by this order are the cash deposit rates in effect at the time of entry.

Public Comment

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38, are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

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

Dated: November 27, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–31094 Filed 12–5–96; 8:45 am]

BILLING CODE 3510–D5–M

[C–533–063]

Certain Iron-Metal Castings From India: 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 22, 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 iron-metal castings from India for the period January 1, 1993, through December 31, 1993. We have completed this administrative review and determine the net subsidy to be zero percent *ad valorem* for Delta Enterprises and Super Iron Foundry, and 5.45 percent *ad valorem* for all other companies. We will instruct the U.S. Customs Service to assess countervailing duties as indicated above.

EFFECTIVE DATE: December 6, 1996.

FOR FURTHER INFORMATION CONTACT: Christopher Cassel or Lorenza Olivas, 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 May 22, 1996, the Department published in the Federal Register (61 FR 25623) the preliminary results of its administrative review of the countervailing duty order on certain iron-metal castings from India. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On June 21, 1996, case briefs were submitted by the Engineering Export Promotion Council of India (EEPC) and the exporters of certain iron-metal castings to the United States (respondents) during the period of review (POR), and the Municipal Castings Fair Trade Council and its members (petitioners). Company specific comments to the Department's preliminary determination were also submitted on June 21, 1996, by R.B. Agarwalla & Company, exporter of the subject merchandise to the United States during the POR. On June 28, 1996, rebuttal briefs were submitted by respondents and petitioners. The review covers the period January 1, 1993, through December 31, 1993, and involves 14 companies and twelve programs.

Applicable Statute and Regulations

The Department is conducting this administrative review 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 (URAA). See 60 FR 80 (January 3, 1995).

Scope of the Review

Imports covered by the administrative review are shipments of Indian manhole covers and frames, clean-out covers and frames, and catch basin grates and frames. These articles are commonly called municipal or public works castings and are used for access or drainage for public utility, water, and sanitary systems. During the review period, such merchandise was classifiable under the Harmonized Tariff Schedule (HTS) item numbers 7325.10.0010 and 7325.10.0050. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As provided in section 782(i) of the Act, we verified information provided by the Government of India, and six producers/exporters of the subject merchandise. We followed standard verification procedures, including meeting with government and company officials, and examination of relevant accounting and original source documents. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Calculation Methodology for Assessment and Cash Deposit Purposes

In accordance with *Ceramica Regiomontana, S.A.* versus *United States*, 853 F. Supp. 431 (CIT 1994), we calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each company subject to the administrative review. We then weighed the rate received by each company using as the weight its share of total Indian exports to the United States of subject merchandise, including all companies, even those with *de* *minimis* and zero rates. We then summed the individual companies' weighted rates to determine the weighted-average, country-wide subsidy rate from all programs benefitting exports of subject merchandise to the United States.

Since the country-wide rate calculated using this methodology was above de minimis, as defined by 19 CFR 355.7 (1994), we proceeded to the next step and examined the net subsidy rate calculated for each company to determine whether individual company rates differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR 355.22(d)(3). Two companies had significantly different net subsidy rates during the review period pursuant to 19 CFR 355.22(d)(3). These companies are treated separately for assessment and cash deposit purposes. All other companies are assigned the country-wide rate.

Analysis of Programs

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

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. Pre-Shipment Export Financing

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our review of the record and 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 this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter	Rate %
Delta Enterprises	0.00
Super Iron Foundry	0.00
Program Rate	0.13

2. Post-Shipment Export Financing and Post-Shipment Credit Denominated in Foreign Currency (PSCFC)

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our review of the record and 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 this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter	Rate %
Delta Enterprises	0.00
Super Iron Foundry	0.00
Program Rate	1.25

3. Income Tax Deductions Under Section 80HHC

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our review of the record and 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 this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter	Rate %
Delta Enterprises	0.00
Super Iron Foundry	0.00
Program Rate	3.64

4. Import Mechanisms

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our review of the record and 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 this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter	Rate %
Delta Enterprises	0.00
Super Iron Foundry	0.00
Program Rate	0.04

B. New Programs Determined To Confer Subsidies

1. Exemption of Export Credit From Interest Taxes

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our review of the record and 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 this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter	Rate %
Delta Enterprises	0.00
Super Iron Foundry	0.00
Program Rate	0.06

2. Imports Made Under an Advance License Through the Liberalized Exchange Rate Management System (LERMS)

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our review of the record and 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 this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter	Rate %
Delta Enterprises	0.00
Super Iron Foundry	0.00
Program Rate	0.33

We verified that this program was terminated as of February 28, 1993, and that there were no residual benefits. See Certain Iron-Metal Castings from India: Preliminary Results of Countervailing Duty Administrative Review, 61 FR 25623, 25626 (May 22, 1996) (*1993 Castings Prelim*). Because this constituted a program-wide change, the cash deposit rate for this program will be zero. See § 355.50 of the *Proposed Regulations.*

II. Programs Found Not To Confer Subsidies

Inward Exchange Remittances Under the Liberalized Exchange Rate Management System (LERMS)

In the preliminary results, we found that this program did not confer subsidies during the POR. Our review of the record and 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 To Be Not 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. Market Development Assistance (MDA)
B. Rediscounting of Export Bills Abroad
C. International Price Reimbursement Scheme (IPRS)
D. Cash Compensatory Support Program (CCS)

E. Pre-Shipment Financing in Foreign Currency (PSFC)

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 incorrectly used the small-scale industry (SSI) short-term interest rate published in the Reserve Bank of India's (RBI) August 1994 *Annual Report* to calculate the benefit provided to castings exporters under the Pre- and Post-Shipment export financing programs. By using the SSI rate, the Department has underestimated the full benefit received by castings exporters under these programs.

The SSI rate, petitioners claim, is a preferential loan rate regulated by the RBI. Therefore, the Department's benefit calculation is skewed, because one preferential lending rate (export financing) is being judged against another preferential rate (SSI). Petitioners contend that this type of comparison is ''unjust,'' irrespective of whether the benchmark rate is provided to a specific industry. Petitioners further contend that by relying on its finding in the 1991 Castings Final Results, the Department again assumes that loans to the SSI sector are non-specific within that sector without having made such a determination based on record evidence and in accordance with section 355.43(b)(2)(i) of the *Proposed Regulations.* According to petitioners, the Department's regulations do not permit a program to escape a specificity finding, merely because it ''appears'' not to be limited to a group of companies.

Finally, petitioners assert that in selecting a benchmark rate, the Department is directed by § 355.44(b)(3)(i) of the *Proposed Regulations* to rely on the predominant source of short-term financing in India. Petitioners also cite *Royal Thai Government* v. *United States,* 850 F. Supp. 44, 49 (Ct. Int'l Trade 1994), for the proposition that because the rate must be ''representative'' of short-term commercial lending, it may not be unreasonably low in comparison to other commercial rates. According to petitioners, record evidence indicates that the SSI rate is not the predominant source of short-term financing in India. Rather, because RBI credit regulations require that 32 percent of net bank credit to be targeted to priority sectors, including the SSI sector, the predominant type of financing appears to fall under the 68 percent of financing that is not provided on preferential terms.

Accordingly, petitioners contend that the Department should use the ''non-specific'' commercial borrowing rate in India as its benchmark in the Final Results, as published in the International Monetary Fund's International Financial Statistics Yearbook. In 1993 this rate was 16.25 percent.

Respondents claim that petitioners have not presented any new arguments that should propel the Department to depart from its prior findings. According to respondents, the information submitted by petitioners concerning the rate published in the IMF Yearbook constitutes new and untimely information, and should, therefore, be rejected. Respondents contend that statements made by Indian commercial bank officials concerning lending rates were ''imprecise,'' and not sufficient for setting the benchmark rate. Also, petitioners do not demonstrate that SSI loans are in fact specific, but merely indicate that the non-specific finding should not be adopted without additional investigation of the loans. With respect to statements by commercial bank officials that a percentage of net bank credit be targeted to certain industry sectors, respondents argue that this merely notes the minimum and not the actual amount that was lent to these sectors. Accordingly, the Department should reject petitioners arguments, and, consistent with its past practice, apply the SSI rate as the benchmark.

Department's Position

While petitioners may argue that comparing one preferential rate against another is ''unjust,'' and that the SSI rate does not represent the ''predominant'' source of short-term financing in India, it has been the Department's practice to use as a short-term loan benchmark for small businesses, the interest rates provided to small businesses, even if that benchmark is lower than other commercial interest rates. *See, e.g.,* the discussion of the benchmark used in the FOGAIN program in *Bricks From Mexico,* 49 FR 19564 (May 8, 1984). Because castings exporters qualify as small-scale industry firms, we have used the interest rate for small-scale industries as our benchmark. This has been our consistent practice for the export financing programs in this and past administrative reviews. See *e.g.,* Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings from India, 56 FR 52515 (October 21, 1991) (*1988 Castings Final*), and Certain Iron-Metal Castings from India, 60 FR 44843 (August 29, 1995) (*1991 Castings Final.*)

With respect to petitioners' argument that the Department must determine whether loans to the SSI sector are non-specific within that sector, it has been the Department's practice not to examine whether a program provided to small businesses is specific absent an allegation that the assistance under the program is limited to enterprises or industries within the universe of small businesses. See, *e.g.,* § 355.43(b)(7) of the *Proposed Rules,* and Textile Mill Products and Apparel from Singapore, 50 FR 9840 (March 12, 1985). We have found no evidence, and petitioners have not presented any information on the record of this review, that would lead us to examine the specificity of the SSI loans. As such, we continue to find that the SSI rate is an appropriate benchmark to use in the calculation of the benefit under the export financing programs. However, new allegations that we are investigating in the 1994 administrative review of this case (see Memorandum to the File Re: Petitioners' New Allegations (May 29, 1996) (public document on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce)) may lead us to reconsider the use of the SSI interest rates as the benchmark for the export financing programs in that review.

Comment 2

Petitioners argue that in order to provide a more accurate measure of the level of subsidization under the export financing programs, the Department should adjust the benchmark interest rate to reflect the ''effective'' cost of commercial financing in India. In particular, certain service charges that the Government of India (GOI) reported as adding to the normal cost of commercial borrowing should be added to the benchmark rate. This would also be in accordance with the *Proposed Regulations,* which express a preference for a comparison of effective interest rates.

Respondents indicate that the service charges are also applicable to export financing. Therefore, if they were added to the benchmark, they should also be added to the preferential export financing rate. Because this would be a difficult exercise, the Department has always correctly used the nominal rates for both the benchmark and the export loan interest rates.

Department's Position

We agree with respondents. There is no indication that the charges listed in the GOI's questionnaire response are limited to export financing and do not apply to domestic commercial lending. According to the GOI, these service charges add ''to the cost of *normal* commercial borrowing'' (emphasis added). See GOI Original Questionnaire Response at 9 (February 22, 1995) (public version on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). Petitioners have not cited any record information that would lead us to conclude that the service charges are limited solely to non-export financing and that adding them to the cost of commercial borrowing would provide a more accurate measure of the level of subsidization under the export financing programs. Accordingly, the service charges will not be added to the benchmark interest rate.

Comment 3

Petitioners cite statements made by commercial bank officials and other statements by the GOI to support their contention that exporter's ''effective'' rate of interest under the PSCFC program is much lower than the ''nominal'' rate reported in the response and used by the Department in its preliminary calculations. Specifically, petitioners cite a statement by commercial bank officials that under the PSCFC, exporters could lower their cost of borrowing ''by selling the dollar value of the export bill at the forward rate to the bank [and] capture the forward dollar premium against the rupee.'' See Citibank Verification Report at 2 (October 30, 1995) (public version on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). Petitioners argue that by comparing ''nominal'' subsidized and benchmark interest rates for PSCFC loans, the Department is not capturing the full benefit received by castings exporters under this program.

Respondents claim that the practice of booking forward exchange rates is not a subsidy. Rather, buying forward is an established commercial practice throughout the world and is one method used by exporters to hedge against fluctuations in exchange rates. Respondents also indicate that exporters may hedge their export bills without using the PSCFC program.

Department's Position

Upon completing verification of the questionnaire responses in this administrative review, petitioners submitted comments on the verification reports and requested that the Department ask respondents to provide further information concerning the forward premium, as well as additional programs discussed at verification. See Review of Verification Reports in Countervailing Duty Administrative Review for 1993 (November 29, 1995) (public document on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). After analyzing petitioners' comments on the verification reports, we did not request further information from the respondents with respect to the forward booking option. We examined petitioners' arguments in light of the information on the record which consisted of statements made at verification by bank officials and respondent companies. These indicated that only one of the fourteen companies under review had exercised the forward booking option. In our view, at that time, the arguments made by petitioners were insufficient to send out new questionnaires and gather new information after verification. Accordingly, our preliminary results did not discuss or account for the forward premium.

The comments that petitioners have filed for these final results are the same as those filed on the verification reports. Since no new factual information has been submitted since the preliminary results, a determination cannot be made based on the record evidence of this proceeding as to whether and to what extent Indian exporters received an even greater benefit under the PSCFC if the program interest rate is adjusted to take into account the forward premium.

However, during the 1994 administrative review, which is ongoing, we received timely new subsidy allegations that we are investigating. Our investigation of these allegations has led us to reexamine the short-term lending practices in India, including how the option of booking forward exchange rates operates, and whether and to what extent this affects exporters' effective rate of borrowing under PSCFC.

Comment 4

Petitioners argue that the Department must calculate a benefit for the RBI's refinancing practices that it preliminarily determined to be countervailable in the 1992 administrative review of this order. Petitioners indicate that the Department did not mention this program in its preliminary results for this review, although information on the record shows that the circumstances with respect to this program have not changed.

According to petitioners, the GOI has, by encouraging private banks to lend to the export sector, provided exporters with access to preferential funds that they otherwise would not have had available to them. Domestic firms did not have access to these preferential funds, and the interest rates charged were more preferential than they might have been because the GOI's involvement created a greater differential between rates of interest available on the market to all Indian firms and rates available to the export sector.

Petitioners cite Certain Steel Products from Korea (*Steel*), 58 FR 37,338 (July 9, 1993) and Certain Stainless Steel Cooking Ware from the Republic of Korea (*Cooking Ware*), 51 FR 42,867, 42,868 (1986) as support for their contention. Petitioners state that, as the Department recognized in *Steel* and *Cooking Ware*, when a government encourages private banks to target a greater proportion of the finite amount of capital that is available to a certain industry (or export sector), this leaves fewer funds for the non-targeted sector to borrow. Thus, the GOI's provision of refinancing to banks, which encourages banks to make more funds available to the export sector than they otherwise would have provided, in turn making fewer funds available to the non-export sector, has the effect of driving up the cost of financing for non-exporters. Accordingly, because the GOI's refinancing practices constitute an export subsidy, petitioners argue that the Department should calculate the benefit conferred by these practices and countervail the full amount of the benefit.

Respondents argue that the Department was correct not to consider the GOI's refinancing practices in this administrative review. According to respondents, RBI refinancing is not a separate subsidy from the Post-Shipment Export Financing, but is, rather, what allows the banks to provide preferential post-shipment credit. If the Department were to countervail the refinancing, it would be countervailing the same subsidy twice. Therefore, the Department should find that these practices do not confer countervailable subsidies.

Department's Position

We disagree with petitioners. Higher rediscount or refinancing ratios provided for export loans may indeed encourage commercial banks to provide export loans over domestic loans and drive up the cost of financing for non-exporters. In such cases, when we determine that a program provides a preference for lending to exporters rather than non-exporters, we must determine an appropriate way to measure that preference. Normally, we measure the preference by the difference between the interest rates charged on the export loans and the higher interest rates charged on domestic loans. See, *e.g., Cooking Ware,* 51 FR at 42868. We only seek alternative methodologies when we find that there is no difference between the benchmark interest rate on export loans and the interest rate on domestic loans. See, *e.g.,* Certain Steel Products from Korea, 58 FR at 37345. In the 1992 final results of this case, we found that the higher refinancing ratios provided on export loans are the mechanism that allows the banks to provide the preferential post-shipment financing. We also agreed with respondents' assertion that countervailing the refinancing would result in double-counting the benefit from the program. Therefore, we measured the preference as the differential between the program interest rate and the benchmark interest rate. See Certain Iron-Metal Castings from India; Final Results of Administrative Review, (1992 Castings Final), being simultaneously published with this notice.

Petitioners' cites to *Steel* and *Cooking Ware* are misplaced. In *Cooking Ware,* we stated that the different rediscount ratios for export and domestic loans results in the provision of export financing on preferential terms because ''* * * commercial banks have an incentive to channel more funds to finance those firms' export transactions and fewer funds to finance their domestic transactions.'' *Cooking Ware,* 51 FR at 42868. This is consistent with our finding in the 1992 Castings Final that the higher refinancing ratios provided on export loans is the mechanism and incentive that allows the commercial banks to extend the preferential post-shipment financing. However, in *Cooking Ware,* we found that the interest rate on both export and domestic short-term loans provided by banks were the same. Therefore, to measure the preference for export over domestic loans, we compared the 10 percent rate for short-term export loans with a weighted average of short-term domestic credit, including credit provided outside the normal banking system. We considered this measure the best approximation of what firms would pay for export financing if there were not a preference within the banking system for providing loans for export transactions. See *Cooking Ware,* 51 FR at 42868. In *Steel,* we found that the GOK provided the steel industry with preferential access to medium- and long-term credit from government and commercial banking institutions. We determined that, absent the GOK's targeting of specific industries, all industries would compete on an equal footing for the scarce credit available on the favorable markets. However, because the GOK controlled long-term lending in Korea and placed ceilings on long-term interest rates, there was a limited amount of capital available, which would force companies to resort to less favorable markets. Therefore, we determined that the three-year corporate bond yield on the secondary market was the best approximation of the true market interest rate in Korea.

In this case, we can measure the preference created by the export refinancing using the difference between the interest rates charged on export loans and the interest rates charged on domestic loans. This approach is consistent with our treatment of export loans provided by the Privileged Circuit Exporter Credits Program in Carbon Steel Wire Rod from Spain: Final Affirmative Countervailing Duty Determination, 49 FR 19557 (May 8, 1984). The use of an alternative method for measuring the preference is not warranted in this case because the interest rates charged on export and domestic loans are not uniform within India. Therefore, we have used our standard short-term loan methodology, as described in § 355.44(3)(b) of the *Proposed Regulations,* and have not calculated any additional benefit for the higher refinancing ratio provided for export loans.

Comment 5

According to petitioners, there are miscellaneous calculation issues relating to respondents use of the export financing programs which conceal benefits under these programs. Petitioners cite the RSI and R.B. Agarwalla verification reports for their claim that the ''quarterly billing'' approach for pre-shipment financing is likely to conceal interest costs that would otherwise be countervailed. Petitioners also contend that the Department must subtract all credits posted to company accounts to determine the total net post-shipment interest expense incurred during the POR.

Respondents reject petitioners' argument that the quarterly billing approach under the pre-shipment financing program allows castings exporters to conceal interest charges. According to respondents, the Department has verified the questionnaire response of RSI, R.B. Agarwalla, and other castings exporters on numerous occasions and has never found that interest charges were being concealed under the pre-shipment financing program. With respect to interest credits, respondents argue that petitioners have misunderstood how the post-shipment financing program works and that if the credits were deducted as suggested by petitioners, the subsidy would be overstated.

Department's Position

We disagree with petitioners that the quarterly billing method or running account facility allows exporters to conceal interest charges. Respondents correctly indicate that the Department's verification of the pre-shipment export financing program in this and past administrative reviews has not revealed that castings exporters are concealing interest charges under this program. In the instant review, for example, of the four companies that reported utilizing the running account facility for pre-shipment interest payments, the Department verified the accuracy of the information of three of these, Kajaria, R.B. Agarwalla and RSI. As the verification reports for these companies attest, we traced the reported interest payments to each company's general ledger, bank statements, payment vouchers and financial statements. We found that the companies paid the interest actually charged by the banks on these loans and that they accurately reported in the questionnaire responses the amount of interest paid to the bank.

Moreover, information presented at verification indicates that the quarterly billing method is a normal banking practice afforded to those exporters that meet certain criteria. For example, RSI officials stated at verification that upon review of a company's creditworthiness, Indian commercial banks may establish a line of credit under the pre-shipment financing program. To secure the loan, exporters must pledge their raw materials and works in progress as collateral. RSI officials also explained that interest is charged to the company by the bank on the last day of each quarter, based on the outstanding balance at the end of that period. See RSI Verification Report at 2 (October 30, 1995) (public version, on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce).

With respect to the interest credits on post-shipment export financing, we disagree with petitioners. As we explained in the preliminary results, under post-shipment financing, commercial banks discount export bills for a period of up to 180 days. The interest amount, calculated at the applicable foreign currency interest rate, is deducted from the total amount of the bill, and the exporter's account is credited for the rupee equivalent of the net foreign currency amount. If payment from the overseas customer is received prior to the due date of the loan, exporters will receive a credit in an amount equal to the interest calculated over the number of days early payment is made. Therefore, castings exporters have appropriately provided post-shipment interest payments net of all credits received due to early payment. To do otherwise would overstate the benefit received under this program, as the higher interest payment would yield a higher absolute benefit on those loans which were paid early. Accordingly, these credits have appropriately been subtracted by respondent companies.

At verification, Commex Corporation officials explained that they had failed to subtract interest credits for early payment of post-shipment loans in their questionnaire response. Therefore, after tracing the revised loan information through the company's records, and calculating the amount of the credit, we accepted these data showing interest payments net of all credits received. Post-shipment interest payments reported by R.B. Agarwalla, on the other hand, were already net of any credits received. See R.B. Agarwalla Verification Report at 4 (October 30, 1995) (public version, on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). Likewise, the public version of Calcutta Ferrous' post-shipment loan sheet indicates that the company subtracted all credits posted to its accounts for early payment. For the reasons stated above, we conclude that there are no miscellaneous calculation issues as claimed by petitioners.

Comment 6

Petitioners state that the Department improperly failed to countervail the value of Advance Licenses, because Advance Licenses are export subsidies and not equivalent to duty drawback. According to petitioners, Advance Licenses constitute a countervailable subsidy within the meaning of Item (a) of the Illustrative List of Export Subsidies (Illustrative List), which defines one type of export subsidy as ''[t]he provision by governments of direct subsidies to any firm or any industry contingent upon export performance.'' Because Advance Licenses are issued to companies based on their status as exporters, and because products imported under such a license are duty-free, petitioners state that such licenses provide a subsidy based on the requirement that an export commitment be met.

Petitioners further claim that the Department has in this and previous reviews mistakenly confused the nature of the Advance License program with duty drawback programs. According to petitioners, for a duty drawback program not to be countervailed, it must meet certain conditions outlined in Item (i) of the Illustrative List. Item (i) provides that ''[t]he remission or drawback of import charges [must not be] in excess of those levied on imported goods that are physically incorporated (making normal allowance for waste) in the exported products.'' This condition, according to petitioners, has not been met with respect to the Advance License program, because the Indian government apparently has made no attempt to determine whether the amount of material that is imported duty-free under Advance Licenses is at least equal to the amount of pig iron contained in exported subject castings, *i.e.*, ''physically incorporated in the exported products.''

Moreover, petitioners argue that respondents' ability to transfer Advance Licenses to other companies under certain conditions is further evidence that this program is not the equivalent of a drawback program, because the licenses are not limited to use solely for the purpose of importing duty-free materials. For these reasons, petitioners state that the Department should countervail in full the value of Advance Licenses received by respondents during the POR.

Respondents state that Advance Licenses allow importation of raw materials duty free for the purposes of producing export products. They state that if Indian exporters did not have Advance Licenses, the exporters would import the raw materials, pay duty, and then receive drawback upon export. Respondents argue that although Advance Licenses are slightly different from a duty drawback system, because they allow imports duty free rather than provide for remittance of duty upon exportation, this does not make them countervailable. Respondents also indicate that if a license had been transferred during the POR, then it might have been a subsidy; this did not occur, however.

Department's Position

As we explained in the 1991 review (see 1991 Castings Final, 60 FR at 44846), petitioners have only pointed out the administrative differences between a duty drawback system and the Advance License scheme used by Indian exporters. Such administrative differences can also be found between a duty drawback system and an export trade zone or a bonded warehouse. Each of these systems has the same function: each exists so that exporters may import raw materials to be incorporated into an exported product without the assessment of import duties.

The purpose of the Advance License is to allow an importer to import raw materials used in the production of an exported product without first having to pay duty. Companies importing under Advance Licenses are obligated to export the products made using the duty-free imports. Item (i) of the Illustrative List specifies that the remission or drawback of import duties levied on imported goods that are physically incorporated into an exported product is not a countervailable subsidy, if the remission or drawback is not excessive. We determined that respondents used Advance Licenses in a way that is equivalent to a duty drawback scheme. That is, they used the licenses in order to import, net of duty, raw materials which were physically incorporated into the exported products. Furthermore, we have never found that castings exporters have transferred an Advance License. Accordingly, our determination that the use of Advance Licenses is not countervailable remains unchanged.

Comment 7

Petitioners claim that the Department has underestimated the benefit received by castings exporters under the program that exempts export credit from interest taxes. According to petitioners, certain companies have received additional export credit, either in the form of loans or advances from sources other than Pre- and Post-Shipment export financing. In support of their contention, petitioners cite the company verification reports and financial statements as well as a GOI verification report exhibit that allegedly details a range of export credit options available to castings exporters.

Respondents argue that the information cited by petitioners from both the questionnaire responses and verification reports in no way indicates that castings exporters received tax exempt export financing other than that provided through the Pre- and Post-Shipment lending programs. With respect to other export credit options listed in the GOI verification report, respondents claim there is no record evidence showing that respondents companies used any of these programs during the POR.

Department's Position

At verification, we traced each company's total interest payments listed in the general ledger to the financial statements. We found no discrepancies and no evidence that castings exporters had received any additional export financing or had utilized other export credit options as cited by petitioners. See, e.g., Commex Verification Report at 2 (October 30, 1995) (public version, on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). With respect to the ''Unsecured Loans'' reported by RSI, the company stated at verification that these were ''non-bank loans pertaining to their polymer products division.'' We confirmed that none of these were for exports of the subject merchandise. See RSI Verification Report at 3 (October 30, 1995) (public version, on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). Moreover, there is no indication that the short-term loans listed in RSI's February 22, 1995, questionnaire response were export-related loans. Again, we traced all export financing shown in RSI's general ledger to the company's financial statements at verification and found no discrepancies. Accordingly, because all export-related financing has been accounted for in the Department's calculations for this program, we determine that the benefit from the exemption for exporters from the tax on loan interest has not been underestimated.

Comment 8

Petitioners argue that the Department has improperly failed to countervail IPRS benefits bestowed on non-subject castings. They state that the Department's failure to countervail such subsidies is at odds with the language and intent of the countervailing duty law, which applies to any bounty or grant whether bestowed directly or indirectly. Petitioners further contend that the statute requires Commerce to countervail indirect as well as direct subsidies because the benefit reduces a respondent's costs, regardless of whether it is paid (directly) upon the export of subject castings or (indirectly) upon the export of non-subject castings. In either event, petitioners claim, the company's costs are equally reduced, thereby conferring the countervailable benefit. In support of their contention, petitioners cite 19 U.S.C. 1303(a)(1) and *Armco, Inc.* v. *United States,* 733 F. Supp. 514 (Ct. Int'l Trade) (1990). Petitioners further assert that the URAA makes clear that U.S. law continues to countervail benefits that are conferred, regardless of ''whether the subsidy is provided directly or indirectly on the manufacture, production, or export of merchandise.''

Petitioners further contend that castings exporters can easily avoid paying countervailable duties by making no claims for IPRS payments on the subject castings, but linking their claims on non-subject castings. This is possible, according to petitioners, because eligibility for IPRS payments is based on the use of domestic pig iron, and pig iron is fungible.

Respondents state that petitioners have misapplied the term ''indirectly.'' They state that IPRS payments are not ''indirectly'' paid on subject castings merely because they are paid to the same producer. Respondents argue that there is no benefit—either direct or indirect—to the subject merchandise when benefits are paid on other products. Respondents state that petitioners are making the ''money is fungible'' argument which has never been accepted by the Department. They state the Department should not accept this argument now.

Respondents also object to petitioners' contention that respondents are circumventing the countervailing duty law by linking their claims to exports of non-subject castings. According to respondents, petitioners provide no evidence in support of their assertions. In fact, the GOI and respondent companies have been verified numerous times, and the Department has never found any indication that claims for IPRS were paid on non-subject castings in a way that circumvents the countervailing duty law, as claimed by petitioners.

Department's Position

As we stated in the 1992 Castings Final and the 1991 Castings Final, petitioners have misinterpreted the term ''indirect subsidy.'' According to petitioners, a reimbursement of costs incurred in the manufacture of product B may provide an indirect subsidy upon the manufacture of product A. As such, petitioners argue that grants tied to the production or export of product B, should also be countervailed as a benefit upon the production or export of product A. This is clearly at odds with established Department practice with respect to the treatment of subsidies, including indirect subsidies. The term ''indirect subsidies'' as used by the Department refers to the manner of delivery of the benefit which is conferred upon the merchandise subject to an investigation or review. This is the point the court was making in Armco where it was concerned that subsidies not escape being countervailed because of certain parent/subsidiary relationships. The interpretation proposed by petitioners, that a benefit tied to one type of product also provides an indirect subsidy to another product, is not within the purview or intent of the statutory language under section 771(5)(B)(ii).

The Department's practice with respect to this issue is spelled out in our *Proposed Regulations.* These state that for countervailable benefits found to be ''tied to the production or sale of a particular product or products, the Secretary will allocate the benefit solely to that product or products. If the Secretary determines that a countervailable benefit is tied to a product other than the merchandise, the Secretary will not find a countervailable subsidy on the merchandise.'' Section 355.47(a) of the *Proposed Regulations.* Tying benefits to specific products is established Department practice in the administration of the countervailing duty law. See, *e.g.*, Industrial Nitrocellulose from France, 52 FR 833 (January 9, 1987); Apparel from Thailand, 50 FR 9818 (March 12, 1985); and Extruded Rubber Thread from Malaysia, 60 FR 17515 (April 9, 1995). Moreover, we find no merit in petitioners' claim that castings exporters can avoid paying countervailing duties by shifting their claims for IPRS payments from subject to non-subject castings. When claims are filed for IPRS payments, the amount of the rebate determined by the GOI is based on the contention that 100 percent of the material used in the production of the exported good is domestic pig iron. This being the case, it is impossible to shift the claims from subject to non-subject merchandise because the IPRS payments are based upon 100 percent use of domestic pig iron regardless of the actual content of domestic pig iron, imported pig iron, or scrap used in the production of the exported good.

Comment 9

According to petitioners, the Department should countervail benefits provided to castings exporters under numerous programs found during the course of this proceeding. Citing the GOI verification report, petitioners claim that the Duty Drawback Scheme (DDS) appears to be identical to the Cash Compensatory Support Scheme that the Department found countervailable in prior reviews. Given these similarities, petitioners state, respondents must prove that the drawback under this program is not excessive. According to petitioners, the record does not establish that the allowable rebate for castings exporters is less than the applicable excise rates. Accordingly, the Department should calculate a benefit for this program.

Petitioners further note that Commex Corporation and the GOI have not provided sufficient information to show that Commex's Export Development Rebate Reserve should not be countervailed. Therefore, petitioners contend, the Department should calculate a subsidy benefit for this program by dividing the amount listed in the financial statements by the company's total exports. If the Department decides not to countervail the export reserve, it should determine what it will do with this reserve if it is ''used'' in the future.

Finally, petitioners note from RSI's verification report that the company's financial statement refers to a Deferred Export Market Development Expenditure and that respondents have not explained whether these expenditures are part of a GOI program. Lacking information to show affirmatively that this amount should not be countervailed, petitioners assert that the Department should calculate a benefit for this program. If the Department decides not to countervail the export reserve, it should determine what it will do with this reserve if it is ''used'' in the future.

With respect to the DDS, respondents argue that the Department long ago determined that this was not a subsidy. In support of their argument, respondents cite the Department's August 20, 1980, final countervailing duty determination. Respondents also claim that irrespective of whether Commex's Export Development Rebate Reserve was a subsidy, petitioners acknowledge that it was not used during the POR and, therefore, cannot be countervailed during the review period. Respondents make the same argument concerning RSI's Deferred Export Market Development Expenditure. In any case, the Department noted in RSI's verification report that the deferred expenditure was not related to subject castings, and, as such, cannot be a subsidy benefiting castings exported to the United States.

Department's Position

We disagree with petitioners that there are additional programs that should be countervailed during this proceeding. First, with respect to the DDS, we noted in our May 14, 1996, Memorandum to the File Re: Duty Drawback of Excise Taxes Program (public document on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce) that this program had been examined during the investigation. At that time, we found that the rebate of excise taxes on domestically sourced pig and scrap iron consumed in the production of exported goods was non-excessive, and, therefore, did not confer countervailable benefits. During the verification of the questionnaire responses for this administrative review, we again found that the duty drawback claimed for excise taxes paid on domestically sourced pig iron was not excessive. See *e.g.*, Commex Corporation Verification Report at 3–4 (October 30, 1995) (public version on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce). Therefore, our original determination for this program has not changed.

With respect to the Export Development Rebate Reserve and the Deferred Export Market Development Expenditure, we verified that these were not used during this POR and, accordingly, cannot be countervailed. See, *e.g.*, RSI Verification Report at 4 (October 30, 1995), and Commex Corporation Verification Report at 4 (October 30, 1995) (public versions on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce).

Comment 10

According to respondents, the Department incorrectly found that sales of import licenses by Kejriwal during the POR conferred countervailable benefits on exports of subject castings. Respondents' claim that Kejriwal's August 14, 1995, supplemental questionnaire response clearly indicates that the licenses sold by the company during the POR were earned on sales other than exports of the subject merchandise to the United States. Respondents argue that in the absence of verification of the company or other record evidence demonstrating that the licenses were tied to subject castings, the Department should not consider these licenses to have benefited Kejriwal's exports of the subject merchandise to the United States.

Petitioners argue the respondents' claim should be rejected because the record does not demonstrate that the licenses sold by Kejriwal during the POR were received only in connection with non-subject merchandise. According to petitioners, respondents' argument that these licenses are tied to non-subject castings rests upon Kejriwal's ambiguous statement in its supplemental questionnaire response that ''[t]he licenses sold * * * was [sic] obtained on total exports less exports of subject merchandise to the U.S.A.'' Petitioners claim that this statement is not only unsupported by record evidence but contradicts other evidence. In its original questionnaire response, Kejriwal stated that the licenses sold during the POR were Special Replenishment and Additional Licenses. The Department found in its preliminary determination of this administrative review that receipt of Special and Additional Licenses is based on a company's overall export performance and that these licenses cannot be tied to specific export shipments. Accordingly, respondents' claim that these licenses were tied to exports other than subject castings is inconsistent with the stated purpose of these licenses. Therefore, petitioners contend that record evidence fully support the Department's determination to countervail the licenses sold by Kejriwal during the POR.

Department's Position

We disagree with respondents. In this and past administrative reviews of this order, we found that receipt of Additional and Special Licenses was based on a company's export performance for all exports and that these licenses could not be tied to specific sales. See, *e.g.*, 1991 Castings Final, 60 FR at 44843. Where a benefit is not tied to a particular product, it is the Department's practice to allocate the benefit to all products exported by a firm where the benefit received is pursuant to an export program. See § 355.47(c) of the *Proposed Regulations.* Accordingly, where we have found that castings exporters sold licenses that could not be tied to specific sales, we determined that the sale benefited the company's entire export sales. During this administrative review, we verified that Additional and Special Licenses could be received only on the basis of a company's total export performance. Therefore, Kejriwal's statement that ''[t]he licenses sold * * * was [sic] obtained on total exports less exports of subject merchandise to the U.S.A.,'' does not constitute sufficient new evidence to overturn our earlier finding. Moreover, the mere fact that a company may choose not to include exports to the United States in applying for a license does not in any way demonstrate that the sale of such licenses cannot benefit exports to the United States. See, *e.g.*, Extruded Rubber Thread from Malaysia; Final Results of Countervailing Duty Administrative Review, 61 FR 55272, 55276 (October 25, 1996). Therefore, our determination that the sale of these licenses benefits Kajaria's total export sales, including the subject merchandise, remains unchanged.

Comment 11

Respondents contest the Department's use of a rupee-loan interest rate, adjusted for exchange rate changes, as the benchmark to calculate the benefit on PSCFC loans. According to respondents, this is inconsistent with item (k) of the ''Illustrative List of Export Subsidies,'' annexed to the GATT Subsidies Code. Item (k) provides that an ''export credit'' is a subsidy only if those credits are granted by governments at interest rates below the cost of funds to the government. Because the Indian commercial banks providing PSCFC loans could themselves borrow at LIBOR-linked rates, the appropriate benchmark, respondents claim, is a LIBOR-linked interest rate. Accordingly, PSCFC loans should not be considered beneficial to the extent that they are provided at rates below the appropriate benchmark, *i.e.*, the rate at which Indian commercial banks could borrow U.S. dollars.

According to petitioners, the Department has consistently rejected the ''cost-to-government'' methodology of item (k), because that approach does not adequately capture the benefits provided under short-term financing programs. In support of their argument, petitioners cite the Department's determinations in Extruded Rubber Thread from Malaysia; Final Results of Countervailing Duty Administrative Review, 60 FR 17515, 17517 (1995) and Certain Textile Mill Products from Mexico; Final Results of Countervailing Duty Administrative Review, 56 FR 12175, 12177 (1991). Petitioners also cite the 1989 final results of Certain Textile Mill Products from Mexico, in which the Department stated:

> When we have cited the Illustrative List as a source for benchmarks to identify and measure export subsidies, those benchmarks have been consistent with our long-standing practice of using commercial benchmarks to measure the benefit to recipient of a subsidy program. The cost-to-government standard in item (k) of the Illustrative List does not fully capture the benefits provided to recipients of FOMEX financing. Therefore, we msut [sic] use a commercial benchmark to calculate the benefit from a subsidy, consistent with the full definition of ''subsidy'' in the statute.

See 54 FR 36841, 36843 (1989). According to petitioners, the Department's repudiation of the ''cost-to-government'' standard contemplated in item (k) was upheld and restated in the Statement of Administrative Action: Agreement on Subsidies and Countervailing Measures, H. Doc. No. 316, 103d Cong., 2d Sess. (1994). For these reasons, the Department should reject respondents' argument and adopt as a benchmark a non-preferential interest rate based on the ''predominant'' form of short-term financing in India.

Department's Position

We disagree with respondents that the Department should use a LIBOR-linked interest rate as an appropriate benchmark for the PSCFC program. In determining whether a short-term export loan is preferential and confers countervailable benefits, the Department's practice has been to compare the amount of interest paid by a company for the loan with the amount the firm would have paid on a benchmark loan. In the case of short-term financing, the Department is instructed to use as a benchmark

> * * * the average interest rate for an alternative source of short-term financing in the country in question. In determining this benchmark, the Secretary normally will rely upon the predominant source of short-term financing in the country in question.

See § 355.44(b)(3)(i) of the Proposed Regulations, 54 FR at 23380 (emphasis added). In the preamble to the *Proposed Regulations,* we explained that ''the purpose of the comparison is to determine what a firm's cost of money would be absent the allegedly countervailable government loan.'' 54 FR at 23369.

In this case, we have determined that the predominant source of short-term financing in India is financing for the SSI sector at interest rates defined by the RBI. See, e.g., 1991 Castings Final, 60 FR 44843. We also found that PSCFC loans are limited only to exporters, and only exporters have access to LIBOR-linked interest. Therefore, as explained in § 355.44(b)(1) of the Proposed Regulations, because the amount paid by exporters on PSCFC loans is less than what a firm would pay for benchmark loans, we determined that PSCFC loans confer countervailable benefits. Because we found that PSCFC loans are limited to exporters and that non-exporters do not have access to these low-cost financing rates, LIBOR-linked interest rates clearly do not represent the predominant source of short-term financing in India. The fact that commercial banks may borrow at LIBOR-linked rates is, therefore, irrelevant to our finding.

Furthermore, petitioners correctly note that the Department has consistently rejected the ''cost-to-government'' standard of item (k) of the Illustrative List, which respondents cite in support of their argument that the appropriate benchmark for PSCFC loans should be a LIBOR linked interest rate. The cost-to-government standard contemplated in item (k) does not limit the United States in applying its own national countervailing duty law to determine the countervailability of benefits on goods exported from India. See, e.g., Porcelain-on-Steel Cookingware From Mexico; Final Results of Countervailing Duty Administrative Review, 57 FR 562 (January 7, 1992). Therefore, in compliance with the U.S. countervailing duty law and the Department's past practice, we will continue to use as a benchmark the ''predominant'' source of short-term financing in India to determine whether PSCFC loans confer countervailable benefits upon exports of the subject merchandise to the United States.

Comment 12

According to respondents, the Department correctly adjusted the discounted benchmark interest rate for exchange rate changes. Respondents claim, however, that this adjustment is erroneous when it increases the benchmark, because the benchmark interest rates cannot be higher than the rate at which exporters could otherwise have borrowed.

Petitioners contend that respondents fail to understand that the discounted benchmark could only be capped if PSCFC loans were denominated in rupees. However, the adjustment was made because these loans were dollar denominated. Accordingly, the Department correctly determined that on dollar terms the appropriate benchmark on these foreign currency loans did not equal the non-adjusted benchmark.

Department's Position

Respondents' assertion that the benchmark rate for PSCFC loans should be capped is incorrect. The discounted benchmark interest rate reflects the predominant source of short-term rupee financing in India. As we explained in the preliminary results, we have adjusted this benchmark because we were unable to find a foreign currency interest rate to use as a benchmark. Accordingly, we adjusted the benchmark for changes in the rupee/dollar exchange rate, thereby converting the rupee benchmark into a foreign currency benchmark. See 1993 Castings Prelim, 61 FR at 25625. If the benchmark increased beyond the rupee rate, that merely reflected the effect of currency movements on the interest rate and the exporter's alternative cost of borrowing. Accordingly, the benchmark should not be capped at the rupee rate because the rupee interest rate was not the exporter's alternative cost of borrowing. Therefore, our determination in the preliminary results remains unchanged.

Comment 13

According to respondents, for purposes of Section 80HHC, earnings from the sale of licenses are considered export income which may be deducted from taxable income to determine the tax payable by the exporter. Therefore, because proceeds from the sale of licenses are also part of the deductions under Section 80HHC, to countervail this revenue and the deduction results in double counting the subsidy from the sale of licenses. Respondents also contend that the Department is double counting the subsidy from the export financing programs. The financing programs reduce the companies' expenses in financing exports, which in turn increases profits on export sales. Because the 80HHC deduction increases as export profits increase, the financing programs increase the 80HHC deduction. Therefore, respondents argue, countervailing the financing programs and the 80HHC deduction means the benefit to the exporter is countervailed twice.

In the 1991 final results of this case, the Department argued that adjusting the benefit from 80HHC for other subsidies is not a permissible offset under section 771(6) of the Act. Under section 771(6), deductions are allowed because they represent actual costs to the exporter which lessen the benefit on the subsidy to the exporter. Respondents claim that section 771(6) of the Act is irrelevant to this issue, because it does not deal with the potential double counting of subsidies. With respect to the Department's policy to disregard the secondary tax effects of countervailable subsidies, respondents assert that this is also irrelevant in this case. According to respondents, the issue is whether the same subsidy is being countervailed twice (once because it provides a direct countervailable benefit and once because it makes up part of a tax deduction), and not whether the ''after tax benefit'' is somehow less than the nominal benefit.

According to petitioners, respondents' argument that the interest saved under the export financing programs and the proceeds from license sales are included in the Section 80HHC deduction is not supported by any record information. Respondents also offer no support for their claim that these programs increase the exporter's profits. Petitioners state that respondents err in equating revenues with profits, because profit is reached only at the point that revenues exceed costs. Respondents have not identified any record information indicating that castings exporters' receipt of concessional financing directly results in their revenues exceeding costs.

Moreover, petitioners argue that even if countervailing proceeds from the sale of licenses and concessional export credit had some effect on the amount of the Section 80HHC deduction, it would not be an allowable offset under the countervailing duty law. Also, because these effects would be secondary, they would not be permissible. Therefore, the Department should use the same methodology for calculating the benefit from these programs as it used in its analysis for the preliminary results of review.

Department's Position

Contrary to respondents' arguments, the same subsidy is not being countervailed twice. The 80HHC income tax exemption is a separate and distinct subsidy from the pre- and post-shipment export financing subsidy and the sale of import licenses subsidy. The pre- and post-shipment financing programs permit exporters to obtain short-term loans at preferential rates. The benefit from that program is the difference between the amount of interest the respondents actually pay and the amount of interest they would have to pay on the market. The interest enters the accounts as an expense or cost, just like hundreds of other expenses. There is no way to determine what effect a reduced interest expense has on a company's profits because there are so many variables (not just countervailable subsidies) that enter into, and affect, a company's costs. In order to consider the effect that such reduced interest expense would have on profits, all of the other variables that affect profits (all other revenues and expenses) would have to be isolated.

Similarly, the revenue from the sale of import licenses is considered to be a grant to the company, and that grant constitutes the benefit. The revenue a company receives from the sale of the licenses may enter the accounts as income, or it may enter the accounts as a reduction in costs. Because all the income and expenses from all sources enters into the calculation of a company's profit (or loss), there is no way to determine what effect the countervailable grant has on a company's profit.

Respondents suggest that the Department attempt to isolate the effect of the countervailable grants and loans on the company's profits and, once that effect is determined, alter the measurement of the benefit of the 80HHC program to reflect the effect of the countervailable grants and loans. As stated in the Proposed Regulations under section 355.46(b), this is something the Department does not do; ''In calculating the amount of countervailable benefit, the Secretary will ignore the secondary tax consequences of the benefit.'' To factor in the effect of other subsidies on the calculation of the benefit from a separate subsidy undermines the principle that we do not, and are not required to, consider the effects of subsidies on a company's profits or financial performance.

In all of the cases where we have actually examined both grant and loan programs, as well as income tax programs (either exemptions or reductions), this principle has been applied even though it has not been expressly discussed. For example, in the Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Belgium, 58 FR 37273 (July 29, 1993), the Department found cash grants and interest subsidies under the Economic Expansion Law of 1970 to constitute countervailable subsidies. 58 FR at 37275–37276. At the same time, the Belgian government exempted from corporate income tax grants received under the same 1970 Law. 58 FR at 37283. The Department found the exemption of those grants from income tax liability to be a countervailable subsidy. *Id.* Significantly, it did not examine the tax consequences of the tax exemption of the grants. See also Final Affirmative Countervailing Duty Determination: Certain Pasta From Turkey, 61 FR 30366 (June 14, 1996), and Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Extruded Rubber Thread From Malaysia, 57 FR 38472 (Aug. 25, 1992).

In this case, because all companies' profits are taxable at the corporate tax rate, an exemption of payment of the corporate tax for specific enterprises or industries constitutes a countervailable subsidy. The amount of the benefit is equal to the amount of the exemption. The countervailable grant may or may not have contributed to the taxable profits, but the grant does not change the amount of the exemption that the government provided, and countervailing the tax exemption does not overcountervail the grant.

Respondents claim that they are not asking us to consider the secondary tax consequences of subsidies—yet they are asking us to consider the effect of the grant and loan subsidies in the valuation of the tax subsidy. As stated above, we do not adjust the calculation of the subsidy to take into consideration the effect of another subsidy. This would be akin to an offset, and the only permissible offsets to a countervailable subsidy are those provided under section 771(6) of the Act. Such offsets include application fees paid to attain the subsidy, losses in the value of the subsidy resulting from deferred receipt imposed by the government, and export taxes specifically intended to offset the subsidy received. Adjustments which do not strictly fit the descriptions under section 771(6) are disallowed. (See, e.g., Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Extruded Rubber Thread from Malaysia 57 FR 38472 (August 25, 1992).)

It is clear that the 80 HHC program is an export subsidy; it provides a tax exemption to exporters that other companies in the economy do not receive. This is not a secondary consequence of a grant or loan program. Rather it is the primary consequence of a particular government program designed to benefit exporters. Just as we do not consider the effect of the standard tax regime on the amount of the grant to be countervailed, we do not consider the effect of other subsidy programs on the amount of tax exemption to be countervailed. Accordingly, we continue to find these programs to be separate and distinct subsidies and to find that no adjustment to the calculation of the subsidy for any of the programs is necessary.

Comment 14

According to respondents, each type of payment received under the IPRS, CCS, the sales of licenses, and another program involving duty drawback, is considered export income and is, therefore, deducted from taxable income under 80HHC. Accordingly, because revenues from the CCS, IPRS, duty drawback, and sales of licenses are not related to, and were not earned on exports of subject castings to the United States, they should not be included in the calculation of 80HHC benefits. Respondents claim they are not suggesting that the Department offset the 80HHC subsidy, which would be impermissible under section 771(6) of the Act; nor are they asking the Department to disregard secondary tax effects. Rather, respondents maintain that because the income does not relate to subject castings at all, the unpaid tax on this income cannot be a subsidy benefitting the subject merchandise.

Petitioners assert that the Department properly countervailed the benefits received under the 80HHC program, because it provides a subsidy associated with the export of all goods and merchandise. Petitioners further state that no new information has been provided in this review to suggest that the Department should modify its method for calculating the benefit under this program. Accordingly, the Department's final determination should continue to fully countervail 80HHC benefits.

Department's Position

We disagree with respondents' assertion that we incorrectly calculated the benefit provided under the 80HHC program. In the case of programs where benefits are not tied to the production or sale of a particular product or products, it is our practice to allocate the benefit to all products produced by the firm. See e.g., Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') from Turkey, 61 FR 30366, 30370 (June 14, 1996). Because the 80HHC program is an export subsidy, we appropriately allocated the benefit over total exports. We have used this methodology to calculate benefits from the 80HHC program in previous reviews of this order. See *e.g.,* 1991 Final Results, and our response to comment 13, above.

Comment 15

Respondents argue that the Exemption of Export Credit from Interest Taxes program should not be viewed as a subsidy to castings exporters, because this merely enables the banks to provide export financing at a lower interest rate. According to respondents, because the lower interest rate is the subsidy, the interest tax exemption is subsumed in the subsidy relating to the lower interest rate on export loans.

Petitioners argue that respondents have not provided any record evidence to support their claim that interest tax exemption is subsumed in the preferential export credit rates. According to petitioners, respondents' assumption is unfounded, because it is the RBI, and not Indian commercial banks, that sets the level of subsidized interest rates in India. Furthermore, the Department noted in the preliminary results notice that the interest tax is passed on to borrowers by commercial banks. Therefore, petitioners contend, the Department correctly found that the interest tax exemption constituted an additional benefit for castings exporters.

Department's Position

Contrary to respondents' claim, there is no relationship between the interest tax and commercial banks' ability to extend financing at preferential rates to Indian exporters. In our preliminary results, we found that the GOI charges a three percent tax on all interest accruing from borrowers. As of April 1, 1993, however, the GOI exempted from the interest tax all interest accruing on export loans and advances made to an exporter. See 1993 Castings Prelim, 61 FR at 25625. Our finding that this exemption conferred countervailable benefits upon exporters was based on the fact that the interest tax was passed on to borrowers in its entirety. Because the interest tax is passed on by commercial banks, the effective cost of borrowing for the exporter increases. The exemption for exporters, however, relieves them of this additional liability. Accordingly, their cost of borrowing is lower than that for non-exporters, interest rates notwithstanding. Respondents' contention that the ''interest tax exemption is subsumed in the subsidy relating to the lower interest rate on export loans'' is incorrect and not supported by record evidence. Petitioners correctly note that the interest rate structure in India is regulated by the RBI, which announces periodically the interest rates commercial banks must charge on export financing. The interest tax does not in any way influence these rates, but is, rather, an additional cost to borrowers from which exporters are exempt.

Comment 16

According to respondents, argued collectively and by R.B. Agarwalla individually, the Department over-calculated the subsidy found as a result of imports made under an Advance License, because it failed to deduct revenue lost from export sales of subject castings due to LERMS. Respondents argue that exporters could purchase pig iron under an Advance License at two exchange rates, the higher market rate and the lower official rate. However, they also argue that under the LERMS, the exporters lost revenue on the exports produced with the imported pig iron, because payment for the export sale was converted into rupees at dual exchange rates: 60 percent at the higher market rate and 40 percent at the lower government-controlled rate. The revenue lost from the exchange at the lower rate, respondents contend, should be deducted from the benefit calculated by the Department under this program. In its brief, R.B. Agarwalla provided an attachment detailing its ''loss due to LERMS'' on the company's exports of subject castings to the United States.

According to petitioners, the Department noted in its preliminary results notice that during 1993 all export earnings, regardless of whether inputs were imported under an Advance License, were subject to the same LERMS treatment, *i.e.*, remitted at the dual exchange rates. In light of this, petitioners contend that respondents' argument should be rejected, because they have not explained why this non-targeted treatment under LERMS should provide a basis for an offset to the benefit provided under the Advance License scheme.

Department's Position

We disagree with respondents. In the preliminary results, we explained that during 1993, while the LERMS was still in effect, all imports had to be purchased at the market exchange rate, with the exception of goods imported under an Advance License. Under this scheme, 40 percent of the value of imported goods could be paid for at a lower rate of exchange. Because Advance Licenses are issued to companies based on their status as exporters, we determined that the provision under LERMS allowing exporters with Advance Licenses to import goods at exchange rates more favorable than those available to non-exporters constitutes an export subsidy. See 1993 Castings Prelim, 61 FR at 25626.

Respondents' claim that the exporters ''lost revenue'' on exports produced with goods imported under an Advance License is misleading and does not correspond to the facts. Prior to the implementation of the LERMS, all export earnings were converted at a single exchange rate, the official government rate, which corresponds to the lower government rate at which 40 percent of export earnings were exchanged under the LERMS. Accordingly, the GOI's liberalization of the foreign currency markets provided exporters with increased export earnings, as only 40 percent of remittances were converted at the lower official rate after implementation of the LERMS. Moreover, as we stated in the preliminary results, under the LERMS, all export earnings were remitted at the 60:40 exchange rates. Accordingly, there was no discrimination in the application of the LERMS among exporters. Thus, there is no basis for considering that the exchange rates applied to export earnings constitute an offset for the exchange rates applied to imports. For the above reasons, our findings for this program remain unchanged.

Final Results of Review

For the period January 1, 1993 through December 31, 1993, we determine the net subsidy to be zero percent for Delta Enterprises and Super Iron Foundry and 5.45 percent ad valorem for all other companies. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis.*

The Department will instruct the U.S. Customs Service to assess the following countervailing duties:

Manufacturer/exporter	Rate
Delta Enterprises	0.00
Super Iron Foundry	0.00
All Other Companies	5.45

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of zero percent of the f.o.b. invoice price on all shipments of the subject merchandise from Delta Enterprises and Super Iron Foundry, and 5.13 percent *ad valorem* of the f.o.b. invoice price on all shipments of the subject merchandise from all other companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

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 C.F.R. 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 section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: November 27, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–31095 Filed 12–5–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–533–063]

Certain Iron-Metal Castings From India: 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 August 29, 1995, the Department of Commerce (the Department) published in the Federal Register its preliminary results of administrative review of the countervailing duty order on Certain Iron-Metal Castings From India for the period January 1, 1992 to December 31, 1992. We have completed this review and determine the net subsidies to be 0.00 percent ad valorem for Dinesh Brothers, Pvt. Ltd., 13.99 percent for Kajaria Iron Castings Pvt. Ltd., and 6.02 percent ad valorem for all other companies. We will instruct the U.S. Customs Service to assess countervailing duties as indicated above.

EFFECTIVE DATE: December 6, 1996.

FOR FURTHER INFORMATION CONTACT: Elizabeth Graham or Marian Wells, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4105 or 482–6309, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 29, 1995, the Department published in the Federal Register (60 FR 44839) the preliminary results of its administrative review of the countervailing duty order on Certain Iron-Metal Castings From India. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On September 28, 1995, case briefs were submitted by the Municipal Castings Fair Trade Council (MCFTC) (petitioners), and the Engineering Export Promotion Council of India (EEPC) and individually-named producers of the subject merchandise that exported iron-metal castings to the United States during the review period (respondents). On October 5, 1995, rebuttal briefs were submitted by the MCFTC and the EEPC. The comments addressed in this notice were presented in the case and rebuttal briefs.

The review covers the period January 1, 1992 through December 31, 1992. The review involves 14 companies (11 exporters and three producers of the subject merchandise) and the following programs:

(1) Pre-Shipment Export Financing
(2) Post-Shipment Export Financing