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

(3) Income Tax Deductions under Section 80HHC
(4) Import Mechanisms
(5) Advance Licenses
(6) Market Development Assistance
(7) International Price Reimbursement Scheme (IPRS)
(8) Falta Free Trade Zones and Other Free Trade Zones Program
(9) Preferential Freight Rates
(10) Preferential Diesel Fuel Program
(11) 100 Percent Export-Oriented Units Program
(12) Cash Compensatory Support Program (CCS)

Applicable Statute and Regulations

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 Rules), 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 Rules were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. See 60 FR 80 (Jan. 3, 1995).

Scope of the Review

Imports covered by the 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.

Calculation Methodology for Assessment and Cash Deposit Purposes

Pursuant to *Ceramica Regiomontana, S.A.* v. *United States*, 853 F. Supp. 431, 439 (CIT 1994), Commerce is required to calculate a country-wide CVD rate, i.e., the all-others rate, by ''weight averaging the benefits received by all companies by their proportion of exports to the United States, inclusive of zero rate firms and *de minimis* firms.'' Therefore, we first calculated a subsidy rate for each company subject to the administrative review. We then weighted the rate received by each company using its share of U.S. exports to total Indian exports to the United States of subject merchandise. 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.

Because 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 (Kajaria and Dinesh) received significantly different net subsidy rates during the review period. These companies would be treated separately for assessment and cash deposit purposes, while all other companies would be assigned the weighted-average country-wide rate. However, because this notice is being published concurrently with the final results of the 1993 administrative review, the 1993 administrative review will serve as the basis for setting the cash deposit rate.

Analysis of Comments

Comment 1

Petitioners argue that the Department must calculate a benefit for the Reserve Bank of India (RBI) refinancing practices that it preliminarily determined to be countervailable. Petitioners assert that the Government of India (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 Oil Country Tubular Goods from Korea (OCTG), 49 FR 46,776, 46,777, 46,784 (November 28, 1994) as support for their contention. Petitioners state that, as the Department recognized in Steel and OCTG, 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-export 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.

Petitioners assert that even if potential benchmark rates are inflated due to the refinancing program, a substantial gap still exists between the benchmark rates and the refinancing rates. They cite the benchmark used in the preliminary results (15 percent) as well as a lending rate listed in the International Financial Statistics Yearbook (18.92 percent) which are both much higher than the refinance rates (11 and 5.5 percent). They assert that the Department should use the 18.92 percent rate because the RBI rate used in the preliminary results (15 percent) underestimates the benchmark rate.

Respondents contend that the RBI refinancing is not a separate subsidy from the Post-Shipment Export Financing, and hence should not be countervailed. They argue that the refinancing is what allows the banks to give the preferential post-shipment credit and if the Department were to countervail the refinancing, it would be countervailing the same subsidy twice. They add that petitioners' concern over the fact that the refinancing rates are lower than other rates in India is without merit. Respondents state that refinancing rates between central banks and commercial banks are always lower than rates charged by commercial banks to non-bank customers.

Department's Position

Petitioners are correct when they assert that higher rediscount or refinancing ratios provided for export loans may encourage commercial banks to provide export loans over domestic loans and drive up the cost of financing for non-exporters. See section 771(5)(A)(ii) of the Act. 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.*, OCTG.) In this case, we consider the higher refinancing ratios provided on export loans to be the mechanism that allows the banks to provide the Preferential Post-Shipment Financing. We agree with respondents' assertion that countervailing the refinancing would result in double-counting the benefit from the program. Therefore, we have measured the preference as the differential between the program interest rate and the benchmark interest rate.

We believe petitioners' cites to OCTG and Steel are misplaced. In OCTG, the Government of Korea (GOK) set the interest rates for both export and domestic loans at a uniform rate of 10 percent. We stated that if all the other terms and conditions were the same for export and domestic loans then we would find no export subsidy to exist. However, we found that the GOK set different rediscount ratios for export and domestic loans to encourage banks to provide export financing. Because there was no difference in the interest rates which were set for export and domestic loans, we had to devise another method to measure this preference. As such, we measured the preference for export over domestic loans by comparing the 10 percent rate with a weighted average of short-term domestic credit. 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.

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 (see 19 CFR 355.44(3)(b) (1994)) and have not calculated any additional benefit for the higher refinancing ratio provided for export loans.

Comment 2

Petitioners state that the Department improperly failed to countervail the value of advance licenses, because advance licenses are simply export subsidies and not the equivalent of a duty drawback program. First, petitioners contend that the advance licenses are export subsidies as defined by item (a) of the Illustrative List of Export Subsidies (Illustrative List), annexed to the General Agreement on Tariffs and Trade (GATT) Subsidies Code, as they are contingent upon export performance. Petitioners also claim that the advance license program does not meet the criteria of a duty drawback system that would be permissible in light of item (i) of the Illustrative List. They base this claim on the fact that (1) the advance licenses were not limited to use just for importing duty-free input materials because the licenses could be sold to other companies; (2) eligibility for drawback is always contingent upon the claimant demonstrating that the amount of input material contained in an export is equal to the amount of such material imported, which the respondents failed to do; and (3) the GOI made no attempt to determine the amount of material that was physically incorporated (making normal allowances for waste) in the exported product as required under Item (i). For these reasons, petitioners state that the Department should countervail in full the value of advance licenses received by respondents during the period of review.

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 the 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 rebut petitioners' contention that the GOI has no way of knowing how much imported pig iron is in the exported product. Respondents contend that the Department has verified in prior reviews that the Indian government carefully checks the amount imported under advance licenses and the amount physically incorporated into the exported merchandise. Respondents also state that no advance licenses were sold during the POR.

Department's Position

Petitioners have only pointed out the administrative differences between a duty drawback system and the advance license scheme used by Indian exporters. Such differences do not render the advance license scheme different from a duty drawback system. Similar 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: To allow a producer to import raw materials used in the production of an exported product without having to pay duties.

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 how a duty drawback scheme would work. That is, they used the licenses in order to import, net of duty, raw materials which were physically incorporated into the exported products. We have determined in previous reviews of this order (see, *e.g.*, Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review (Castings 91) (60 FR 44843, August 29, 1995)), based on verified information, that the amount of raw materials imported and reported in the context of this administrative review was not excessive vis-a-vis the products exported. On this basis, we determine that use of the advance licenses was not countervailable.

Comment 3

Petitioners argue that, to the extent that any respondent received CCS or IPRS payments on non-subject castings or sold Replenishment and Exim Scrip Licenses related to non-subject castings, the Department should calculate and countervail the value of CCS and IPRS payments and the sale of licenses related to non-subject castings in this administrative review. They state that the Department's failure to countervail subsidies on non-subject castings exports is at odds with the language and intent of the countervailing duty law, which applies to any subsidy whether bestowed ''directly or indirectly.'' To support their contention, petitioners cite *Armco, Inc.* versus *United States,* 733 F. Supp. 514 (1990). They also 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.' They argue that subsidies conferred on non-subject castings should be countervailed because these subsidies provide indirect benefits on exports of the subject castings.

Respondents state that petitioners have misapplied the term ''indirectly.'' They state that the CCS, IPRS payments, and proceeds from the sales of licenses relating to other merchandise 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 law by claiming more CCS or IPRS on non-subject castings. They claim that there is no basis for petitioners' assertions. In fact, the GOI and the respondent companies have been verified numerous times, and not once has the Department determined that claims for CCS, IPRS or licenses were paid on non-subject castings in a way that circumvents the law.

Department's Position

Section 771(5)(A)(ii) of the Act is concerned with subsidies that are ''paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise''. Petitioners have misinterpreted the term ''indirect subsidy.'' They argue that a subsidy tied to the export of product B may provide an indirect subsidy to product A, or that a reimbursement of costs incurred in the manufacture of product B may provide an indirect subsidy upon the manufacture of product A. As such, they argue that grants that are tied to the production or export of product B, should also be countervailed as a benefit upon the production or export of product A. As explained below, this is 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. The term, as used by the Department, does not imply that a benefit tied to one type of product also provides an indirect subsidy to another product. The kind of interpretation proposed by petitioners is clearly not within the purview or intent of the statutory language under section 771(5)(A)(ii).

In our Proposed Rules, we have clearly spelled out the Department's practice with respect to this issue. ''Where the Secretary determines that a countervailable benefit is 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). This practice of tying benefits to specific products is an established tenet of the Department's administration of the countervailing duty law. See, *e.g.,* Industrial Nitrocellulose from France; Final Results of Countervailing Duty Administrative Review 52 FR 833, 834–35 (January 9, 1987); Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Certain Apparel from Thailand, 50 FR 9818, 9823 (March 12, 1985); and Extruded Rubber Thread from Malaysia: Final Results of Countervailing Duty Administrative Review, 60 FR 17515, 17517 (April 6, 1995).

Comment 4

Importers argue that the Department incorrectly calculated the country-wide rate. They state that the Department assigned Kajaria an individual company rate based on the fact that it was significantly different from the weighted-average country-wide rate. However, the Department also included the amount of subsidies found to have been received by Kajaria in calculating the weighted-average country-wide rate. Importers argue this is contrary to the countervailing duty statute because it results in the collection of countervailing duties in excess of the subsidy amounts found by the Department. This is because the inclusion of this high rate in the weighted-average country-wide rate increases the all others' rate and, hence, the amount collected from all other shippers would include a portion of the subsidies received by Kajaria, which are already offset by the collection of the individual rate on Kajaria's shipments. Importers assert that the Department must exclude Kajaria's rate from the all others rate calculations to ensure that the amount collected is equal to, and does not exceed, the actual amount of subsidies that were found.

Respondents agree with importers that the inclusion in the country-wide rate of companies' rates that are ''significantly'' higher than the country-wide rate is improper when those companies are also given their own separate company-specific rates. They argue that this methodology overstates and, in part, double counts the overall benefit from the subsidies received by respondents. Respondents argue that *Ceramica Regiomontana, S.A.* v. *United States,* 853 F. Supp. 431 (CIT 1994) does not require the Department to include ''significantly'' higher rates in calculation of the country-wide rate. They state that a careful reading of that case, as well as *Ipsco Inc.* v. *United States,* 899 F. 2d 1192 (Fed. Cir. 1990), demonstrates that the courts in both cases were only concerned about the over-statement of rates owing to elimination of *de minimis* or zero margins from the country-wide rate calculation. Respondents claim that every company's rate is being pulled up to a percentage greater than it should be because the Department has included in the weighted-average country-wide rate the rates of companies that received their own ''significantly'' higher company-specific rates. Thus, they state that the country-wide rate is excessive for every company to which it applies. Respondents state that, not only is it unfair to charge this excessive countervailing duty, it is also contrary to law, in conflict with the international obligations of the United States, and violative of due process.

Petitioners state that respondents have misread *Ceramica* and *Ipsco.* They state that the plain language of *Ceramica* requires the Department to calculate a country-wide rate by weight averaging the benefits received by all companies by their proportion of exports to the United States inclusive of zero rate firms and *de minimis* firms. Petitioners state that while *Ceramica* and *Ipsco* dealt factually with the circumstances in which respondent companies had lower-than-average rates, the principle on which these cases is based applies equally to instances in which some companies have higher-than-average rates. They state that the courts have determined that the benefits received by all companies under review are to be weight-averaged in the calculation of the country-wide rate. Therefore, petitioners conclude that the Department followed the clear directives from the court.

Department's Position

We disagree with respondents that ''significantly different'' higher rates (including BIA rates) should not be included in the calculation of the CVD country-wide rate. We further disagree with respondents' reading of *Ceramica* and *Ipsco.* In those cases, the Department excluded the zero and *de minimis* company-specific rates that were calculated before calculating the country-wide rate. The court in *Ceramica,* however, rejected this calculation methodology. Based upon the Federal Circuit's opinion in *Ipsco,* the court held that Commerce is required to calculate a country-wide CVD rate applicable to non-*de minimis* firms by ''weight averaging the benefits received by *all* companies by their proportion of exports to the United States, inclusive of zero rate firms and *de minimis* firms.'' *Ceramica,* 853 F. Supp. at 439 (emphasis on ''all'' added).

Thus, the court held that the rates of *all* firms must be taken into account in determining the country-wide rate. As a result of *Ceramica,* Commerce no longer calculates, as it formerly did, an ''all others'' country-wide rate. Instead, it now calculates a single country-wide rate at the outset, and then determines, based on that rate, which of the company-specific rates are ''significantly'' different.

Given that the courts in both *Ipsco* and *Ceramica* state that the Department should include all company rates, both *de minimis* and non *de minimis,* there is no legal basis for excluding ''significantly different'' higher rates, including BIA rates. To exclude these higher rates, while at the same time including zero and *de minimis* rates, would result in a similar type of country-wide rates bias of which the courts were critical when the Department excluded zero and *de minimis* rates under its former calculation methodology.

Comment 5

Respondents claim that the Department used the incorrect denominator, total exports of subject castings, to calculate the benefit to RSI Ltd. from the Section 80 HHC income tax program.

Department's Position

Upon a review of our calculations, we have determined that we did use the incorrect denominator, exports of subject merchandise, in calculating the benefit to RSI Ltd. from the Section 80 HHC program. For purposes of these final results, we have corrected our calculations by using total export sales of all merchandise as the denominator for this calculation.

Comment 6

Respondents argue that the Department has incorrectly calculated preshipment interest for two of RB Agarwalla's loans. First, respondents claim that the Department assumed that RB Agarwalla Pre-Shipment Export Financing loans taken on October 30, 1991 and November 16, 1991 ran for 17 days plus 53 days, for a total of 70 days. Respondents state that only 19 days of interest should be considered for the 1992 calculation, since much of the interest was not paid in the period of review. In the second case, regarding loans from the Hongkong & Shanghai Banking Corporation to RB Agarwalla, respondents claim that the Department failed to take into account an interest payment made in 1992. According to respondents, the Department assumed incorrectly that the interest was paid in 1991. This interest accrued during 1991 but was actually paid during 1992 and should, therefore, be included in the calculation of preshipment interest for 1992.

Department's Position

Upon a review of our calculations, we have determined that we did use the incorrect number of days to calculate the benefit to RB Agarwalla from certain of its preshipment loans. We have corrected our calculations by using 19 days rather than 70, as we determined that interest was calculated for those days in the 1991 review. Additionally, we have included RB Agarwalla's interest payment in our calculation of the interest paid by RB Agarwalla during 1992.

Comment 7

Respondents claim that the Department used the incorrect denominator, RB Agarwalla's sales of subject castings, in its calculation of the benefit to RB Agarwalla from the Pre-Shipment Export Financing Program. According to respondents, the correct denominator for calculating the benefit is total exports of all products during the POI.

Department's Position

Upon a review of our calculations, we have determined that we did use the incorrect denominator, exports of subject merchandise, in calculating the benefit to RB Agarwalla from the Pre-Shipment Export Financing program. For purposes of these final results, we have corrected our calculations by using total exports of all merchandise to all markets as the denominator.

Comment 8

Respondents claim that the Department's calculation of Pre-shipment Export Financing loans includes loans that are not included in Kejriwal's list of loans. Therefore, these loans should not be included in the Department's calculation.

Petitioners disagree with respondents' claim. They assert, based on proprietary information, that the Department has actually underestimated the benefit provided to Kerjriwal by the Pre-Shipment Export financing program because there is no evidence that these loans were paid off during the review period.

Department's Position

We disagree with respondents. The loans to which respondents refer are not new loans but rather unpaid balances on existing loans. Kejriwal did not report its remaining payments on these loans in its 1992 questionnaire responses. Additionally, we have checked the public record of the 1993 administrative review and discovered that Kejriwal reported not having used this program during 1993. Based on these facts, in our preliminary results of review, we calculated a benefit based on the assumption that Kejriwal paid the loan off in 180 days. However, as petitioners have argued, we may have underestimated the benefit as we have no evidence on the record to indicate that Kejriwal paid off this loan during the review period. Therefore, for purposes of this review period, we have calculated interest on the unpaid balance through the end of 1992 for both of these loans.

Comment 9

Respondents state that the Department has incorrectly countervailed the sale of an additional license by Kejriwal during the period of review. Respondents state that all licenses listed in the company's response were earned on sales of industrial castings or on sales of subject castings to markets other than the United States. Therefore, the Department should not consider the sale of the license as a subsidy when it calculates Kejriwal's benefits.

Petitioners state that the Department was correct in finding that the sale of an additional license by Kejriwal is a subsidy on subject castings.

Department's Position

Upon a review of our calculations and Appendix J of Kejriwal's May 9, 1994, response, we have determined that Kejriwal did receive its additional license for non-subject merchandise. Therefore, we are not calculating a benefit from Kejriwal's sale of this additional license for purposes of these final results of review.

Comment 10

Respondents state that countervailing the Pre- and Post-Shipment Export Financing programs, the sale of import licences and the income tax deductions under Section 80 HHC of the Income Tax Act double counts the subsidy from the financing programs and import license sales. They argue that, under Section 80 HHC, 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, respondents argue that, because proceeds from the sale of licenses are also part of the deductions under Section 80 HHC, to countervail the payments and the deduction results in double counting the subsidy from the sale of licenses. Additionally, the Department is double counting the subsidy by countervailing both the financing programs and the 80 HHC tax deduction. Respondents assert that the financing programs reduce the companies' expenses in financing exports, which in turn, increases profits on export sales. Because the 80 HHC deduction increases as export profits increase, the financing programs increase the 80 HHC deduction. Thus, countervailing the financing programs and the 80 HHC deduction means the benefit to the export is countervailed twice.

Respondents argue that adjusting the tax deduction in order to avoid double counting should not be considered offsetting the subsidy as provided by section 771(6) of the Act. Under that section, deductions are allowed because they represent actual costs to the exporter which lessen the benefit on the subsidy to the exporter. Respondents also assert that the Department's treatment of secondary tax effects is also not relevant in this case. The issue in this case is whether the same subsidy is being countervailed twice, not whether the ''after tax benefit'' is somehow less than the nominal benefit.

Petitioners assert that respondents benefit from both the preferential financing programs and sale of import licenses as the programs ultimately increase their profits and their total income. Respondents further benefit because they are able to use the 80 HHC program to eliminate or reduce the taxes owed on these increased profits and income. 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 80 HHC 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 80 HHC 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 11

Respondents state that the Department preliminarily found that several programs, including IPRS, CCS, the sales of licenses, and another program involving duty drawback, did not benefit sales of subject castings to the United States. Respondents argue that, regardless of the fact that none of the income earned through these programs benefitted subject castings exported to the United States, the Department still countervailed the deduction of this income. Respondents suggest that income from the CCS, IPRS, duty drawback, and sales of licenses should not be included in the calculation of 80 HHC benefits. Respondents are not suggesting that the Department offset the subsidy or disregard secondary tax effects. They are stating that because the income does not relate to subject castings, the unpaid tax on this income cannot be a subsidy benefitting the subject merchandise.

Respondents also argue that the Department overstated Kajaria's benefits from the Section 80 HHC Income Tax Deduction program by not factoring out its greater profits made on exports of non-subject castings. They assert that the Department should not include the profit earned on non-subject castings in its 80 HHC calculation.

Petitioners state that the Department has correctly countervailed the benefits received under the 80 HHC program. They argue that respondents have failed to recognize that the Department has countervailed this program because it provides a subsidy associated with the export of all goods and merchandise. Petitioners add that no new information has been provided in this review to suggest that the Department should change its calculations. They assert that the Department should reject Kajaria's claim that its 80 HHC benefits are overstated.

Department's Position

We disagree with respondents' assertion that we incorrectly calculated the benefit provided by the 80 HHC program. Again, respondents are, in effect, requesting the Department to trace specific revenues in order to determine the tax consequences on such revenues. As we explained above in Comment 10, this is something the Department does not do and is not required to do.

Further, it is our practice, in the case of programs where benefits are not tied to the production or sale of a particular product or products, 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).) In this case, because the 80 HHC program is an export subsidy not tied to specific products, we appropriately allocated the benefit over total exports. We have used this methodology to calculate benefits from the 80 HHC program in previous reviews of this order.

Final Results of Review

For the period January 1, 1992 through December 31, 1992, we 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. Because this notice is being published concurrently with the final results of the 1993 administrative review, the 1993 administrative review will serve as the basis for setting the cash deposit rate.

This notice serves as the only reminder to parties subject to APO of their responsibilities concerning the return or destruction of proprietary information disclosed under APO in accordance with section 355.34(d) of the Proposed Regulations. Failure to comply is a violation of the APO.

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. 96–31106 Filed 12–5–96; 8:45 am]

BILLING CODE 3510–DS–P

Minority Business Development Agency

Business Development Center Applications: Orlando, Jacksonville, Tampa, Bronx, Brooklyn and Brownsville

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Cancellation.

SUMMARY: The Minority Business Development Agency is cancelling the announcement to solicit competitive applications under its Minority Business Development Center (MBDC) program to operate the Orlando, Jacksonville and Tampa, Bronx, Brooklyn, and Brownsville MBDCs. The Orlando, Jacksonville, Tampa, Bronx and Brooklyn solicitations were originally published in the Federal Register, Thursday, June 6, 1996, Vol. 61, No. 110, Pages 28847 and 28851. The Brownsville MBDC solicitation was published on Wednesday, June 12, 1996, Vol. 61, No. 14, Page 29738.

11.800 Minority Business Development Center (Catalog of Federal Domestic Assistance)

Dated: December 2, 1996.

Frances B. Douglas,

Alternate Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 96–31036 Filed 12–5–96; 8:45 am]

BILLING CODE 3510–21–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act

TIME AND DATE: 10:00 a.m., Tuesday, December 10, 1996.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Crib Slats

The Commission will consider options to address hazards related to the structural integrity of side rail slats on cribs.