duty Administrative Review,* 59 FR 12243 (March 16, 1994) (*Swine VI*) at 12245. Likewise, as even the GOC acknowledges, we determined that NISA and its farm-fed grain provision were one program since they offered one type of benefit, one set of eligibility requirements, one administering agency, one legislative source, and no administrative discretion.

As we explained in the *FIPA Memorandum,* we determined that the facts pertaining to the FIPA programs were more similar to several cases where the Department determined to treat a program as several components, *e.g. Canadian Groundfish, Thai Bearings,* and *Canadian Magnesium*.[2] For instance, the facts in the FIPA analysis are similar to *Canadian Groundfish* where Economic and Regional Development Agreements (ERDAs) provided the legal basis for departments of the federal and provincial governments to cooperate in the establishment of economic development programs. Pursuant to the ERDA, subsidiary agreements were signed which established programs, delineated administrative procedures and set up relative funding commitments of the federal and provincial governments. We determined that the ERDAs acted as umbrella legislation to achieve the broad goal of economic development whereas the subsidiary agreements actually provided for the operation and administration of the programs. Therefore, for purposes of analyzing specificity, we examined each subsidiary agreement as a separate program, which the CIT affirmed. *See*

[1] *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order on Carbon Steel Wire Rod from Malaysia* (53 FR 13303; April 22, 1988); *Final Affirmative Countervailing Duty Determinations on Certain Steel Products from Italy* (58 FR 37327; July 9, 1993); *Results of Remand of Final Negative Countervailing Duty Determination: Certain Fresh Cut Flowers from Mexico,* pursuant to Court Order in *Roses, Inc.* v. *United States,* No. 84–5–00632, Slip. Op. 90–64 (CIT July 3, 1990).

[2] *Final Affirmative Countervailing Duty Determination on Certain Fresh Atlantic Groundfish from Canada* (51 FR 10041; March 24, 1986); *Final Affirmative Countervailing Duty Determination and Partial Countervailing Duty Order on Ball Bearings and Parts Thereof from Thailand* (54 FR 19130; May 3, 1989); and *Final Affirmative Countervailing Duty Determinations on Pure Magnesium and Alloy Magnesium from Canada* (57 FR 30946; July 13, 1992).

Comeau Seafoods vs. *United States,* 724 F Supp. 1407, 1416 (CIT 1989).

Thai Bearings and *Canadian Magnesium* are also similar to the present case. In both cases, a number of different government activities were authorized by a broadly encompassing statute. While the statute outlined the broad goals and parameters of the legislation, the individual component programs were much more specific regarding the eligibility requirements, application procedures, and purposes. As a result, the Department examined each component program under the statute individually. Thus, while the overall goal of FIPA is income stabilization, each component has its own specific purpose (e.g., NTSP—insurance against market price fluctuations, Crop Insurance—insurance against weather related disasters, GRIP—gross revenue insurance, and NISA—whole-farm income loss protection), its own eligibility requirements, its own application and approval procedures, and its own administration.

Thus, the GOC's arguments to the contrary notwithstanding, the Department's decision that FIPA should be treated as several separate programs is consistent with past cases.

Comment 7: The GOC argues that pervasive analytical flaws led the Department to its incorrect preliminary finding that the FIPA options are not integrally linked. First, the GOC argues that the Department confuses FIPA's purpose with risk, delivery mechanisms and benefits. The GOC argues that purpose is the end to be obtained, which in FIPA's case is farm income stabilization. The risks addressed by the FIPA options are the reason for stabilization. If the end is income stabilization, then the means to that end are crop insurance, revenue insurance, and net income stabilization accounts. The Department's assertion that FIPA offers different types of benefits is incorrect. FIPA offers one type of benefit which is income stabilization in the form of financial payments keyed to historical performance. In *Swine VI,* the Department recognized that NTSP, which is a FIPA option, provided for ''only one type of assistance, income stabilization (59 FR 12245).''

Second, the GOC also argues that the Department translates FIPA's policy of equitable treatment into a demand for proof of equal dollar payouts. Because the Department could not find such proof on the record, it concluded that evidence of FIPA's policy to treat commodities equally is inconclusive. This demand for equal dollar payouts misconstrues the meaning of FIPA's equitable treatment. Furthermore, the GOC claims that equal dollar payouts is impossible given the varied nature of the agriculture sector, it would lead to the precise type of inequity that FIPA was designed to avoid, and it would impose a burden of proof that would be impossible for the GOC to meet.

The GOC argues that the Department has interpreted the integral linkage regulation as including an overriding requirement of explicit proof that apparently complementary programs are connected to an overall design, through an express statement in their enabling legislation or other authoritative source. The GOC argues that in applying this factor to FIPA, the Department focused on the ''complementary purpose'' aspect, and compared NTSP with the other programs to ascertain whether basically the same type of assistance is being provided to distinct users. The GOC further argues that the Department's same program/different users paradigm is too limited and that there is no logical or legal reason to limit the complementary aspect of related programs to the user groups, and rule out the paradigm of complementary programs/same users. Collectively, the FIPA components supply what is lacking in each component, and thereby produce the equivalent of a single program coverage. Therefore, argues the GOC, the Department's view of the meaning of a complementary program is more narrow than the term or the regulation warrants.

The GOC also argues that the Department's preliminary analysis of the administration of the programs and the manner of funding inappropriately focuses on the day-to-day operational details of each option rather than their key design features, which is inconsistent with the regulatory considerations. The Department has interpreted the administrative and funding factors as calling for similar, if not exactly identical, programs. As stated in *Swine VI,* the integral linkage regulation ''does not require that the programs be identical.'' *Swine VI* (51 FR 10041, 10046). However, the Department does not account for the fact that at the day-to-day operational level, the administration of the FIPA options will necessarily have differences. These differences are unavoidable in a program that keys benefits to farm income, applies in a country as large and climatically varied as Canada, and integrates certain preexisting administrative structures into a comprehensive new scheme. They are also unavoidable given the different product arrays on Canada's farms and the income risks to which these arrays of production are exposed. Furthermore, the GOC argues that the preliminary notice neither addresses the industry-driven reasons for the differences in some program details nor the Department's past statement that ''differences between the nature and administration of the programs'' will not defeat an integral linkage claim if they ''are necessary because of differences in the nature of the industries being offered benefits * * *'' *Swine VI* (59 FR 12246). In effect, the focus on operational details creates a different and more stringent test than the regulation reasonably permits, and the approach is contrary to basic tenets of administrative law.

Petitioners counter that the GOC's interpretation of the Department's integral linkage analysis ignores the Department's well-established practice, grounded in the legislative history, of interpreting the integral linkage test in a stringent manner. Petitioners further counter that the GOC's arguments are inconsistent with the Department's established interpretation of specificity, integral linkage, and the purpose factor in particular. For example, in *Swine VI,* the Department stated that: ''[p]ermitting respondent governments to loosely connect two or more programs which are otherwise designed to serve different purposes would create just the type of loophole the Department seeks to avoid. Besides being contrary to the Department's specificity practice, doing so would be contrary to Congress' express requirement in the legislative history that the Department should avoid taking an 'overly narrow' or 'overly restrictive' view of its authority to determine specificity . . . This statement implies that Congress intended the Department to view its authority to find specificity broadly and its authority to create exceptions to its normal approach narrowly.''

Petitioners support the Department's finding that the record lacked sufficient evidence demonstrating a policy of equal treatment across all FIPA program options. The GOC's argument fails principally because it ignores the threshold requirement of the integral linkage inquiry, that is, that any allegation of linkage must be supported by objective, documentary evidence. Given this standard, the Department is entitled to demand more than theoretical statements and promises that a program should or might, in practice, result in equal treatment.

Petitioners also counter that the Department is not asking that each FIPA participant receive the same amount of benefits, but rather, is merely requiring that program funding mechanisms and levels establish similar burdens and offer similar rewards. This is a reasonable demand given the stringent nature of the integral linkage test. It is within the Department's discretion to elaborate on each factor listed in the *Proposed Regulation,* and the integral linkage test was intended to be interpreted stringently.

Finally, petitioners counter that the Department's analysis reflects an understanding that the inevitable differences in the FIPA programs necessarily require different administrative approaches that, in turn, prevent the programs from being identical. Yet even allowing for these differences, the Department has concluded that the distinctions in program funding and administration are sufficiently pronounced to preclude an integral linkage finding. Thus, the Department has adequately balanced the record evidence.

Department's Position: As we stated in the preliminary results, to determine whether these programs are integrally linked we examined the purposes of each program, the administration of each program, evidence of a government policy to treat industries equally, and the funding mechanism of each program. In conducting this analysis, we must determine whether the respondent government has demonstrated ''through objective record evidence that, due to an overall policy or national development plan, it created two or more programs with the express purpose that they complement one another, not only in terms of breadth of availability and coverage, but in similarity of intent, purpose, and administration.'' *Live Swine from Canada; Final Results of Countervailing Duty Administrative Review* (59 FR 12243, 12246; March 16, 1994). Moreover, because the integral linkage policy was created as an exception to our specificity analysis, ''we have interpreted the standard narrowly for granting an affirmative integral linkage determination.'' *Id.* at 12245.

Linkage analysis is conducted on a program-by-program basis, to determine whether two or more programs can be treated as one program for purposes of specificity. The first factor calls for an analysis of the purpose of the programs, as stated in the enabling legislation. The GOC misconstrues the application of this factor because it claims that the stated purpose of FIPA, which is income stabilization, necessarily satisfies this criterion. However, in conducting an integral linkage analysis, the Department's practice is to examine the stated purpose of the alleged complementary programs not the purpose of the umbrella legislation enacted to unify the programs. *See, e.g., Canadian Groundfish* at 10041, 10046. Consistent with this practice, we have analyzed the purpose of each separate program under FIPA.

The purpose of crop insurance and a component of GRIP is to protect the farmer against the risks of weather-related losses. The purpose of the other component of GRIP and NTSP is to protect the farmer against the risk of market price fluctuations. The purpose of NISA is to stabilize the farmer's overall financial performance. These covered risks are prerequisite conditions that trigger the payment. They are essential to the design of each separate program.

The GOC reminds us that in *Swine VI*, the Department recognized that NTSP provided for ''only one type of assistance, income stabilization.'' The GOC asserts that FIPA also offers one unique type of benefit—income stabilization. As a result, the GOC states that FIPA and NTSP offer the same type of benefit.

We disagree with the GOC. First, as discussed in the *FIPA Memorandum,* FIPA does not directly provide benefits. The benefits are provided at the level of NTSP and the other component programs under FIPA. Second, the Department has never determined that FIPA and NTSP have the same purpose. In *Swine VI* we accepted ''income stabilization'' as the purpose of NTSP because in that review we were examining the specificity of NTSP as a single program. In that context, a critical examination of the purpose of the program was not necessary. In this review, we reexamined the purpose of NTSP in the context of linkage analysis. In this analysis, the purpose of the program is a key factor in determining whether two or more programs should be considered as one. Therefore, the Department scrutinized this factor more thoroughly and found that the purpose of NTSP is not income stabilization: the purpose of NTSP is to protect the farmer from the risk of market price fluctuations.

We disagree with the GOC's contention that the Department should assess the complementary nature of programs under a ''complementary programs/same user'' paradigm. If the purpose of the analysis was to assess whether all of the farmer's needs were covered under several programs, then a ''complementary programs/same user'' paradigm would be appropriate. However, the purpose of the specificity test is to determine how widely used are the benefits of a certain program. Thus, the purpose of an integral linkage analysis is to determine whether two or more programs providing the same type of benefit to different users can be considered as one program in order to conduct a specificity analysis. If the same type of benefit is being bestowed, the users of the programs would have to be different. Therefore, for purposes of the specificity analysis, we find that the paradigm of ''same benefit/different users'' is appropriate in establishing whether two separate programs should be considered as one for determining specificity. If the purpose of the analysis was to assess whether all the farmers' needs were covered under several programs, then we would probably use the paradigm put forth by the GOC, i.e., ''complementary programs/same user.'' However, that is not the nature of the inquiry we are conducting here. For example, technology development programs might include offering loans, grants and tax credits to companies purchasing technology. These programs would complement each other because they have the same general purpose and the same users, but a different type of benefit would be provided, therefore, the Department would usually analyze each program separately. Therefore, for purposes of linkage analysis, we are continuing to look for similar programs with different users. *See, e.g., Zenith Radio Corp.* v. *United States,* 437 U.S. 443, 450–51 (1978) (deference should be accorded to the Department's reasonable interpretations of the countervailing duty statute).

The second factor calls for ''evidence of a government policy to treat industries equally.'' Under this factor the Department examines objective, documentary evidence of the existence of such policy. We determined that there was insufficient evidence on the record to ascertain whether such a policy exists. Far from requiring a ''proof of equal dollar pay-outs'', the Department in this case examined the GOC's policy statements contained in the FIPA legislation and in the Parliamentary debates. We also examined the record for any data supporting those policy statements. Such data could have been, for instance, a preliminary study comparing different levels of premiums with different level of benefits for the various programs, used by the drafters of the legislation, or, alternatively, data showing how the GOC actually evaluated ''equal treatment'' based on experience under the new programs. The GOC could not provide such data. Absent such data, the Parliamentary debates and the FIPA legislation cited by the GOC fail to demonstrate a government policy of equal treatment. As noted in *Swine VI* at 12246, the supporting evidence must go beyond simply identifying a broad underlying goal encompassing several otherwise distinct programs which provide access to benefits to all or most eligible industries. In the seventh period of review, our conclusion was that ''while we recognize that the Parliamentary Debates language reflects an intent to treat commodities equally, we have no evidence that such a policy has been implemented.''

We disagree with the GOC that in analyzing the third factor, the administration of the programs, and the fourth factor, the manner of funding, the Department wrongly focuses on day-to-day operational details of each program rather than their key design features. In analyzing the administration, we examine whether the administration of the programs is consistent with a structure that would allow for the same type of benefits to be provided to different users. In analyzing the manner of funding, we examine whether the levels of funding and the frequency of funding would allow for the same type of assistance to be provided to different users in a consistent manner.

We find that although there are some common features in the administration, and funding is provided by the same three sources, the federal and provincial governments and the producers, there are fundamental differences in the administration and funding mechanisms. These differences are due to the diversity of the programs. Each program is funded for a specific type of assistance but, more importantly, each participant contributes different percentages.

Comment 8: Petitioners argue that in all three reviews the Department should calculate the benefit from the SHARP program based on the full outstanding balance in the SHARP fund plus accrued interest. According to petitioners, the SHARP deficit accumulated over the life of the program due to the chronic imbalance between contributions and payouts. Although loans from the Government of Saskatchewan (GOS) to finance the deficit were in theory to have been repaid, petitioners claim that the size of the deficit makes it likely that deficits existed every year, that the provincial government lent money to the program every year, and that no repayment was ever made. Thus, petitioners argue, the remaining deficit (i.e. the total fund deficit minus the amount of the deficit countervailed in the various reviews) constitutes a subsidy that has not been countervailed.

Petitioners further argue that the outstanding principal (deficit) should be adjusted upwards to account for interest accrued since October 31, 1989. In doing so, petitioners take issue with the Department's statement in the preliminary results that ''when the balance in the SHARP account was insufficient to cover payments to producers, the provincial government provided financing on commercial terms.'' On the contrary, petitioners point out, the SHARP annual report states that no interest was charged on these loans subsequent to October 31, 1989. Therefore, the Department should add accrued interest to the outstanding principal amount.

The CPC counters that the same argument was made by petitioners and rejected by the Department in the sixth review, and therefore should also be rejected in these reviews, given that petitioners have presented no new evidence on this topic. As a result, the Department should continue to base its calculation of the SHARP benefit on one-half of the outstanding deficit during the seventh and eighth reviews. According to the CPC, the ninth review, during which a final decision was made on the disposition of the deficit, is the first appropriate point for an examination by the Department as to whether the loan forgiveness constitutes a countervailable subsidy. With respect to this issue, the CPC argues that the deficit represents payments already made to hog producers and already countervailed.

Department's Position: We disagree with petitioners that the full amount of the SHARP deficit should be countervailed in these reviews. The deficit is a result of loans provided to SHARP by the provincial government to cover payouts when the fund balance was at zero. As such, the deficit amount represents payments already made to producers. We have previously countervailed one-half of all SHARP payouts during prior reviews of live swine. *See e.g., Swine VI,* at 12260. Thus, to the extent that one-half of the payment amount (i.e., the amount attributed to provincial government contributions) was countervailable under the Department's methodology, the Department has in fact already countervailed one-half of the deficit in previous reviews, when the payments to the producers were made. To calculate the benefit in these reviews based on the entire amount of the deficit, as petitioners have suggested, would be to countervail twice the amount of provincial government contributions. The CPC's argument not to countervail any of the deficit amount is equally flawed. The CPC recognizes, based on its own figures, that the Department has countervailed only half of the previous payments made to hog producers that the deficit represents. Therefore, our decision to calculate the benefit to swine producers based on one-half of the deficit amount remains unchanged whether the benefit is represented by the accumulated interest on the unpaid deficit (seventh and eighth reviews) or by the forgiveness of the outstanding deficit amount (ninth review).

Furthermore, we disagree with petitioners that interest accrued since 1989 should be added to the outstanding principal amount (i.e., the deficit) to derive the full amount treated as a grant in the ninth review. In previous reviews, the Department relied on the GOS's statement that ''financing was provided on commercial terms.'' During the sixth review, when it became clear that interest on the loans to the SHARP fund stopped accruing in 1989, the Department countervailed this interest benefit. *Swine VI* at 54118. However, when the Department first examined the SHARP deficit in the sixth review, the disposition of the principal remained uncertain, thus allowing for the possibility that the loans would be repaid (*See* March 2, 1994 Memorandum for Barbara E. Tillman from team regarding *Calculation Methodology for SHARP,* on file in the public file of the CRU). For this reason, we determined that conducting a benefit analysis of the deficit was unwarranted. *Swine VI* at 12260. Therefore, the Department determined that the most appropriate methodology to account for the interest benefit was to treat the deficit as a non-interest bearing short-term loan and to expense the benefit during the review period. *Swine VI* at 12260. We followed this methodology in the seventh and eighth review periods because there had still been no final decision on how to deal with the deficit. Adding accrued interest since 1989 to the outstanding principal amount treated as a grant in the ninth review, other than the interest which accrued during the ninth review period before the deficit was written off, would be inconsistent with the methodology followed in Swine VI and would countervail twice the interest benefit for the period covered by the sixth, seventh, and eighth reviews. Therefore, we determine that accrued interest since 1989 should not be added to the outstanding deficit amount to calculate the amount of the grant bestowed in the ninth review. However, we have added to the written off deficit, treated as a grant in the ninth review, the amount of interest accrued from the beginning of that review period until the date on which the deficit was written off. (*See also, Department's Position* on *Comment 10*).

Comment 9: Petitioners argue that the Department should use a medium-term interest rate to calculate the SHARP benefits for the seventh and eighth review periods. According to petitioners, the Department's choice of a short-term rate, normally defined as a rate for a loan with a maturity of one year or less, is unsupported by the record. To the contrary, state petitioners, evidence on the record in the seventh and eighth reviews regarding the uncertainty of the treatment of the SHARP deficit more readily supports the use of a medium-term benchmark for calculating the respective interest benefits, as it reflects more accurately that a range of possible outcomes existed.

The CPC argues that the Department's selection of a benchmark interest rate is consistent with the methodology followed in the sixth review. Not until the ninth review was a final decision made on the deficit. The CPC asserts that no new information was available to the Department in the seventh and eighth reviews, and that nothing on the record supports petitioners' suggestion that a medium-term rate would be more accurate than the short-term rate the Department has chosen.

Department's Position: We agree with the CPC. To calculate the benefit to hog producers from the outstanding balance of the deficit, the Department has treated the deficit as a short-term loan *Swine VI* at 12260. As we stated in the *Department's Position* on *Comment 8,* it is appropriate to use our short-term loan methodology for this purpose because the possibility existed, from one review period to another, that the GOS would make a final decision on the disposition of the deficit. Indeed, petitioners correctly point out that there is no information on the record in the seventh or eighth review indicating what would happen to the deficit during the next review period. Therefore, we determine that a short-term rate is still the most appropriate benchmark to calculate the interest benefit on the deficit.

Comment 10: Petitioners argue that, if the Department continues to use a short-term benchmark to calculate the SHARP benefit, it should use rates published by the International Monetary Fund (IMF), rather than by the Organization for Economic Cooperation and Development (OECD), as OECD rates underestimate the benefit provided to swine producers. Petitioners point out that IMF short-term lending rates ''that chartered banks charge on large business loans to their most credit-worthy customers,'' presumably the most attractive rates available, are consistently higher than the OECD rates used by the Department. Therefore, according to petitioners, use of OECD rates is inconsistent with the Department's expressed preference for relying on ''typical'' or commercially available rates.

The CPC points out that the Department has previously used OECD rates (in the sixth review), which are provided to the OECD by the GOC and are based on Bank of Canada statistics. Therefore, the CPC concludes that petitioners' argument is without merit.

Department's Position: We have reexamined the OECD-published interest rates for Canada used in our preliminary results and determined that they are not appropriate to use as benchmark rates for purposes of our calculations. Though provided by the Bank of Canada, as the CPC correctly points out, the OECD rates that the Department used represent chartered banks' interest rates payable on 90-day deposit receipts. As such, they are not appropriate to use as benchmarks for commercial loans. Petitioners are, therefore, correct in their assertion that the lending rates published by the IMF are more appropriate than the OECD deposit rates. Therefore, in the seventh, eighth, and ninth review periods, we have modified our calculations, using short term lending rates published by the IMF rather than the 90-day deposit receipts rate published by OECD.

Comment 11: Petitioners claim the Department has underestimated the benefit to hog producers resulting from the write-off of the SHARP deficit at the end of the ninth review period. According to petitioners, because the loans were forgiven on the last day of the review period, the Department's treatment of the loan forgiveness as a non-recurring grant, allocated over three years, does not account for the additional benefit in the form of interest not accruing on the outstanding loan balance. Petitioners argue the Department should modify its calculations to reflect this additional benefit.

Department's Position: Section 355.44 (k) of the *Proposed Regulations* states that the forgiveness by a government of an outstanding debt obligation confers a countervailable benefit equal to the outstanding principal and accrued unpaid interest at the time of the forgiveness. Because the deficit represents, in effect, an interest free loan, it is appropriate to include as part of the derived grant value, the amount of interest accrued at the time when the deficit was written off. Such an approach is consistent with our methodology in the seventh and eighth reviews, in which we calculated as the benefit the amount of interest which should have been paid. Accordingly, we have modified our calculations for the ninth review period and are adding to the deficit the amount of interest accrued during the review period up to the date on which the SHARP deficit was written off. Consistent with our prior practice in this case, and as explained in the *Department's Position* on *Comment 8,* we are treating one-half of the deficit amount as a non-recurring grant. We have allocated the total grant amount (i.e., one-half of the deficit amount, which equals the provincial government's contribution, plus the accrued interest) over three years, the average useful life of assets in the live swine industry.

Comment 12: Petitioners disagree with the Department's source of feed and grain consumption information used to calculate the benefit from the ACBOP program. According to petitioners, the Department had available on the record in the seventh review the C.R.D. study, a recent comprehensive source of feed and grain consumption information published by Alberta Agriculture. This document, assert petitioners, provides a better reflection of feeding practices of hog producers in Alberta than the unpublished survey relied upon by the Department, which presumably represented more accurate information than that used in prior reviews. The Department should therefore use data from the C.R.D. study, which would allow it to calculate more accurately complete swine diets, including the significant quantity of grain consumed by sows and boars.

The CPC argues that the Department appropriately used specific and detailed data on hog grain consumption that was verified extensively. According to the CPC, petitioners have ignored this detailed and well-documented record and have instead recycled an argument that the Department rejected in the sixth review. The CPC maintains that petitioners' preferred source, the C.R.D. study, does not contain all of the information necessary for the calculations. The purpose of such studies, argues the CPC, is to provide producers with data on possible alternatives to standard practices. Accordingly, the Department should continue to employ the ACBOP calculation methodology used in the preliminary results.

Department's Position: The Department has analyzed the C.R.D. study referred to by petitioners and determined that it is not as comprehensive as petitioners assert. The study does not include information about the composition of ''starter'' diets, which is necessary to the ACBOP calculation. By contrast, the information relied upon by the Department, taken from the Jaikaran study of hog diets and feed consumption, contains data on feed consumed during both the ''creep'' and ''starter'' phases, as well as during the later stages of hog growth. Indeed, the Department examined the summary of the results of the Jaikaran study at verification and found that the document reflects the feed consumed, pigs' weight gain, percentage of grain in the feed, and feed-to-grain ratios for each stage of growth. *See Verification Report* at 32. Thus, the study used by the Department represents the most complete available source of information necessary for the ACBOP calculation methodology. The Department's reliance on the Jaikaran study as the source of feed and grain consumption information therefore remains unchanged.

Comment 13: Petitioners argue that the Department's preliminary determination to classify the New Brunswick Hog Price Stabilization program as ''terminated'' is inconsistent with its decision to monitor the program until 1999 using a ten-year allocation period as stated in the Memorandum from The Live Swine Team to Barbara E. Tillman regarding *Termination of New Brunswick Hog Price Stabilization Program*, May 15, 1996 (*Stabilization Plan Memo*). However, petitioners agree that three years reflects the useful life of the assets in the hog industry and that this period is the appropriate measure for allocating grants in these reviews. To the extent the Department relies on the three-year allocation period, its arguments do not apply.

Department's Position: We acknowledge the discrepancy between the *Stabilization Plan Memo* and the Department's position in the preliminary results. According to the Internal Revenue Service tables, the average useful life of the assets in the hog industry is three years; therefore, the correct allocation period is three years rather than a ten-year period as indicated in the *Stabilization Plan Memo*. Because the program was terminated on March 31, 1989, the last year in which benefits could have been used by swine producers was 1991–92. However, New Brunswick did not export to the United States during that period. Therefore, as stated in our preliminary notice, we consider this program to be terminated, and will not continue to monitor this program.

Comment 14: Petitioners argue that the Department should reclassify the Prince Edward Island Pro Pork Assistance Program (Pro Pork Program) and the Cash Flow Enhancement Program (CFEP) from ''programs preliminarily found not to confer subsidies'' to ''programs not benefitting the subject merchandise.'' According to the petitioners, the Pro Pork Assistance Program is *de jure* specific to hog producers, and hence, countervailable as a matter of law. The program is similar to the Ontario Pork Industry Improvement Program, which the Department has countervailed in previous *Live Swine* reviews. (*Swine VI* at 54120). However, to the extent the Department continues to view the program's alleged emphasis on slaughter hogs as a reason for not countervailing Pro Pork benefits in the seventh period of review, it should, at a minimum, recognize that its decision is only factual, and conclude merely that the program does not benefit the subject merchandise. This classification of the Pro Pork program in this manner will allow the Department to countervail the program in the future in the event that it finds that benefits are available to live swine.

Likewise, petitioners argue that the Department improperly determined that the CFEP advances do not provide countervailable benefits to hog producers because the advances are tied to products other than the subject merchandise. Petitioners contend that finding that benefits are not tied to the subject merchandise is different from finding that benefits are not countervailable *per se*. Indeed, the Department did not engage in a definitive specificity analysis to determine whether CFEP benefits could be countervailed. Under these circumstances, the Department should not have classified CFEP advances with programs for which it had expressly made a non-countervailability finding.

The CPC rebuts petitioner's comments stating that the Department is only required to determine whether or not subsidies are received by producers of the subject merchandise. Once the Department has determined that a program does not benefit the subject merchandise, its practice is to conclude that the program is found not to confer subsidies.

Department's Position: We disagree with petitioners with respect to our classification of both programs. We determined that the Pro Pork Program requires producers to have their entire swine production slaughtered in Prince Edward Island or New Brunswick and payments are made only on dressed pork after slaughter. Therefore, live swine exported to the United States are not eligible for and cannot receive assistance under this program. The Pro Pork Program is distinguishable from the Ontario Pork Industry Improvement Program; this program provided grants to Ontario live swine producers to enable them to improve their productivity, profitability, and competitive position. As such, live swine exported to the United States were not precluded from receiving assistance under the program. Regarding the CFEP, cash advances are limited by the statute to farmers who produce crops for sale and not for consumption on the farm. Therefore, a farmer that uses crops to raise hogs cannot qualify for or receive cash advances under this program. Accordingly, we determined that CFEP did not provide a countervailable subsidy to the subject merchandise. Thus, in accordance with our practice, we determine that neither program confers countervailable subsidies on the subject merchandise.

Comment 15: Petitioners argue that the Department has underestimated the benefits received under FISI. According to the petitioners, the Department's preliminary calculations fail to recognize that payments to swine producers under FISI are not limited to so-called ''compensations,'' but also include advances; both forms of FISI payments provide the same overall type of benefit to Quebec hog farmers. The Department should modify its FISI calculation methodology to include both compensation payments and advances made to hog producers during the period of review. Further, the petitioners argue that the Department should countervail FISI payments on a cash basis rather than on an accrual basis.

According to the GOQ, adding advances to compensation payments would lead to double-counting, because advances are already accounted for in the total compensation figures used in the calculations. The GOQ states that the Department verified that the figures used in the seventh review calculations include compensation and advance payments to hog and piglet producers during the period of review. The GOQ further states that the figures used in the eighth and ninth reviews as FISI payouts in the calculations also account for advance FISI payments to hog and piglet producers.

With respect to whether the Department countervails FISI payments on a cash basis or on an accrual basis, the GOQ counters that the Department has in fact used in its calculations FISI payment figures recorded on a cash basis. Therefore, the Department does not need to make any changes to the calculations of the alleged FISI benefits to producers.

Department's Position: We disagree with the petitioners. At verification in the seventh review, we noted that advance FISI payments are accounted for in the total compensation figures. (See Countervailing Duty Order on *Live Swine from Canada:* Verification Report (Public Version) dated June 8, 1994, on file in the Central Records Unit, Room B–099, of the Main Commerce Building (Verification Report) at 47–48.) Similar figures were submitted in the eighth period of review. Further, information submitted in the questionnaire responses for the eighth and ninth reviews, indicates that to calculate the amount to be paid out to producers covered under FISI at the end of the period, the Regie subtracts FISI advances from total compensation. FISI advances do not increase the total compensation amount. (*See* February 28, 1994 Questionnaire Response at page III–10, 11; February 27, 1995 Questionnaire Response at VI–700.) Therefore, the Department has appropriately accounted for advance FISI payments to swine producers in the seventh, eighth and ninth reviews in its calculations.

With respect to the petitioners' claim that the Department should countervail FISI payments on a cash rather than accrual basis, it is the Department's normal practice to calculate FISI benefits using figures recorded on a cash basis. In the seventh review, the Department verified the cash-based figures reported in the questionnaire response. The discussion at verification regarding cash versus accrual was only for the purpose of reconciling data submitted in the questionnaire responses to the Regie's financial statements which are maintained on an accrual basis. (See Verification Report at 47.) In the seventh review calculations, we used FISI payment figures on a cash basis as provided in the questionnaire response. In the eighth and ninth reviews, we were consistent and have used the cash basis figures as provided in the record of those reviews. Therefore, the Department has appropriately calculated the FISI benefits using figures reported on a cash basis of accounting.

Comment 16: The petitioners argue that the Department has underestimated the benefits from the FISI program because it failed to address the accumulated deficit in the FISI account. According to the petitioners, because payments to producers have exceeded ordinary FISI scheme funds, the swine funds have incurred deficits financed by the GOQ. Therefore, the petitioners state that the GOQ's funds have accounted for well over two-thirds of the program funding, and the producer funds for well under one-third of total payouts. The petitioners argue that in order to derive the most accurate FISI benefit calculation, it is essential that the Department not impute more than the amount actually contributed by producers during the instant reviews or any future review periods to the producer contributions. The petitioners further argue that because the Department has consistently assumed that one-third of all FISI payments to producers have come from producer contributions, the deficit which has been financed entirely by the GOQ, has only been partially countervailed in past reviews. Thus, the petitioners urge the Department to countervail as an additional amount of FISI benefits the remaining portion of the deficit that has not been countervailed in any previous reviews.

The GOQ states that it is the Department's well-established practice not to investigate deficits in stabilization insurance plans unless and until those deficits are forgiven or interest ceases to accrue. According to the GOQ, the deficits to the hog and piglet FISI accounts have not been forgiven, and there is no indication in the records of the instant reviews that the deficits would be forgiven. Further, the GOQ states that the FISI accounts in deficit continue to accrue interest.

Department Position: We disagree with the petitioners. The Department's practice is to countervail a benefit only when it affects the recipient's cash flow. Section 355.48(a) of the Department's *Proposed Regulations* specifically states that ''the cash flow and economic effect of a benefit normally occurs when a firm experiences a difference in cash flows, either in payments it receives or the outlays it makes, as a result of its receipt of the benefit.'' *See also Final Affirmative Countervailing Duty Determination: Grain Oriented Electrical Steel from Italy,* (59 FR 18357, April 18, 1994), and *Final Results of Reviews: Industrial Phosphoric Acid from Israel,* (56 FR 50854; October 9, 1991).

The existence of a deficit in the FISI account balance does not necessarily constitute a countervailable benefit to the producers. For instance, when the Department found in the sixth review of this order that the SHARP program terminated with a deficit and that interest on the loans resulting in the deficit had stopped accruing, the Department found that the only benefit to the producers at that time was accounted for by the non-accrual of interest on the outstanding balance. *See Swine VI* at 26884.

In these reviews, there is no evidence that demonstrates any cash flow impact on the producers as a result of the deficit. The amount of pay-outs received is not affected by the deficit. As indicated in several record documents (*see,* e.g., the complementary notes to the Regie's Financial Statements, February 27, 1994 questionnaire response at VI–692) and discussed in the preliminary results of these reviews, whenever the balance in the FISI account is insufficient to make payments, the GOQ lends the needed funds to the Regie. These advances are subject to repayment by the Regie and accrue interest (*see,* e.g., line item ''interest on loan'' in the income statements of the FISI fund in the ninth review questionnaire response, February 27, 1994 at VI–689). These loans are properly recorded on the books of the Regie, because they represent a liability of the Regie. The record of each review shows that premiums paid by producers are not reduced by these loans. Premiums are adjusted each year to account for the debt burden, including financing expenses, under each FISI scheme. These adjustments permit the Regie to finance any debt and its related financing expense one-third through producer assessments, and two-thirds through provincial contributions. Thus, unlike the deficit in the SHARP program, the FISI account deficit has not been written-off and interest has not stopped accruing. Accordingly, we have not taken into consideration the deficit in the FISI account in calculating the benefit to swine producers in these three periods of review.

Comment 17: The GOQ argues that the Department cannot rely upon its decision in the sixth review to determine that FISI is countervailable in these reviews (seventh, eighth, and ninth). The GOQ argues that the Department's sixth review results do not establish administrative practice because the sixth review results are in direct conflict with the administrative practice established in Final Affirmative Countervailing Duty Determination; *Fresh, Chilled and Frozen Pork from Canada,* 54 FR 30774, 30779 (July 20, 1989) and the fourth and fifth reviews of *Live Swine.* In those proceedings the Department found in remand determinations that FISI is not countervailable. One determination that is in direct conflict with three other prior determinations cannot, by itself, establish an administrative practice.

The GOQ further argues that the Department's reasoning with respect to FISI in the sixth review is based upon an irrational methodology that is contrary to the record in these reviews. The finding that FISI was specific in the sixth review was based entirely on the Department's determination that Quebec's agricultural universe consisted of more than 80 products. The mere counting of commodities is an irrational and improper method for determining specificity and the methodology that the Department used to derive the 80 commodities was completely arbitrary. They also argue that any rational analysis of the evidence on the record of the seventh, eighth and ninth reviews would indicate an agricultural universe that is substantially smaller than ''more than 80 commodities'' in Quebec.

Finally, the GOQ claims that in the eighth and ninth reviews, Quebec issued explicit guidelines with respect to creating FISI schemes for new products that removes any discretion from the Regie that might have existed and that may have led to the Department's conclusion that FISI is specific and, therefore, countervailable.

Department's Position: The Department determined in *Swine VI* that the FISI program was countervailable and that decision was not challenged by any party to that proceeding. It is well-established that where the Department has determined that a program is (or is not) countervailable, it is the Department's policy not to reexamine the issue of that program's countervailability in subsequent reviews unless new information or evidence of changed circumstances is submitted which warrants reconsideration. *See, e.g., Industrial Phosphoric Acid from Israel; Final Results of Countervailing Duty Administrative Reviews,* 61 FR 28841 (June 6, 1996), and *Industrial Phosphoric Acid from Israel; Preliminary Results of Countervailing Duty Administrative Reviews,* 61 FR 8255 (March 4, 1996). The United States Court of International Trade (CIT) upheld this practice in *PPG Industries, Inc.* v. *United States,* 746 F. Supp. 119 (CIT 1990) (*PPG Industries*). In *PPG Industries,* the court ruled that ''Commerce has discretion in deciding whether to investigate a program previously found not countervailable (or countervailable) in a final agency determination; in reaching its decision Commerce is entitled to draw upon its own knowledge and expertise and facts capable of judicial notice.'' *Id.* at 135.

The GOQ is aware of the Department's policy not to reexamine the countervailability of a program absent new information or changed circumstances. The Department has clearly communicated the application of this policy throughout the seventh, eighth, and ninth reviews, in which the Department's questionnaires stated clearly that, ''absent new information or evidence of changed circumstances, we do not intend to examine the countervailability of programs previously found to be countervailable.'' This standard language, which reflects the Department's practice, is included in every questionnaire used in CVD administrative reviews.

The GOQ's claim that the Department's decision on FISI in the sixth review is in conflict with the administrative practice established in the remand determinations in *Fresh, Chilled and Frozen Pork from Canada* and the fourth and fifth reviews of *Live Swine* is misplaced. In those determinations upon remand, the Department complied with panel decisions that requested the Department to reconsider certain aspects of the underlying methodology used in those determinations, respectively. The panel's decisions are binding only on the proceeding which is under panel review and therefore are not of precedential value. None of those remand determinations established any overriding policy which was adaptable to other reviews based upon different administrative records.

In the instant reviews, the GOQ has presented no new evidence on the record which would warrant reconsideration of the Department's determination in *Swine VI* that FISI is countervailable. Because there is no new information or evidence of changed circumstances, the Department has not reexamined the countervailability of the FISI program. To do so would be inconsistent with the Department's long-standing practice, which has been duly articulated in these reviews.

The GOQ's argument that specific guidelines issued by Quebec removed any discretion from the Regie that might have existed with respect to conferring FISI benefits is insufficient to reopen our inquiry. As discussed in detail in *Swine VI,* we did not base our determination that FISI is *de facto* specific on evidence that the GOQ exercised discretion in determining which products receive schemes. *Swine VI* at 12254. Rather, our determination, reached after an examination of all factors, was based upon the small number of actual users in relation to the universe of eligible beneficiaries. This finding alone warranted an affirmative determination of *de facto* specificity (*Swine VI* at 12252), and there has been no increase in the actual number of users of FISI. Therefore, a change in the amount of discretion exercised by the GOQ does not constitute new information sufficient to warrant reexamination of our determination.

The GOQ has also made arguments that the Department's decision in *Swine VI* was in error. While there are fora in which the GOQ could have made such challenges, as noted above, the parties to that proceeding did not avail themselves of that opportunity.

Comment 18: The GOQ disagrees with the Department's preliminary determination that FISI, crop insurance and supply management are not integrally linked. Citing the *Proposed Regulations* at section 355.43(b)(6), the GOQ notes that, because there is no prescription in the regulations as to what the answers to each integral linkage criterion ought to be, the Department should find programs to be integrally linked if it determines that two or more programs are intended to accomplish the same ultimate end and, in doing so, treat industries equally, even if the means to accomplish those ends are somewhat different. According to the GOQ, a requirement that the means also be the same as the end would make the integral linkage provision meaningless, because, in effect, such a requirement would mean that the programs must be identical. The GOQ notes that this is in direct conflict with explicit statements made by the Department that programs need not be identical to be integrally linked. Such a requirement would also directly conflict with the rationale for the integral linkage regulation, which the GOQ states is to avoid finding programs that benefit a broad section of the economy countervailable simply because, for political or technical reasons, a government set out to accomplish the same result through two or more complementary but not identical programs. Using this test, the GOQ claims that FISI, crop insurance and supply management are integrally linked because these three programs provide comprehensive insurance against the risks to which Quebec farmers are subject.

According to the GOQ, the Department found in the preliminary results that the administration and manner of funding for FISI and Crop Insurance are similar and that the evidence with respect to equal treatment was inconclusive; the Department reached the conclusion that FISI and Crop Insurance are not linked only because it improperly determined that the purposes of the programs are different. According to the GOQ, FISI and Crop Insurance serve exactly the same purpose, stabilizing farmers' income, using different methods, namely insuring farmers against the various risks inherent in farming. The GOQ argues that the Department reached the wrong conclusion because it confused method with purpose; the GOQ defines the purpose as the ''common result'' of FISI and Crop Insurance, i.e. income stabilization.

To demonstrate that the two programs are ''complementary parts of an overarching governmental policy directive,'' the GOQ cites to the legislative history of FISI and Crop Insurance, pointing out that the Quebec's legislature explicitly tied FISI and Crop Insurance together as complementary parts of the government's overarching policy of insuring income stability in the agricultural sector. According to the GOQ, FISI and Crop Insurance accomplish this goal through similar methods.

With respect to the other factors involved in linkage analysis, the GOQ points out that the administration of FISI is identical to that of Crop Insurance; that the two programs share the same source of funding, accounting system, and personnel; and that each producer has approximately the same ratio of its income at risk, whether they participate in FISI or Crop Insurance, or both.

The GOQ also states that FISI and Crop Insurance are integrally linked with Supply Management. All three plans share the same purpose (farm income stabilization), similar methodology (per unit price based on cost of production), and treat all farmers equally by insuring that they all receive an income from agriculture that provides them a reasonable rate of return over their cost of production.

Petitioners take issue with the GOQ's broad interpretation of the purpose factor of the integral linkage provision; in the petitioner's view, the GOQ ignores the Department's practice of interpreting the integral linkage provision narrowly in order to prevent subsidizing governments from creating a loophole to insulate otherwise actionable programs. Petitioners also argue that the GOQ understates the significance of the different risks associated with FISI, crop insurance, and supply management, failing to recognize that such risks are central to the purpose of the programs. Furthermore, petitioners find that the GOQ overstates the significance of FISI's legislative history when the GOQ concludes that statements made by Quebec legislators regarding the similarities of FISI and crop insurance render the programs complementary. Petitioners argue that such statements do not constitute the type of documentary evidence contemplated by the Department's regulations. *See Swine VI* at 12,246. With respect to the funding and the administration of these programs, petitioners state that the Department has reasonably weighed the factual evidence relating to these factors and properly concluded that such evidence is insufficient to meet the integral linkage test.

Department's Position: We disagree with the GOQ's argument that we incorrectly analyzed whether FISI, Crop Insurance, and Supply Management are integrally linked. The integral linkage policy constitutes an exception to our specificity analysis. *Swine VI* at 12,246. The *Proposed Regulations* require the Department to ''determine the specificity of a program * * * solely on the basis of the availability and use of the particular program in question.'' The specificity test was designed to avoid carrying the countervailing duty law to absurd results by countervailing government actions or programs such as public highways and bridges which clearly benefit the economy at large. In implementing the appropriate standard to determine whether to permit a particular exception to the program-by-program approach of the specificity test, however, the Department cannot create a loophole which would allow *de facto* specific subsidy programs benefitting only particular segments of the economy—or particular segments of the agricultural sector—to escape the imposition of countervailing duties. ''Permitting respondent governments to loosely connect two or more programs which are otherwise designed to serve different purposes would create just the type of loophole the Department seeks to avoid.'' *Swine VI* at 12,246.

As we stated in the preliminary results, to determine whether these programs are integrally linked, in accordance with the criteria established in section 355.43(b)(6) of the Department's *Proposed Regulations,* we examined the purpose of each program, the administration of each program, the record evidence of a government policy to treat industries equally, and the funding mechanism of each program. *See* Memorandum for Paul J. Joffe from The Team on Farm Income Stabilization Insurance—Integral Linkage, dated May 15, 1996, filed in the public file in the Central Record Unit, Room B–099, Main Commerce Building (*Decision Memorandum*).

With respect to the purpose of the programs, we clearly defined the Department's interpretation of what constitutes the purpose of a program and identified the two steps of our analysis: (1) we began by looking at the purpose of each program as described in the enabling legislation and (2) we then examined FISI, Crop Insurance, and the Supply Management programs to ascertain whether they are complementary programs within the meaning of the test articulated in the sixth review, i.e. whether ''*basically the same type of assistance is being provided to distinct users/commodities* or groups of users/commodities.'' (emphasis added). (*Decision Memorandum*, at 5).

The evidence in the record does show that FISI and Crop Insurance are part of ''an overall government policy or national development plan,'' (see *Carbon Steel Wire Rod from Saudi Arabia; Final Results of Administrative Review and Revocation of Countervailing Duty Order*, 59 FR 58814, 58817). The legislative history of the Farm Income Stabilization Act indicates that the Canadian government intended the programs to serve as a means for achieving a broad goal of income stabilization in the agricultural sector. However, in integral linkage analysis, mere evidence of general legislative intent connecting various programs is not dispositive. In fact, broad legislative goals can be achieved through a wide variety of programs. Therefore, in determining whether programs are ''integrally linked'' such that they should be viewed as a single program for specificity purposes, we also look to see whether a specific purpose, i.e., to provide a certain type of assistance, is shared by several programs which complement each other by reaching different users.

We concluded that there is no similarity of purpose between FISI and Crop Insurance, providing, as they do, protection against different types of risks (one against market-price fluctuations and the other against weather-related disasters). However, there is some similarity in purpose between FISI and the supply management programs in that they both protect a farmer's income against losses due to fluctuations in market price.

With respect to the administration of the programs, we found that there are differences among the programs, which are directly related to the different purposes of the programs themselves. We found that FISI and Crop Insurance operated in similar but not identical ways, as the GOQ states in its brief. Both FISI and Crop Insurance are structured as insurance programs and are administered by the same agency; the procedures to calculate the amount of compensation are similar, in some instances even correlated. Differences appear to be related to the type of coverage offered by each program. In contrast, Supply Management has a totally different administration system. The Supply Management Programs operate on a national, as well as provincial level, because they require the cooperation of producers in all provinces, and are administered independently of FISI and Crop Insurance.

With regard to the evidence of a government policy to treat industries/commodities equally, we concluded that because of the differences between the programs, often not quantifiable, our analysis of the record evidence yielded inconclusive results. The actuarial study submitted by the GOQ in support of the claim of equal treatment was not sufficiently detailed to support this conclusion because the data contained in that study was finalized only for ''vegetable schemes''. The analysis of the livestock data was only preliminary and did not break out information pertaining to live swine. Therefore, no information on this factor was provided on the subject merchandise. Furthermore, this study does not provide the basis for a meaningful analysis of ''equal treatment'' of the agricultural commodities produced in Quebec under this program for several reasons, among them the fact that it does not provide information about individual commodities. The study is based on an analysis of the amount that the farmer has at risk; this can be one of the factors but not the only factor we examine in this type of analysis. Additionally, the record presents information inconsistent with the results of that study. For instance, the GOQ's share of premium payments was not the same in the two programs and GOQ officials acknowledged at verification that benefits to producers under supply management were greater than those provided by FISI. The GOQ's comment that under FISI and Crop Insurance each producer has approximately the same ratio of its income at risk relies on the same actuarial study and therefore presents the same evidentiary deficiencies.

Finally, with respect to the manner of funding, we found that the three programs use two different funding mechanisms: FISI and Crop Insurance are premium funded, with the government and the producers sharing the costs. Under the federal Supply Management programs, there is no direct provision of government funds: farmers pay for the direct costs of operating the program through levies on the sales of their products.

Based on our detailed analysis, we concluded that although there are some common features among the programs, the differences in the purposes of the programs, manners of funding, and the lack of conclusive evidence of a government policy to treat industries equally warrant a finding that the programs are not integrally linked.

The GOQ's dispute with our determination is based on our analysis of the ''purpose'' element. As indicated above, in examining the purpose, while we look at the overall goals of the enabling legislation, we focus on the specific purposes of the programs alleged to be linked. As we stated in the *Decision Memorandum,* specificity analysis must be focused at the program level. In this context, we must examine the type of assistance provided when analyzing the purpose of the program. Contrary to GOQ's claims, this interpretation does not require identical programs, but it does ensure that our integral linkage analysis comports with the countervailing duty law.

According to the GOQ, in determining that FISI and Crop insurance do not share the same purpose, we are confusing method with purpose. We disagree. We are not confusing method with purpose, we are requiring, however, that given the narrow parameters of this type of analysis, the purpose and the method (i.e., the type of assistance) be the same. This does not mean that the programs need to be identical because the programs bestowing the same type of assistance to different groups of users may still be different in some ways to efficiently service different types of users. In our analysis, for instance, we found that FISI and Supply Management share similar purposes, because both programs protect the farmer against fluctuations in market price . Yet, they are very different programs.

The GOQ offers a different interpretation of the rationale underlying the linkage policy. Rather than ensuring the noncountervailability of *programs that benefit the economy at large,* the GOQ proposes the following rationale: ''to avoid finding programs that benefit a broad section of the economy countervailable simply because, for political or technical reasons, a government set out to accomplish the same result through two or more complementary but not identical programs.'' (GOQ's case brief , July 8, 1996, at 43.) The Department's formulation focuses on whether the multiple programs alleged to be linked may constitute one program. In the GOQ's formulation, the key factor appears to be the accomplishment of certain objectives and whether the programs alleged to be linked, although diverse, accomplish those objectives when grouped together. Clearly, the GOQ's interpretation is inappropriate for purposes of this analysis.

Based on this interpretation of integral linkage analysis, which we do not share, the GOQ articulates a new test: programs are linked ''if two or more programs are intended to accomplish the same ultimate end, and in doing so, treat industries equally, even if the means to accomplish those ends are somewhat different.'' The test the GOQ proposes is inappropriate because it relies on a misinterpretation of the rationale of the integral linkage analysis. If we were to use the ''ultimate end'' as the dispositive factor, together with equal treatment, as the GOQ suggests, we would provide governments with the type of loophole that the Department seeks to avoid. *Swine VI* at 12246. Governments often pursue economic objectives, such as energy conservation policies, using different types of programs. Under the GOQ's proposed test many if not all such programs would be integrally linked and would be analyzed jointly for specificity purposes. This result contradicts the intent of Congress that the Department not adopt an overly broad exception to our specificity analysis. *Swine VI* at 12246.

The GOQ's definition of purpose as ''ultimate end'' is inappropriate for a more fundamental reason as well. The GOQ's definition confuses the purpose of the program with the economic effects of the benefits bestowed by the program. Income stabilization is the economic goal of the Farm Income Stabilization Act, not the purpose of FISI, nor of Crop Insurance, nor of the Supply Management programs. The purpose of FISI and Supply Management on the one side and of Crop Insurance on the other is to protect farmers against two distinct risks, price fluctuations and weather-related disasters; income stabilization is the economic effect of that protection. In evaluating subsidies, the Department does not take into account the results or the economic effects of the subsidy. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria (General Issues Appendix)* 58 FR 37217, 37260 (July 9, 1993).

The ''ultimate end'' is in fact of little consequence in linkage analysis. The question posed is whether the two programs, considered in isolation, have the same specific purpose and bestow the same type of benefits on different users. If they do, provided that the analysis of their administration and manner of funding does not detract from this determination and that all necessary documentation has been provided, treating them as a single program may be appropriate for purposes of a specificity finding.

Comment 19: The GOQ argues that combining the records of the seventh, eighth, and ninth reviews is contrary to the express rulings of the Court of International Trade (CIT) that the record for each section 751 review is limited to that particular review. The GOQ contends that the Department is required to make its determination of whether a given program is countervailable based upon facts specific to the particular review period. The preliminary results reached conclusions as to countervailability based upon all of the information in the combined records, without any attempt to tie those conclusions to the specific facts pertaining to each review period. Thus, the GOQ concluded that it was deprived of its legal right to receive separate determinations regarding the countervailability of its program based on the record of reach review. Furthermore, the GOQ contends that a reviewing court is required to assume that the Department has considered all information on the record. Because the Department has combined all of the information collected in three review periods into a single record, the Department cannot ask a reviewing court to assume that the Department considered only part of the record before it in making its determination.

The GOQ also argues that the Department's inclusion of substantial unverified information is contrary to the statutory requirement that ''all information relied upon in the determination'' be verified. The Department's statutory obligation to verify all of the information used in every third administrative review can no longer be satisfied once the Department combines the records of the seventh, eighth and ninth review periods. The verification that the Department conducted in the seventh review period would satisfy this statutory requirement only as long as the record of the seventh remains separate from the records of the eight and ninth review periods. Although the Department preliminarily calculated separate rates for each period, it made single determinations applicable to all three review periods as to whether programs were countervailable. Thus, the Department's results for the seventh review must be considered to be based, at least in substantial part, on the unverified information collected in the eighth and ninth reviews.

The GOQ further argues that the combination of the records of three administrative reviews unduly burdens the interested parties' right to judicial review. The GOQ claims that it and other interested parties should not be forced to appeal the results of the seventh, eighth and ninth reviews in order to challenge the results, for example, of the seventh review. Interested parties are entitled to separate determinations that a court can review based solely upon the record compiled for a particular review period.

Finally, the GOQ claims that the Department decided to combine the records of the three reviews in secret, without providing interested parties with notice and an opportunity to comment. The combination of the records, contravening the rulings of the CIT, is not a mere procedural adjustment; it violates the rights of parties and transforms the proceedings.

Petitioners counter the GOQ's arguments stating that the Department has thoroughly explained its reasons for proceeding with these reviews on a consolidated basis. This is all that is required under the law. The fact that the GOQ believes that the Department should have solicited comments from interested parties prior to combining the reviews does not render the Department's decision erroneous. On the contrary, petitioners contend that the Department's decision to consolidate the review streamlines the process, avoids duplication of information that is the same across the review periods, and in turn, makes it easier for the Department to identify and address the differences that are relevant to each period.

Finally, the petitioners contend that even if the Department did not inform the GOQ that it was considering the possibility of consolidating the records, this fact does not preclude the Department from doing so. The law is clear that the agency has the discretion to implement whatever procedures are necessary to perform its statutory mandate.

Department's Position: The GOQ misconstrues the manner in which we have conducted the instant reviews. We are conducting concurrent reviews of three different review periods, and we have based the results of each administrative review solely on information submitted for each such review period. We have relied on public information from a preceding review period where that information is related to a common issue in the review period under examination. The Department did not take into account information filed for a subsequent review period to render its decision in an earlier review period. For instance, a decision made in the eighth review is based on information submitted pertaining to the eighth review period, and, where appropriate, public information pertaining to the seventh review period or earlier review periods. This is consistent with the Department's practice and in no way violated the rule that we must base our determinations on the facts contained in the administrative record for each particular review. While the record is combined, we were very careful in ensuring that only information pertaining to a particular review period was used in making determinations and calculating rates for that review period. We did not rely on the record in the way the GOQ alleges. Therefore, we have not combined the records in the manner that GOQ is arguing. Rather, we combined the records to avoid duplication in the submission of information from parties where the prior review had not been completed, and to publish a single notice with separate results for each review period.

In addition, the GOQ incorrectly argues that because the Department combined a verified review, the seventh review, with the other unverified reviews, the verified information no longer satisfies the statutory requirement. This misinterpretation by GOQ also stems from its misunderstanding of the manner in which the Department combined the records and conducted the reviews.

The GOQ makes a blanket statement that the Department reached conclusions as to countervailability based on the record of all three reviews, without attempting to tie those conclusions to specific facts pertaining to a specific determination. Furthermore, the GOQ does not point to any specific errors the Department made as a result of conducting these reviews concurrently. The GOQ's claim that we failed to reach separate determinations with respect to the countervailability of reviewed programs in each proceeding misinterprets our administrative practice. As we have repeatedly stated and as the GOQ well knows, where the Department has determined that a program is (or is not) countervailable, it is the Department's practice not to reexamine that program's countervailability in subsequent reviews unless new information or evidence of changed circumstances has been submitted which warrants reconsideration. Therefore, we have not reconsidered previous determinations of countervailability unless warranted by evidence on the record of each review period.

Moreover, interested parties' right to judicial review is not unduly burdened. Section 355.3(a) of the Department's regulations states that ''for purposes of section 516a (b)(2) of the Act, the record is the official record of each judicially reviewable segment of the proceeding.'' The concurrent reviews constitute separate segments of the proceeding for purposes of judicial review, and any or all of the three reviews will be subject to judicial review. The Department has conducted concurrent reviews in other proceedings which have been subject to judicial review and this practice has not unduly burdened appellate review. *See generally, NEC Home Electronics, Ltd.* v. *United States,* Slip Op. 94–70 (CIT May 2, 1994) (judicial review of a final notice that contained determinations for four review periods).

The GOQ's argument that the Department decided to combine the records of the three reviews in secret suggests that the Department is obligated to solicit comments before conducting concurrent reviews. The Department has full discretion to implement procedures that it deems necessary to perform its statutory mandate. *See e.g., PPG Industries, Inc.* v. *United States,* 928 F.2d 1568 (Fed. Cir. 1991) (Commerce ''has been given great discretion in administering the countervailing duty laws.'') The GOQ is well aware that the second and third administrative reviews of this order were conducted concurrently. Furthermore, when the seventh and eighth reviews were being conducted concurrently, the GOQ did not raise any objections. The GOQ does not provide any evidence that concurrently conducting the ninth review with the seventh and eighth reviews corrupts the information submitted in any of the reviews.

Comment 20: The GOQ argues that combining the records would increase the risk of inadvertent disclosure of proprietary information to individuals not entitled to receive that information. The GOQ also argues that the Department incorrectly stated in its Memorandum for the File from the Team regarding the *GOQ's Objection to Combining the Administrative Record for the 7th, 8th, and 9th Reviews of Live Swine from Canada (Objection Memo)* dated May 15, 1996, that the GOQ itself has not submitted any BPI during these three reviews, and thus cannot suffer any injury as a result of the ITA's handling of BPI during the seventh, eighth, and ninth reviews.

Department's Position: The GOQ's argument that combining the administrative reviews will result in unlawful disclosure of proprietary information to parties not subject to an administrative protective order (APO) is without merit. All parties to this proceeding (Counsel for the GOC, Counsel for the GOQ, Counsel to the Petitioner, and Counsel for the CPC) had APO's approval for each of the three reviews, and subsequently requested a single ''blanket'' APO for the consolidated proceeding. All information submitted in the three reviews has been treated appropriately.

Comment 21: GOQ argues that the doctrine of collateral estoppel precludes the Department from finding FISI countervailable because the binational panel found that the Department's decision in the fifth review was not based on substantial evidence and was not in accordance with law. Therefore, GOQ argues that the Department is estopped from claiming that FISI is countervailable in the current reviews.

GOQ claims that the binational panel process replaces judicial review of final antidumping and countervailing duty determinations pursuant to the U.S.-North American Free Trade Agreement (NAFTA Article 1904.1). The NAFTA parties have agreed that a binational panel decision, such as the *Swine V* panel decision, shall be binding on the involved Parties with respect to the particular matter between the Parties that is before the panel. (*In the Matter of Live Swine from Canada,* USA–91–1904–04; June 11, 1993). GOQ further argues that because a binational panel decision is a final ruling that is not subject to appeal to any higher tribunal, the decision should carry even more weight than a CIT decision.

GOQ argues that the four conditions for collateral estoppel have been met: (1) the issue previously adjudicated is identical, (2) the issue was litigated in a prior review, (3) the previous determination of that issue was necessary to the end-decision then made, and (4) the party precluded was fully represented by counsel in the prior action.

Petitioners counter that GOQ's arguments fail primarily because they rest on the incorrect premise that the Department previously has found FISI non-countervailable. Contrary to GOQ's claims, the Department has found FISI to be *de facto* specific and therefore countervailable in the original investigation and all subsequent reviews. *See, e.g., Live Swine and Fresh, Chilled and Frozen Pork from Canada,* (50 FR 25097, 25104; June 17, 1985). Petitioners also counter that the binational panel did not find FISI non-countervailable. Rather, the panel reviewing the *Swine V* redetermination found only that the evidence used by the Department was defective, and for that reason, remanded the Department's finding with instructions for it to remove FISI benefits from its duty calculation for that particular review period.

Petitioners further contend that the GOQ's argument that ''a binational panel decision should carry even more weight than a CIT decision'' directly contradicts Congressional intent with respect to the binational panel review process. According to petitioners, the law is clear that decisions of binational panels carry relatively little weight, and certainly could not supersede the CIT's binding decision upholding that FISI is countervailable. *See Alberta Pork Producers' Marketing Board* v. *United States,* 669 F. Supp. 445, 451–52 (1987).

Finally, petitioners counter that GOQ has offered no new factual information requiring the Department to reexamine its previous finding that FISI is *de facto* specific. Therefore, in this regard, it is GOQ's attempt to re-litigate this well-settled issue without offering new facts to compel a different result.

Department's Position: We disagree with the GOQ's argument that we are collaterally estopped by the panel decision in *Swine V* from relying on our determination in the sixth review that FISI is countervailable. First, as recognized by the *Swine V* panel, its decisions are not binding on subsequent administrative determinations. Panel decisions are binding only on the particular matters presented which are based on the particular administrative record subject to appellate review. *Live Swine from Canada,* 14 ITRD 2388, 2403–04 (1992).

Second, the Courts have recognized that collateral estoppel is inapplicable when the Department's determinations are based on different administrative records. *See PPG Industries* v. *United States,* 746 F. Supp. 119, 133–34 (CIT 1990); *PPG Industries* v. *United States,* 978 F.2d 1232, 1239 (Fed. Cir. 1992). *See also Live Swine from Canada,* at 2403 (rejecting use of collateral estoppel to bind panel to previous panel proceedings). The *Swine V* panel decision was based on the record developed in the fifth administrative review. During the sixth review, the Department gathered additional information and reinvestigated the countervailability of FISI. In *Swine VI,* the Department conducted a complete analysis of whether FISI was specific and determined, based on the record evidence in that review, that FISI was specific. No parties challenged that determination.

Moreover, the CIT has stated that ''the burden on the party seeking issue preclusion is and should be exacting.'' *PPG,* at 134, citing *PPG Industries Inc.* v. *United States,* 712 F. Supp. 195 (CIT 1989). The GOQ has failed to meet this standard because its arguments are based entirely on a non-binding panel decision that reviewed an entirely different administrative record than the record which served as the basis for our determination that FISI is countervailable. Accordingly, in accordance with our long-standing practice, we have relied on our decision in the sixth review that FISI is countervailable and have not reexamined the program because the GOQ has failed to present new facts or evidence of changed circumstances to warrant a reexamination of the program (see *Department's Position* on *Comment 17*).

Comment 22: The CPC argues that the Department's unexplained and undocumented change in production figures in its calculation methodology is not supported by any record evidence. The CPC states that the Department has always used the total swine production data published in the Supply-Disposition Balance Sheets (Balance Sheets) by Statistics Canada. This data, which was verified in the seventh review period, is calculated using three components of the Balance Sheets: slaughter, international exports, and deaths and condemnations. Therefore, the CPC argues that the Department should not exclude deaths and condemnations, without a reasoned explanation. The CPC states that it is well established that an agency must either conform to prior decisions or explain its reason for departure from its past practice. The CPC cites a recent Binational Panel convened under the North American Free Trade Agreement, which ruled in similar circumstances that ''Commerce must provide * * * a comprehensive and reasoned analysis for reversing its former policy * * * Where no such basis of decision appears, there is present the kind of arbitrary action that this panel, like the United States courts, is charged with curbing.'' *In the Matter of Live Swine from Canada,* Panel No. USA–94–1904–01, at 8 (May 30, 1995 Decision of the Panel).

The CPC argues that the Department should continue to use production figures that include dead and condemned animals because they have been produced and marketed, and the scope of the order does not restrict the subject merchandise to human consumption only. Therefore, if the subject merchandise is produced and marketed in any way, it should be included in the total produced and marketed figure. If benefits are not allocated over total production, then any reduction in the production figures used in the denominator of the duty calculation would have to be accompanied by a concomitant reduction in the benefits used in the numerator to include only benefits to those particular animals actually included in the denominator. The CPC also argues that the Department has consistently allocated NTSP benefits over all Canadian production.

Petitioners counter that the CPC attempts to discredit the Department's methodology on evidentiary grounds by claiming that the Department ''apparently rejected verified data on live swine production, and has instead produced its own, unsupported, production figures for use in all benefit calculations.'' The calculations in these reviews are also based on the data provided by the GOC, which the Department verified.

Petitioners also counter that eliminating dead and condemned hogs from the denominator renders the Department's calculations more consistent with the scope of the order, which covers live swine, and with the Department's normal practice of collecting data on live swine produced and marketed or sold for slaughter. Because condemned swine, like dead swine, are not produced and marketed for human consumption, they should be excluded from the denominator. Furthermore, the Department's approach is more consistent with its ''tying'' standard. Under this standard, whenever possible, the Department attempts to tie the countervailable benefit to the actual product or sale benefitting from the subsidy. Petitioners do not dispute that the approach of tying benefits to the merchandise supports including dead and condemned swine in the denominator for ACBOP and the Ontario Rabies Indemnification Program. However, to use multiple denominators for the large number of countervailable programs would pose an administrative burden on the Department. In that context, petitioners conclude that the use of one consistent denominator makes the most sense.

Finally, petitioners state that the CPC's argument that the amended methodology cannot be used for the final results because it represents a change in the Department's practice is incorrect. According to petitioners, the mere fact that an agency reverses a policy * * * does not indicate the agency's decision is unreasonable, arbitrary or capricious. It is well-settled that such reversals are entitled to deference from the courts.

Department's Position: In the seventh review period, in a letter dated August 30, 1993, petitioners challenged the inclusion of dead and condemned swine in the production data. During verification, the GOC said that ''these animals are not sold as live swine, but they are used for some purpose, i.e., fertilizer or consumed on the farm.'' (Verification Report dated June 8, 1994, pgs. 61, 62.) Additionally, the CPC states that ''deaths refer to losses on a farm after a hog has been weaned and is being finished for slaughter, but before the hog is marketed, and condemned hogs are condemned after slaughter.''

Contrary to the CPC's argument that the Department created its own, unsupported production figures, we used data from the Supply-Disposition Balance Sheets (Balance Sheets), which is a GOC publication that the Department verified (Ibid., p. 61). In the preliminary results, we deducted the number of dead and condemned animals provided in that Balance Sheet from the total production figure, taken from the same Balance Sheet.

The CPC incorrectly argues that the Department has consistently allocated NTSP benefits over all Canadian production. On the contrary, the Department has consistently allocated NTSP benefits over the production of market hogs only, because only market hogs are eligible to receive NTSP benefits. See, *Live Swine from Canada; Preliminary Results of Countervailing Duty Administrative Review* (58 FR 54112, 54117; October 20, 1993 and *Swine VI* (12243).

However, after considering the CPC and petitioners' comments, we have determined that we will continue to exclude dead and condemned swine from the denominator in calculating NTSP, FISI and SHARP benefits because these programs are tied to live swine that meet certain criteria of size and eligibility. Dead and condemned hogs are not eligible for benefits under those programs. We have now modified the calculations for the other domestic subsidy programs to include dead and condemned swine in the denominator because these programs are provided to all swine, whether marketed as live swine, or dead or consumed on the farm. This approach is more consistent with the Department's practice of tying benefits to the production or sale of a particular product(s), in accordance with 19 CFR 355.47(a) of the *Proposed Regulations.*

Final Results of Reviews

For the period April 1, 1991 through March 31, 1992, we determine the total net subsidy on live swine from Canada to be Can$0.0601 per kilogram. For the period April 1, 1992 through March 31, 1993, we determine the total net subsidy on live swine from Canada to be Can$0.0613 per kilogram. For the period April 1, 1993 through March 31, 1994, we determine the total net subsidy on live swine from Canada to be Can$0.0106 per kilogram.

The Department will instruct the U.S. Customs Service to assess countervailing duties of Can$0.0601 per kilogram on shipments of live swine from Canada exported on or after April 1, 1991 and on or before March 31, 1992, Can$0.0613 per kilogram on shipments of live swine from Canada exported on or after April 1, 1992 and on or before March 31, 1993, and Can$0.0106 per kilogram on shipments of live swine from Canada exported on or after April 1, 1993 and on or before March 31, 1994.

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of Can$0.0106 per kilogram on shipments of all live swine from Canada entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This notice 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 355.34(d). Timely written 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.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: September 25, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–25648 Filed 10–4–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–122–404]

Live Swine From Canada; Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the countervailing duty order on live swine from Canada. For information on the net subsidy for all producers covered by this order, see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review* section of this notice. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 7, 1996.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, Cameron Cardozo, Brian Albright or Norma Curtis, Office of Countervailing Duty/Antidumping Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2849 or (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 15, 1985, the Department published in the Federal Register (50 FR 32880) the countervailing duty order on live swine from Canada. On August 1, 1995, the Department published a notice of ''Opportunity to Request Administrative Review'' (60 FR 39150) of this countervailing duty order. We received timely requests for review and we initiated the review, covering the period April 1, 1994 through March 31, 1995, on September 15, 1995 (60 FR 47930).

As explained in the notice of initiation, the Department has determined that it is not practicable to conduct a company-specific review of this order because a large number of producers and exporters requested the review. Therefore, pursuant to section 777(e)(2)(B) of the Tariff Act of 1930, as amended (the Act), we are conducting a review of all producers and exporters of subject merchandise covered by this order on the basis of aggregate data. This review covers 33 programs.

On May 1, 1996, we extended the period for completion of the preliminary and final results pursuant to section 751(a)(3) of the Act (*see Live Swine from Canada; Extension of Time Limit for Countervailing Duty Administrative Review,* 61 FR 19261). As explained in the memoranda from the Assistant Secretary for Import Administration to the File, dated November 22, 1995, and January 11, 1996 (on file in the Central Records Unit (CRU), Room B–099 of the Main Commerce Building), all deadlines were further extended to take into account the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 15, 1995, through January 6, 1996. Therefore, the deadline for these preliminary results is no later than September 27, 1996, and the deadline for the final results of this review is no later than 180 days from the date on which these preliminary results are published in the Federal Register.

Applicable Statute and Regulations

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 (''URAA'') effective January 1, 1995. The Department is conducting this administrative review in accordance with section 751(a) of the Act. References to the *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments,* 54 FR 23366 (May 31, 1989) (*1989 Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *1989 Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the URAA. *See Advance Notice of Proposed Rulemaking and Request for Public Comments,* 60 FR 80 (January 3, 1995); *Antidumping Duties; Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments,* 61 FR 7308 (February 27, 1996).

Scope of the Review

On August 29, 1996, the *Final Results of Changed Circumstances Countervailing Duty Administrative Review, and Partial Revocation* were published (61 FR 45402), in which we revoked the order, in part, effective