The cash deposit rate for the reviewed firms will be the rates indicated above except for Kolon; because we are revoking the order with respect to Kolon, no cash deposit will be required for Kolon; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 4.82 percent, the all-others rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: November 6, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–29091 Filed 11–13–96; 8:45 am]

BILLING CODE 3510–DS–M

[C–412–811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review

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

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

SUMMARY: On May 6, 1996, the Department of Commerce (the Department) published in the Federal Register its preliminary results of administrative review of the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom for the period January 1, 1994, through December 31, 1994 (61 FR 20238). The Department has now completed this administrative review in accordance with § 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice. We will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: November 14, 1996.

FOR FURTHER INFORMATION CONTACT: Melanie Brown or Christopher Cassel, Office of CVD/AD Enforcement VI, 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

Pursuant to § 355.22(a) of the Department's *Interim Regulations,* this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. *See Antidumping and Countervailing Duties: Interim regulations; request for comments,* 60 FR 25130, 25139 (May 11, 1995) (*Interim Regulations*). Accordingly, this review covers United Engineering Steels Limited (UES) and British Steel plc (BS plc). BS plc stated that it did not produce or export the subject merchandise during the period of review (POR). Therefore, BS plc has not been assigned an individual company rate for this administrative review. This review also covers the period January 1, 1994, through December 31, 1994, and fourteen programs.

Since the publication of the preliminary results on May 6, 1996 (61 FR 20238), the following events have occurred. We invited interested parties to comment on the preliminary results. On June 5, 1996, case briefs were submitted by UES, producer of the subject merchandise which exported hot-rolled lead and bismuth carbon steel products to the United States during the POR (respondent), the Government of the United Kingdom (UK Government) and Inland Steel Bar Company (petitioner). On June 12, 1996, rebuttal briefs were submitted by respondent and petitioner. At the request of respondent, the Department held a public hearing on June 28, 1996.

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 Act). References to the *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 URAA. *See Advance Notice of Proposed Rulemaking and Request for Public Comments,* 60 FR 80 (January 3, 1995).

Scope of the Review

Imports covered by this review are hot-rolled bars and rods of non-alloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1(f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellarium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings

7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and for Customs purposes, our written description of the scope of this proceeding is dispositive.

Analysis of Programs

I. Programs Conferring Subsidies

Allocation of Subsidies From British Steel Corporation to UES

UES is a joint venture company formed in 1986 by the government-owned British Steel Corporation (BSC) and Guest, Keen & Nettlefolds (GKN), a private company. In return for shares in UES, BSC contributed a major portion of its Special Steels Business and GKN contributed its Brymbo Steel Works and its forging business. BSC was subsequently privatized in 1988 and now bears the name BS plc.

In the preliminary results of this review, we followed the methodology described in the *Restructuring* section of the *General Issues Appendix* appended to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria* (58 FR 37217, 37268–69) (*General Issues Appendix* or *Certain Steel*). Accordingly, we allocated to UES a portion of the subsidies previously bestowed on BSC under the following programs:

A. Equity Infusions
B. Regional Development Grant Program
C. National Loan Fund (NLF) Loan Cancellation
D. European Coal and Steel Community (ECSC) Article 54 Loans/Interest Rebates

For a complete explanation of the methodology used to allocate subsidies from BSC to UES, *see Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Preliminary Results of Administrative Review*, 61 FR 20238, 20239–41 (May 6, 1996).

The Court of Appeals for the Federal Circuit (CAFC) has recently issued a ruling supporting our determination that subsidies are not necessarily extinguished as a result of the sale of an enterprise in an arm's length transaction. *Saarstahl, AG* v. *United States*, 78 F.3d 1539 (Fed. Cir. 1996) (*Saarstahl*). Litigation, however, continues with regard to certain aspects of our privatization methodology.

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results. Accordingly, the net subsidies for each program remain unchanged from the preliminary results and are as follows: 1.49 percent *ad valorem* for equity infusions, 0.05 percent *ad valorem* for regional development grants, 0.16 percent *ad valorem* for the NLF loan cancellation, and less than 0.005 percent *ad valorem* for the ECSC Article 54 loans/interest rebates.

II. Programs Determined To Be Not Used

In the preliminary results of this review, we found that respondent did not apply for or receive benefits under the following programs during the POR:

A. New Community Instrument Loans
B. ECSC Article 54 Loan Guarantees
C. NLF Loans
D. ECSC Conversion Loans
E. European Regional Development Fund Aid
F. Article 56 Rebates
G. Regional Selective Assistance
H. ECSC Article 56(b)(2) Redeployment Aid
I. BRITE/EuRAM II
J. Inner Urban Areas Act

We did not receive any comments on these programs from the interested parties, and our review of the record has not led us to change our findings.

Analysis of Comments

Comment 1: UES argues that the amendments made to the Tariff Act of 1930 by the URAA preclude the imposition of countervailing duties on UES' 1994 imports on the basis of the findings contained in the Department's original determination in this proceeding. According to UES, § 771(5)(B) and § 771(5)(E) of the new law permit the Department to impose countervailing duties only upon a proper and justified finding that a ''benefit'' has been conferred upon a ''person''—commercial entity—and when the financial contribution provides a benefit to the recipient. Therefore, to conclude under the amended statute that financial contributions made to BSC by the UK Government from 1977 to 1985 provide countervailable benefits to UES' production of leaded bar in 1994, UES argues that the Department must find that those financial contributions conferred a benefit upon UES. UES claims that the Department has not made such a finding in its prior determinations and that such a determination cannot be made on the basis of the record evidence, because UES did not receive the financial contributions, and UES acquired the assets of BSC's Special Steel Division as a consequence of arm's-length negotiations. In short, UES contends that the URAA requires the Department to show how UES benefitted from the financial contributions received by BSC.

The Government of the United Kingdom presents a similar argument, stating that the Agreement on Subsidies and Countervailing Measures (SCM) precludes the Department from imposing countervailing duties on UES because: (1) UES has never received a subsidy; and (2) the Department has never shown that UES' production or exports of steel benefited from subsidies given to British Steel Corporation. According to the UK Government, Article 14 of the SCM requires Member states to explain how benefits to the recipient will be calculated; Article 14 also requires that there be a specific finding of a benefit to the firm whose product is countervailed. The UK Government contends that UES never received any ''financial contributions,'' and the Department never attempted to determine whether UES benefited from UK Government subsidies to BSC. Under international law, the Department cannot simply assume that benefits received by BSC accrued to UES. Rather, the UK Government argues that the Department must find UES itself received a benefit from BSC's financial injections before it can impose countervailing duties. According to the UK Government, the Department has never made such a finding.

Petitioner contends that the Department is required to impose a countervailing duty upon merchandise produced by a productive unit that has received a subsidy, even if that unit is sold to another owner. Petitioner argues that requiring a demonstration that the financial contributions provided to BSC have conferred a benefit on UES' production would require an ''effects test,'' which is contrary to countervailing duty law. According to petitioner, UES' argument relies on a change in statutory wording that does not alter the substantive methodology for determining subsidies. Instead, petitioner argues that the legislative history and Congressional intent indicate that the URAA codifies existing Department practice.

Petitioner also argues that the UK Government misinterprets the World Trade Organization (WTO) Agreement's benefit-to-recipient language and ignores the SCM Agreement language implicitly sanctioning countervailing duties following a privatization. The UK

Government's argument that, because UES was not a ''recipient'' of the subsidies, UES' merchandise cannot be subject to countervailing duties, ignores the fact that UES' production continues to benefit from subsidies it received through British Steel when that production was part of British Steel.

Department Position: We disagree with UES. In accordance with the provisions of the URAA (§ 771(5)(B) and § 771(5)(E) of the Act), the Department has found that UES continues to benefit from subsidies received by BSC. We have examined the facts of this case in light of the above cited provisions and find that the methodology we follow is in accordance with the URAA.

As we explained in the investigation, for the types of subsidies received by BSC, the Department's long-standing practice has been to allocate the benefit to all production of the recipient. We specifically stated that ''[t]he subsidies provided to a company presumably are utilized to finance operations and investments in the entire company, including productive units that are subsequently sold or spun-off into joint ventures.'' *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom*, 58 FR 6237, 6240 (January 27, 1993) (*Lead Bar Final*). Therefore, when BSC sold its Special Steels Business, that productive unit took a portion of the benefits with it. *Id.*

In the subsequent remand determination, the Department affirmed its determination that a portion of the subsidies passed through to UES. However, consistent with the *General Issues Appendix* methodology, the Department no longer assumed that the entire amount of subsidies allocated to the productive unit followed it when sold. Rather, the Department determined that a portion of the sales price paid for the productive unit was attributable to prior subsidies. To the extent that the sales price reflected prior subsidies, the Department determined that a share of the subsidies that would have traveled with the productive unit is rightfully allocated to the seller of the productive unit, BSC. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Remand Determination* (October 12, 1993) (*Lead Bar Remand Determination*).

The URAA is not inconsistent with and does not overturn the Department's *General Issues Appendix* methodology or its findings in the *Lead Bar Remand Determination.* The language of § 771(5)(F) of the Act purposely leaves discretion to the Department with regard to the impact of a change in ownership on the countervailability of past subsidies. The provision reads:

> Change in Ownership.—A change in ownership of all or part of a foreign enterprise or the productive assets of a foreign enterprise does not by itself require a determination by the administering authority that a past countervailable subsidy received by the enterprise no longer continues to be countervailable, even if the change in ownership is accomplished through an arm's length transaction.

The provision clearly leaves the Department with the discretion to determine the impact of a change in ownership on the countervailability of past subsidies. The Statement of Administrative Action (SAA) specifically states that ''Commerce retain[s] the discretion to determine whether, and to what extent, the privatization of a government-owned firm eliminates any previously conferred countervailable subsidies * * *'' H.R. Doc. No. 316, 103d Cong., 2d Sess. 928(1994).

The sections of the law cited by UES (*i.e.*, § 771(5) (B) and § 771(5) (E)) and the articles of the SCM cited by the UK Government (Articles 1 and 14) relate to the Department's determination of countervailability of financial assistance. With regard to UES' and the UK Government's respective arguments that these sections of the URAA and the Articles of the SCM require that the Department show how UES benefitted from the financial contributions received by BSC, we maintain that we have met the requirements of the URAA and the SCM. As explained above, at the time BSC received the nonrecurring subsidies, the Special Steels Business was part of the company. For the types of subsidies received by BSC, the Department's long-standing practice has been to allocate the benefit to all domestic production of the recipient (inclusive of all divisions and any subsidiary companies consolidate with the recipient). Thus, the Special Steels Business, as part of BSC, received a portion of those subsidies. All nonrecurring subsidies are allocated over time because they confer a benefit on merchandise in years beyond the year of receipt. Thus, when UES was formed, a portion of the pre-1986 subsidies provided to BSC continued to benefit the production of UES. Even if this change in ownership occurred at arm's length, nothing in the URAA precludes us from finding that past subsidies pass through.

Further, § 771(5)(C) of the Act, as amended by the URAA, states that ''[t]he determination of whether a subsidy exists shall be made without regard to * * * whether the subsidy is provided directly or indirectly on the manufacture, production, or export of merchandise.'' Section 771(5)(C) continues by stating that the Department ''* * * is not required to consider the effect of the subsidy in determining whether a subsidy exists. * * *'' As discussed above, because the Special Steels Business was part of BSC at the time BSC received subsidies, the Special Steels Business received a portion of those subsidies. *See Lead Bar Final*, 58 FR at 6240. This finding is consistent with § 771(5)(C) of the Act. Accordingly, contrary to respondents' arguments, a reexamination of the facts of this case in light of the URAA amendments does not undermine the findings made or the methodology applied in the *General Issues Appendix* and the *Lead Bar Remand Determination.*

Comment 2: UES argues that the rationale underlying the Department's final determination, that subsidies always inhere in and travel with productive units to their new home, is at odds with § 771(5)(F) and the SAA. UES contends that the ''Change in Ownership'' provision and the SAA require the Department to determine that effect of privatization transactions on previously conferred subsidies on a case-by-case basis after careful consideration of the facts of each case. Therefore, in this administrative review, UES argues that the Department must reconsider, in light of the new law, whether it may countervail UES' production for subsidies provided to BSC.

Petitioner states that the Department should reject UES' argument that the amended statute's ''Change in Ownership'' clause ''neither requires nor suggests that a portion of subsidies received by a state-owned company be attributed to the purchaser.'' The clear intent of Congress and the statute is that an arm's length sale of assets or privatization alone could not extinguish subsidies.

Department Position: As explained above, § 771(5)(F) of the Act purposely leaves discretion to the Department with regard to the impact of a change in ownership on the countervailability of past subsidies. The provision states that a change in ownership, even if accomplished through an arm's length transaction, does not require a determination that a past countervailable subsidy to an enterprise or the productive assets of an enterprise is no longer countervailable. Moreover, as stated in the SAA, the Department is left with the discretion to determine, on a case-by-case basis, the impact of such an event on the countervailability of past subsidies. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy,* 61 FR 30288, 30290 and 30298 (*Pasta Final Determination*).

In this case, we have examined the facts and have determined that for the types of subsidies received by BSC, it was appropriate to allocate the benefit to all of BSC's production. Thus, the Special Steels Business, as part of BSC, received a portion of those subsidies. *See Lead Bar Final,* 58 FR at 6240. When the subsidized productive unit was sold and UES was created, we found that, although it was an arm's length transaction, the subsidies that benefitted the Special Steels Business before it was sold, were not extinguished by the sale. However, we also determined that a portion of the sales price reflected past subsidies. Thus, to the extent that a portion of the sales price reflected past subsidies, we allocated a share of the subsidies that would have traveled with the productive unit, the Special Steels Business, to the seller of the productive unit, BSC. As stated above, the URAA and the SAA specifically grant the Department discretion when evaluating the impact of a change in ownership of an enterprise or the productive assets of an enterprise on the countervailability of past subsidies. The Special Steels Business, a productive unit of BSC at the time the subsidies were bestowed, clearly meets the productive asset definition of the Act. Accordingly, the application of the *General Issues Appendix* methodology in this case is not inconsistent with the new law.

Comment 3: Petitioner contends that privatization *per se* does not allow the Department to reevaluate a subsidy provided to a company. According to petitioner, the countervailing duty must be calculated with respect to the production, manufacture of export of subject merchandise. An extraneous development like the sale of a productive unit (*i.e.,* a change in the ownership of a company or a part thereof) merely causes a transfer of the subsidy with the sold unit. It does not extinguish the subsidy because the production, manufacture or export of merchandise continues to enjoy a benefit conferred by the government. However, petitioner claims that in attempting to determine whether the subsidy is partially ''repaid,'' the Department conducts the type of evaluation of the subsidy that is prohibited under the countervailing duty statute.

Petitioner argues further that the Department has never found in this case that the market distortion caused by the uneconomic allocation of capital has been remedied, and has thus based its application of the repayment methodology solely on the sale of the productive unit. By allowing for this ''phantom repayment'' of subsidies, petitioner contends that the Department is countervailing less than the amount required by the statute.

UES claims that petitioner's arguments are predicated on the ability of a productive unit to receive subsidies. According to UES, § 771(5)(B) of the Act now makes it clear that such benefits can only be received by ''persons'' (*i.e.,* commercial entities) which do not include productive units. Moreover, UES argues that petitioner errs in stating that the Department cannot consider extraneous events such as a change in ownership. Rather, the ''Change in Ownership'' provision of § 771(5)(F) of the Act commands the Department to consider the impact of such events on a case-by-case basis, according to UES.

Department's Position: The language of § 771(5)(F) of the Act purposely leaves discretion to the Department with regard to the impact of a change in ownership on the countervailabilty of past subsidies. Rather than mandating that a subsidy automatically transfer with a productive unit that is sold, as petitioner argues, the language in the statute clearly gives the Department flexibility in this area. Specifically, the Department is left with the discretion to determine, on a case-by-case basis, the impact of a change in ownership on the countervailability of past subsidies. Moreover, the SAA states that ''Commerce retain[s] the discretion to determine whether, and to what extent, the privatization of a government-owned firm eliminates any previously conferred countervailable subsidies * * *'' H.R. Doc No. 316, 103d Cong., 2d Sess. 928 (1994).

In this case, we have determined that when the Special Steels Business, as a subsidized productive unit, was sold, a portion of the sales price reflected past subsidies. Therefore, to account for the portion of the sales price that reflected past subsidies, a share of the subsidies that would have traveled with the productive unit was rightfully allocated to the seller of the productive unit.

With respect to UES' rebuttal on this issue, the Department notes that the same arguments were made in UES' case brief. Accordingly, the Department addresses each of UES' arguments in our responses to Comments 1 and 2, above. Similarly, the Department addresses petitioner's argument on market distortion in our response to Comment 7, below.

Comment 4: Petitioner argues that the URAA does not allow the application of the subsidy repayment methodology in this case. Petitioner further argues that the Department's application of this methodology contradicts the legislative intent that the examination of a change in ownership be fact-based and allow for the possibility that no repayment occurred. According to petitioner, by assuming, in virtually all change in ownership cases, that there is some amount of repayment, the Department has essentially imposed a methodology that does not allow for the possibility that no repayment occurred. Petitioner argues that this approach ignores the SAA's instructions that the Department exercise its discretion through its ''consideration of the facts of each case'' in determining whether and to what extent privatization eliminates previously bestowed subsidies. Petitioner further contends that the Department's repayment analysis in the original investigation and subsequent review never interpreted the record to contain evidence of any signs of repayment and makes no allowance for the possibility that no repayment occurred. Rather, the Department assumed that a universal ''one size fits all'' approach would fit any privatization.

UES argues that the Department's credit methodology is not inconsistent with the URAA since the URAA clearly provides the Department with the discretion to determine both whether, and to what extent, privatization affects the countervailability of past subsidies. Just because the Department has applied the methodology in this case does not mean that the Department would apply it in all cases, according to UES.

Department's Position: We disagree with petitioner on this issue. The URAA purposely leaves discretion to the Department. It provides the Department with the flexibility to determine both whether, and to what extent, a change in ownership affects the countervailability of past subsidies. *See, e.g.,* § 771(5)(F) of the Act and *Pasta Final Determination*, 61 FR at 30298.

As explained in our response to Comments 1 and 3, we have examined the facts of this case and find that, because the Special Steels Business was subsidized, a portion of the price paid for that productive unit reflects past subsidies. Therefore, consistent with the *General Issues Appendix* methodology, the Department has determined that a portion of the subsidies that would have traveled with the Special Steels Business was rightfully allocated to BSC. The requirements of the new law are not inconsistent with and do not overturn this approach. Moreover, there is no information on the record of this proceeding that would warrant a reconsideration of this finding.

Comment 5: Petitioner contends that the application of the repayment methodology is inconsistent with the Department's ''subsequent events'' rule which ''does not permit the amount of the subsidy, including the allocated subsidy stream, to be reevaluated based upon subsequent events in the marketplace.'' *General Issues Appendix*, 58 FR at 37263. Petitioner argues that the Department has contended during prior proceedings that the repayment methodology merely allocates subsidies between the seller and the buyer, and that this is different than a reevaluation of the subsidy. According to petitioner, this elevates semantics over substance. Since the change in ownership is subsequent to the receipt of the subsidy, petitioner argues that the Department must explain why the change should reduce the countervailable duty on the productive unit's merchandise. Petitioner further argues that it does not understand the logic of allocating a subsidy that benefits one productive unit's merchandise to multiple companies.

UES argues that the URAA amendments make clear that there is no ''subsequent events rule'' that precludes the Department from considering the effects of privatization and changes in ownership of productive units. UES points out that petitioner fails to refer to the effect of section 771(5)(F) of the Act on the purported ''subsequent events'' rule.

Department's Position: Section 771(5)(F) of the Act, as amended by the URAA, and the SAA specifically grant the Department discretion to determine whether, and to what extent, a change in ownership affects the countervailability of past subsidies. The Department is thus acting within the mandates of the countervailing duty law when it determines that a change in ownership can result in a certain apportionment of prior subsidies between the seller and the buyer.

The repayment or apportionment of subsidies is based on the concept that prior subsidies may not continue to benefit merchandise produced by the privatized company because a portion of the price paid for the privatized company reflects payment for subsidies that were attributable to the entity prior to privatization. With respect to the sale or spin-off of a productive unit (such as UES), we have found that the allocation of subsidies to the sold entity is consistent with the statute's intent of capturing subsidies benefitting the manufacture, production or exportation of merchandise. We also have determined that a portion of the sales price of the productive unit reflects payment for subsidies that were attributable to the entity as a whole prior to privatization. *See General Issues Appendix*, 58 FR at 37269.

With respect to petitioner's argument regarding allocation of a subsidy benefitting one productive unit to multiple companies, we have determined, as explained above, that for the types of subsidies received by BSC, it was appropriate to allocate the benefit to all of BSC's domestic production. Accordingly, the Special Steels Business, as part of BSC, received a portion of those subsidies. Once the Special Steels Business was sold to create UES, the subsidies were apportioned between BSC and UES because we determined that a portion of the sales price reflected past subsidies. *See Lead Bar Final*, 58 FR at 6240. Based on this, we allocated to BSC a share of the subsidies that would have otherwise traveled with the Special Steels Business. This approach, as explained above, is consistent with the URAA.

Comment 6: Petitioner argues that even if one accepts the concept of repayment, the Department's application of the methodology in this particular case has no factual basis. According to petitioner, the *General Issues Appendix* concludes that repayment occurs in the sales price. Yet, the Department found in the investigation that both the non-subsidized GKN and the subsidized BSC contributed the same value of assets for each share of UES they received. Thus, according to petitioner, a portion of the price paid to BSC could not possibly represent a repayment of subsidies.

Petitioner also contests the Department's justification of the repayment methodology as being in the interest of ''fairness and compromise.'' According to petitioner, in shaping the countervailing duty law, Congress expressed no interest in compromising but rather was intent on identifying, offsetting and deterring subsidies, goals that have been embraced by the courts and the Department. Accordingly, petitioner notes that the Department's repayment methodology is inconsistent with the countervailing duty law.

UES argues that petitioner misunderstands the Department's credit methodology as applied in this case. Petitioner continues to mischaracterize the methodology as an actual repayment of subsidies, when, according to UES, the methodology is simply apportioning subsidies between the seller and purchaser of a productive unit. UES points out that the Department's investigation remand determination made clear that when the methodology is used to allocate subsidies between the seller and the buyer, it is meant to reveal the fact that a portion of the purchase price reflects the past subsidies received by the seller. *Lead Bar Remand Determination* at 5–6. UES further argues that the goal of the countervailing duty law is not to deter the provision of subsidies but rather to offset the economic effects these subsidies may have on imports that injure U.S. industries.

Department's Position: Petitioner appears to imply that repayment of subsidies is in addition to the agreed-upon value of the assets. The Department has never stated nor implied that. Instead, the Department's *General Issues Appendix* methodology is intended to: (1) Determine the portion of the sales price of the productive unit which reflects prior subsidies bestowed on the seller of the productive unit; and (2) based on this amount, allocate the subsidies between the seller and the buyer. As the Department explained in its remand determination, ''[w]hen a productive unit is sold by a company which continues to operate (such as BSC), the potentially allocable subsidies which could have traveled with the productive unit, but did not because they were accounted for as part of the purchase price, simply stay with the selling company.'' *Lead Bar Remand Determination* at 5.

Petitioner's claim that the Department's *General Issues Appendix* methodology is inconsistent with the countervailing duty law is also erroneous. On the contrary, the application of this methodology is well within the Department's discretion. The countervailing duty law instructs Commerce to identify, measure and allocate subsidies. The law is intended to provide remedial relief in the form of countervailing duties. *See e.g., Chaparral Steel Co.* v. *United States,* 901 F.2d 1097, 1103–1104 (Fed. Cir. 1990). As we explained in the *General Issues Appendix,* the Department interprets the law as allowing for the repayment or reallocation of prior subsidies. *See e.g., Final Affirmative Countervailing Duty Determination: Pure and Allow Magnesium From Canada,* 57 FR 30946 (July 13, 1992) and *General Issues Appendix,* 58 FR at 37264. In the context of privatization and company restructuring, the Department found that a portion of the sales price can go toward the repayment of prior subsidies. *General Issues Appendix,* 58 FR at 37264 and 37269.

The *General Issues Appendix* is not inconsistent with the URAA with regard to this issue. As explained above, section 771(5)(F) of the amended statute leaves discretion to the Department to determine the impact of a change in ownership on the countervailability of past subsidies. This clearly was Congress' intent when it stated that ''[t]he Commerce Department should continue to have the discretion to determine whether, *and to what extent* (if any), actions such as the 'privatization' of a government-owned company actually serve to eliminate such subsidies.'' S. Rep. No. 412, 103d Cong., 2d Sess. 92 (1994) (emphasis added). Accordingly, we determined in this case that because the Special Steel Business was a subsidized productive unit, a portion of the price paid for the productive unit represented a reallocation of subsidies from the buyer to the seller.

Comment 7: Petitioner contends that the fair market privatization of a government-owned company (or division) does not in any way result in the repayment of prior subsidies because the sale does not offset the distortion caused by the government when the subsidies were bestowed. Rather, petitioner argues, the countervailing duty law and ''basic economic principles'' mandate that the Department continue to countervail these subsidies, because the exported merchandise continues to benefit from the subsidies in the same manner as before the sale. Petitioner further contends that because of their ''remedial'' nature, countervailing duties are clearly designed to offset to some degree the market distortion caused by subsidization. The only way new owners can undo the distortion of prior subsidies is to extract the benefit from the privatized production process and return that benefit to the government. A sale at fair market value does not accomplish this.

UES argues that application of the credit methodology in this case is consistent with the current countervailing duty law. UES further argues that there are no ''basic economic principles'' that dictate that the Department must countervail the purchaser of a productive unit because of subsidies received by the seller. They point out that petitioner does not provide support for its argument on this issue.

Department's Position: The countervailing duty law does not require us to correct the market distortions which may have occurred due to the provision of subsidies, but instead instructs us to provide remedial relief in the form of countervailing duties. As the Department stated in the *General Issues Appendix:*

> The countervailing duty law is designed to provide remedial relief as a result of subsidies; it is not intended to recreate the *ax ante* conditions that existed prior to the bestowal of such subsidies. Indeed, the remedy provided by law, additional duties, does nothing to eliminate excess capacity caused by the subsidization.

General Issues Appendix, 58 FR at 37264. Furthermore, an analysis of the provisions of the URAA does not lead us to a different conclusion.

Comment 8: Petitioner argues that several ''real-world'' developments support its argument that a change in ownership does not reduce or eliminate the benefit of prior subsidies. For repayment of a subsidy to occur, petitioner argues that there must be an actual disgorgement of the subsidy. Petitioner points to three developments that it claims support this view.

First, petitioner contends that in several recent European Union (EU) state aid repayment cases, the EU has recognized that subsidy repayment can only occur if the economic benefit of the aid is annulled. According to petitioner, such annulment can only occur if both principal and interest is repaid. Another example cited by petitioner is the privatization of Irish Steel. According to petitioner, an EU state aid package for Irish Steel was approved in order to pave the way for the company's privatization. Petitioner alleges that BS plc has objected to the provision of this aid because if Irish Steel receives the aid, BS plc believes its plant in Staffordshire will be threatened, even after the privatization of Irish Steel. Finally, petitioner cites the Organization for Economic Cooperation and Development (OECD) shipbuilding agreement. Petitioner claims that the OECD's Agreement Respecting Normal Competitive Conditions in the Shipbuilding and Repair Industry states that if an objectionable subsidy is provided, the signatory must modify or eliminate the practice and, if possible, collect a charge equal to the subsidy amount plus interest.

UES takes issues with the examples cited by petitioner. They argue that the examples cited do not bear any relevance to the issues of this case. Moreover, they argue that the examples cited by petitioner have nothing to do with the principles or methodologies applied in the U.S. countervailing duty regime.

Department's Position: The Department of Commerce conducts its practices according to the mandates of the countervailing duty law, the intent of Congress in drafting that law, and our obligations under the WTO Agreement. Policies of other governments or organizations with respect to the so-called repayment issue are outside the context of a countervailing duty proceeding and are irrelevant to the Department's application of the U.S. countervailing duty law. Moreover, they constitute an inappropriate frame of reference for the Department's analysis of the issues in this case.

Comment 9: Petitioner argues that BS plc's March 1995 acquisition of GKN's shares in UES should be taken into account in setting the cash deposit rate. According to petitioner, the Department should establish a countervailing duty deposit rate for BS plc to reflect that it is a producer of the subject merchandise. Petitioner suggests that the Department either rely on information in the record or announce that the deposit rate applied to UES applies equally to BS plc.

Department's Position: We disagree with petitioner. The argument presented by petitioner has already been considered and rejected by the Department in the *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Final Results of Administrative Review*, 60 FR 54841, 54843 (October 26, 1995) (*1992–93 Lead Bar Final Results*). In that proceeding, the Department determined that the regulations provide for establishing a different cash deposit rate from the assessment rate only when a change is program-wide and measurable. ''Program-wide change'' is defined by § 355.50(b) of the *Proposed Regulations* as a change ''[n]ot limited to an individual firm or firms'' and ''[e]ffectuated by an official act, such as the enactment of a statute, regulation, or decree, or contained in the schedule of existing statute, regulation or decree.'' The Department found in the *1992–93 Lead Bar Final Results* that BS plc's acquisition of GKN's shares in UES is limited to an individual firm or firms, namely BS plc, UES and GKN. Further, in *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil*, 58 FR 6213, 6220 (January 27, 1995), the Department stated: ''[w]e do not consider that privatization, in and of itself constitutes a program-wide change, or that a privatization program is the type of program contemplated for consideration under * * * the Proposed Regulations.'' BS plc's acquisition of GKN's shares does not constitute a program-wide change. *See 1992–93 Lead Bar Final Results*, 60 FR at 54843.

In this proceeding, petitioner has not submitted any new evidence or arguments which would warrant reconsideration of this issue. Accordingly we continue to reject petitioner's position for the same reasons stated in the above-cited *1992–93 Lead Bar Final Results.* Because this is not a program-wide change, the issue will be dealt with in the administrative review of the period in which the acquisition occurred.

Final Results of Review

In accordance with § 355.22(c)(4)(ii) of the Department's *Interim Regulations*, we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1994 through December 31, 1994, we determine the net subsidy for United Engineering Steels to be 1.69 percent *ad valorem*.

We will instruct the U.S. Customs Service (Customs) to assess countervailing duties as indicted above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in those in antidumping cases, except as provided for in § 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* § 355.22(a) of the *Interim Regulations.* Pursuant to 19 CFR § 355.22(g), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and the Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F Supp. 766 (CIT 1993) (Interpreting 19 CFR § 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR) 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Final Results of Administrative Review*, 60 FR 54841 (October 26, 1995). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1994 through December 31, 1994, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

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.

This administrative review and notice are in accordance with § 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: November 4, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–29089 Filed 11–13–96; 8:45 am]

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[C–122–404]

Live Swine From Canada; Amended Final Results of Countervailing Duty Administrative Reviews

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

ACTION: Notice of amended final results of Countervailing Duty Administrative Reviews.

SUMMARY: On October 7, 1996, the Department of Commerce (''the Department'') published in the Federal Register the final results of three administrative reviews of the countervailing duty order on live swine from Canada (61 FR 52408). Based on corrections of ministerial errors, we are now amending the final results of the three reviews.

EFFECTIVE DATE: November 14, 1996.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, Cameron Cardozo or Norma Curtis, Office of CVD/AD Enforcement VI, 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 October 7, 1996, the Department published the final results of three administrative reviews of the countervailing duty order on live swine from Canada (61 FR 52408). 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 involved 43 programs.

On October 10, 1996, we received a timely allegation from the Canadian Pork Council (CPC), respondents, that the Department had made ministerial errors in calculating the final results in these reviews.

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

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