

reconsideration of that determination, we continue to find this GOV debt restructuring program, under which this 1990 loan was received, not countervailable.

III. Programs Preliminarily Determined To Be Not Used

A. Government Guarantees of SIDOR's Private Debt in 1987 and 1988

In 1987 and 1988, the GOV guaranteed loans provided to SIDOR by Credito Italiano and Kreditanstalt Fuer Wiederaufbau (KfW), respectively. Both of these loans were Deutschmark (DM) denominated loans linked to the London Interbank Offering Rate (LIBOR).

According to SIDOR's and the GOV responses, the 1987 and 1988 loans were specifically applied for and authorized as part of a program to finance the expansion of SIDOR's pipe mill. The approval documents specify that the loans were for the expansion of SIDOR's pipe mill, in particular for purchasing equipment. These were authorized under the December 10, 1987, "Law for the Contracting and Financing of the First Stage of the Project to Expand and Modernize SIDOR's Pipe Mill." Because the information submitted in the company and government responses states that the KfW and Credito Italiano loans were tied to financing the expansion of SIDOR's pipe mill, we preliminarily determine that the loans and the government guarantees of the loans are tied to non-subject merchandise and, thus, do not provide a benefit to wire rod. Therefore, we preliminarily determine that the GOV loan guarantees did not confer countervailable benefits on the production and/or exportation of subject merchandise, and that this program was not used during the POI.

B. Preferential Tax Incentives Under Decree 1477

Petitioners alleged that Decree 1477 provides partial or total income tax exemptions and other tax credits to companies in disadvantaged regions, including Bolivar, where SIDOR is located. According to petitioners, companies that relocated or commenced an expansion after March 23, 1976, qualify for tax incentives. In its response to our questionnaire, SIDOR stated that the company never applied for or received benefits under this program. Therefore, we preliminarily determine that this program was not used by SIDOR during the POI.

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted by respondents prior to making a final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated a subsidy rate for SIDOR, the one company under investigation. We also are applying SIDOR's rate to any companies not investigated or any new companies exporting the subject merchandise.

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

Company	Ad valorem rate
SIDOR	13.06
All Others	13.06

ITC Notification

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

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 355.38, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing will be held on September 22, 1997, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to request a hearing must

submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1874, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing, 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, eight copies of the business proprietary version and three copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than September 8, 1997. Eight copies of the business proprietary version and three copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than September 15, 1997. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 355.38 and will be considered if received within the time limits specified above. 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. If this investigation proceeds normally, we will make our final determination by October 14, 1997.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: July 28, 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-428-823]

Preliminary Affirmative Countervailing Duty Determination: Steel Wire Rod From Germany

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

EFFECTIVE DATE: August 4, 1997.

FOR FURTHER INFORMATION CONTACT: Cindy Thirumalai or Daniel Lessard, Office of Antidumping/Countervailing

Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 1874, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4087 or 482-1778 respectively.

PRELIMINARY DETERMINATION: The Department preliminarily determines that countervailable subsidies are being provided to Saarlust AG (Saarlust) and Ispat Hamburger Stahlwerke GmbH (IHSW), producers and exporters of steel wire rod from Germany. We have also preliminarily determined that Walzdraht Hochfeld GmbH (WHG) received *de minimis* subsidies and that we have insufficient information at this time to make a determination with respect to Brandenburger Elektrostahlwerke GmbH (BES). For information on the estimated countervailing duty rates, please see the *Suspension of Liquidation* section of this notice.

Case History

Since the publication of the notice of initiation in the **Federal Register** (62 FR 13866; March 24, 1997), the following events have occurred.

On April 2, 1997, we issued countervailing duty questionnaires to the Government of the Federal Republic of Germany (GOG), the Government of the Free and Hanseatic City of Hamburg (GOH), the Government of Saarland (GOS), Saarlust, BES, IHSW, and WHG. We received responses to our questionnaires on May 27, 1997. We issued supplemental questionnaires to parties in June and July for which responses were received in the same months. On May 2, 1997, we postponed the preliminary determination in this investigation until July 28, 1997 (62 FR 25172; May 8, 1997).

Scope of Investigation

The products covered by this investigation are certain hot-rolled carbon steel and alloy steel products, in coils, of approximately round cross section, between 5.00 mm (0.20 inch) and 19.0 mm (0.75 inch), inclusive, in solid cross-sectional diameter. Specifically excluded are steel products possessing the above noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; (e) free machining steel that contains by weight 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.4 percent of phosphorus, more than 0.05 percent of selenium, and/or more than

0.01 percent of tellurium; or (f) concrete reinforcing bars and rods.

The following products are also excluded from the scope of this investigation:

Coiled products 5.50 mm or less in true diameter with an average partial decarburization per coil of no more than 70 microns in depth, no inclusions greater than 20 microns, containing by weight the following: carbon greater than or equal to 0.68 percent; aluminum less than or equal to 0.005 percent; phosphorous plus sulfur less than or equal to 0.040 percent; maximum combined copper, nickel and chromium content of 0.13 percent; and nitrogen less than or equal to 0.006 percent. This product is commonly referred to as "Tire Cord Wire Rod."

Coiled products 7.9 to 18 mm in diameter, with a partial decarburization of 75 microns or less in depth and seams no more than 75 microns in depth; containing 0.48 to 0.73 percent carbon by weight. This product is commonly referred to as "Valve Spring Quality Wire Rod."

The products under investigation are currently classifiable under subheadings 7213.91.3000, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, and 7227.90.6050 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the "Act").

Injury Test

Because Germany is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of steel wire rod from Germany materially injure, or threaten material injury to, a U.S. industry. On April 30, 1997, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from Germany of the subject merchandise (62 FR 23485).

Petitioners

The petition in this investigation was filed by Connecticut Steel Corp., Co-Steel Raritan, GS Industries, Inc., Keystone Steel & Wire Co., North Star

Steel Texas, Inc. and Northwestern Steel and Wire (the petitioners), six U.S. producers of wire rod.

Subsidies Valuation Information

Period of Investigation

The period for which we are measuring subsidies (the "POI") is calendar year 1996.

Allocation Period

In the past, the Department has relied upon information from the U.S. Internal Revenue Service on the industry-specific average useful life of assets to determine the allocation period for nonrecurring subsidies. See *General Issues Appendix* appended to *Final Affirmative Countervailing Duty Determination; Certain Steel Products from Austria* (58 FR 37217, 37226; July 9, 1993) (*General Issues Appendix*). However, in *British Steel plc. v. United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel*), the U.S. Court of International Trade (the Court) ruled against this allocation methodology. In accordance with the Court's remand order, the Department calculated a company-specific allocation period for nonrecurring subsidies based on the average useful life (AUL) of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *British Steel*, 929 F. Supp. 426, 439 (CIT 1996).

In this investigation, the Department has followed the Court's decision in *British Steel*. Therefore, for the purposes of this preliminary determination, the Department has calculated company-specific AULs.

Based on information provided by Saarlust and IHSW regarding the companies' depreciable assets, the Department has preliminarily determined that the appropriate allocation period for Saarlust and IHSW is 10 years. The calculation of allocation periods for WHG and BES was unnecessary.

Creditworthiness

When the Department examines whether a company is creditworthy, it is essentially attempting to determine if the company in question could obtain commercial financing at commonly available interest rates. If a company receives comparable long-term financing from commercial sources, that company will normally be considered creditworthy. In the absence of comparable commercial borrowings, the Department examines the following factors, among others, to determine whether or not a firm is creditworthy:

1. Current and past indicators of a firm's financial health calculated from that firm's financial statements and accounts.

2. The firm's recent past and present ability to meet its costs and fixed financial obligations with its cash flow.

3. Future financial prospects of the firm including market studies, economic forecasts, and projects or loan appraisals.

For a more detailed discussion of the Department's creditworthiness methodology, see, e.g., Final Affirmative Countervailing Duty Determination: Certain Steel Products from France, 58 FR 37304 (July 9, 1993) or Final Affirmative Countervailing Duty Determination: Certain Steel Products from the United Kingdom, 58 FR 37393 (July 9, 1993).

Petitioners have alleged that Saarstahl was uncreditworthy in 1989 and between 1993 and 1996. They further allege that Hamburger Stahlwerke GmbH (HSW) was uncreditworthy in 1984 and 1994. Because neither company received long-term financing in the relevant years, we examined other factors to determine the firms' creditworthiness. In making our determinations, we examined Saarstahl's and HSW's current, quick, and interest/debt coverage ratios in addition to their net profit/loss for the three preceding years. Both Saarstahl and HSW experienced operating losses in those years (except 1988 for Saarstahl), and the financial ratios demonstrate that both companies were in poor financial health. The current ratio (current assets divided by current liabilities) measures the margin of safety available to cover any drop in the value of current assets, while the quick ratio (current assets excluding inventory and prepaids divided by current liabilities) shows the company's ability to pay its short-term liabilities. For both companies, the ratios were very small, demonstrating their difficulty in meeting their short-term liabilities and interest expenses. Furthermore, the interest/debt coverage ratios (net income plus interest expense plus taxes divided by interest expense), highlighted the firms' inability to meet existing interest payments. We preliminarily determine that Saarstahl was uncreditworthy in 1989 and HSW was uncreditworthy in 1994.

Because Saarstahl did not receive any countervailable benefits from the GOS or the GOG following its 1993 bankruptcy, we do not reach the question of Saarstahl's creditworthiness for this period. Moreover, because IHSW's allocation period is ten years, we are not examining subsidies received prior to 1987. Therefore, we do not need

to analyze HSW's creditworthiness for that period.

Discount Rates

Saarstahl reported that German banks set interest rates for long-term, fixed rate commercial loans in reference to the yield earned on public bonds. The company explained that in establishing the interest rate for the commercial loans the banks normally add a margin of zero percent to two percent to the yield on public offerings depending upon the borrower's creditworthiness. Because neither Saarstahl nor IHSW provided a company-specific discount rate, we used German public bond rate plus a spread of two percent as the discount rate for Saarstahl in 1989 and IHSW in 1994. This rate represents the highest long-term interest rate which we could locate. For Saarstahl in 1989 and IHSW in 1994, we added a risk premium to establish the uncreditworthy discount rate.

Privatization

In the General Issues Appendix, we applied a new methodology with respect to the treatment of subsidies received prior to the sale of a company (privatization) or the spinning-off of a productive unit.

Under this methodology, we estimate the portion of the purchase price attributable to prior subsidies. We compute this by first dividing the privatized company's subsidies by the company's net worth for each year during the period beginning with the earliest point at which non-recurring subsidies would be attributable to the POI (i.e., in this case 1987 for Saarstahl and IHSW) and ending one year prior to the privatization. We then take the simple average of the ratios. The simple average of these ratios of subsidies to net worth serves as a reasonable surrogate for the percent that subsidies constitute of the overall value of the company. Next, we multiply the average ratio by the purchase price to derive the portion of the purchase price attributable to repayment of prior subsidies. Finally, we reduce the benefit streams of the prior subsidies by the ratio of the repayment amount to the net present value of all remaining benefits at the time of privatization.

With respect to spin-offs, consistent with the Department's position regarding privatization, we analyze the spin-off of productive units to assess what portion of the sale price of the productive unit can be attributable to the repayment of prior subsidies. To perform this calculation, we first determine the amount of seller's subsidies that the spun-off productive

unit could potentially take with it. To calculate this amount, we divide the value of the assets of the spun-off unit by the value of the assets of the company selling the unit. We then apply this ratio to the net present value of the seller's remaining subsidies. We next estimate the portion of the purchase price going towards repayment of prior subsidies in accordance with the privatization methodology outlined above.

In the current investigation, we are analyzing the privatization of Saarstahl in 1989 and subsequent spin-off in 1994. Additionally, we are investigating the privatization of IHSW in 1994.

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined To Be Countervailable

A. Saarstahl

1. Forgiveness of Saarstahl's Debt in 1989

During the period 1978 to 1989, Saarstahl and its predecessor companies received massive amounts of assistance from the GOS and GOG. Repayment of these funds was contingent upon Saarstahl returning to profitability and earning a profit above and beyond the losses accumulated after 1978. This contingent repayment obligation was known as a Rückzahlungsverpflichtung or "RZV."

In 1989, the GOS reached an agreement with Usinor-Sacilor to combine Saarstahl with AD der Dillinger Huttenwerke (Dillinger) under a holding company, DHS-Dillinger Hutte Saarstahl AG (DHS). Pursuant to the combination agreement and as a condition for sale, in 1989 the GOG and GOS entered into a debt forgiveness contract (Entschuldungsvertrag, or "EV") which effectively forgave all the outstanding repayment obligations owed by Saarstahl to the Governments (i.e., a total of DM 3.945 billion in debt was forgiven). The EV specified, however, that if Saarstahl went bankrupt, the GOG and GOS claims could be revived, but their claims would be subordinated to those of all other creditors.

After several years of unprofitable operation, Saarstahl filed for bankruptcy in 1993 under the German Bankruptcy Regulations (Konkursordnung). In 1994, the GOS bought Saarstahl back from Usinor Sacilor for DM 1. At the time of its bankruptcy, Saarstahl's liabilities exceeded its assets by a factor of four, not including its liabilities to the GOG and GOS. Both Governments filed

claims against the Saarlust bankruptcy estate based on the RZV debt that was conditionally forgiven in 1989. These EV-related claims were rejected by the bankruptcy trustee as invalid in 1995. The GOG and GOS chose not to appeal the rejection of their bankruptcy claims, on the grounds that the subordination of their claims made the likelihood of recovery very small, and not worth the high cost of litigating the matter.

In the Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products from Germany, 58 FR 6233, 6234 (January 27, 1993) (Lead and Bismuth), we found that Saarlust's RZV and related government debt were effectively forgiven by the 1989 EV, thus conferring a countervailable benefit on Saarlust as of 1989. Respondents have argued that the attempt to revive the RZVs by the GOG and the GOS disqualifies the signing of the 1989 EV as the countervailable event. However, as noted above, the EV-related bankruptcy claims of the GOS and GOG were rejected as invalid by the bankruptcy trustee. Thus, the 1993 bankruptcy proceeding left completely undisturbed the provisions of the 1989 EV agreement. Respondents further argue that the RZVs were worthless at the time of the EV. However, this argument was rejected in Lead and Bismuth (58 FR 6233, 6237) and the Final Affirmative Countervailing Duty Determination: Certain Steel Products from Germany, 58 FR 37315, 37323 (July 9, 1993) (Certain Steel) and the attendant litigation. See *Saarlust AG v. United States*, 1997 CIT LEXIS 62, slip op. 97-67 (CIT 1997) and *British Steel plc v. United States*, 936 F. Supp. 1053, 1069-70 (CIT 1996).

Therefore, we preliminarily determine that the debt forgiveness constitutes a financial contribution in 1989 within the meaning of section 771(5) of the Act. It is a direct transfer of funds from the GOG and GOS providing a benefit in the amount of the debt forgiveness, DM 3.945 billion. Because it was a one time event, we consider it to be a non-recurring grant. Additionally, we analyzed whether the debt forgiveness provided to Saarlust was specific "in law or in fact," within the meaning of section 771(5A) of the Act. Consistent with Lead and Bismuth (58 FR 6233) and Certain Steel (58 FR 37315), we find that the debt forgiveness provided to Saarlust was limited to a specific enterprise or industry because it was provided to one company.

To calculate the countervailable subsidy, we used our standard declining balance grant methodology. The amount

of subsidy allocated to the POI was adjusted in accordance with our privatization methodology (described above) to reflect the privatization of Saarlust in 1989 and the spin-off of Saarlust from DHS 1994. We then divided the portion of the benefit attributable to the POI by the total sales of Saarlust during the same period. On this basis, we determine the countervailable subsidy for this program to be 16.92 percent *ad valorem* for Saarlust.

2. Assurance of Liquidity Provided to Private Banks by the GOS

Toward the end of 1985, the GOS presented a long-term restructuring plan for Saarlust to Saarlust's creditors and requested that they forgive loans in the amount of DM 350 million. In a February 20, 1986 letter from the banks to the GOS, the banks agreed to forgive DM 217.33 million of debt owed to them by Saarlust (DM 216.82 of which was forgiven in 1989), if the GOG and GOS fulfilled certain prerequisites. Two of the prerequisites were that the Governments forgive all debt owed to them by Saarlust and that the GOS secure the future liquidity of Saarlust. In an April 4, 1986 letter from the Governor of Saarland responding to the banks, the GOS agreed to forgive all debts owed to it by Saarlust and to secure the liquidity of Saarlust as it had in the past.

We preliminarily determine that in assuring the future liquidity of Saarlust the GOS provided a financial contribution to Saarlust. Specifically, this assurance granted a "potential direct transfer of funds" within the meaning of section 771(5). By assuring the future liquidity of Saarlust, the GOS effectively guaranteed that Saarlust would have the funds to satisfy its future obligations, which included the outstanding debt owed to the banks. This assurance was consistent with the GOS's long history of supporting Saarlust. We also preliminarily determine that the assurance was provided to a specific enterprise or industry, Saarlust.

While the GOS's assurance of future liquidity resembled a loan guarantee, it differed in certain important aspects from loan guarantees typically examined by the Department. First, the GOS did not promise to take responsibility for payment of the debt owed to the banks if Saarlust failed to perform. Rather, the GOS reached an agreement with the private banks whereby the GOS would maintain Saarlust's liquidity (*i.e.*, Saarlust's ability to service its outstanding debts). Additionally, other characteristics of a

typical loan guarantee which potentially confer a benefit were not manifested in the liquidity assurance. For example, the assurance did not necessarily affect the amount that Saarlust paid on the outstanding loans in the form of fees and interest costs—the typical indicators of the benefit from a loan guarantee. Rather, the consequence of the assurance was that Saarlust received partial debt forgiveness from the banks. Because of this, we are calculating the benefit conferred by the liquidity assurance as the amount of debt forgiven.

To calculate the countervailable subsidy, we followed the methodology described in the *Forgiveness of Saarlust's Debt in 1989* section, above. We then divided the portion of the benefit attributable to the POI by the total sales of Saarlust during the same period. On this basis, we determine the countervailable subsidy for this program to be 0.93 percent *ad valorem* for Saarlust.

B. IHSW

994 IHSW Debt Forgiveness

In 1984, Hamburgische Landesbank Girozentrale (HLB), a bank wholly owned by the GOH, provided HSW with a line of credit in the amount of DM 130 million. The line of credit was granted for a period of one year and was renewed every year until 1994. Pursuant to a *Kreditauftrag* between the GOH and HLB, in the event that HSW failed to service this debt, the GOH was obligated to compensate the HLB for 60 percent of the credit line (*i.e.*, DM 78 million). In 1992 and 1993, HSW suffered significant losses, and the HLB refused to extend the credit line. At that point, the GOH instructed the HLB to extend HSW's line of credit, and the GOH and HLB entered into an agreement extending the *Kreditauftrag* so that the GOH assumed responsibility for the total amount loaned to HSW under the line of credit. At the beginning of 1994, the line of credit totaled approximately DM 174 million. While the Department will not consider a loan provided by a government-owned bank to be a loan provided by the government, *per se*, the actions taken by the GOH in 1984, 1992, and 1993 pursuant to the *Kreditauftrag* clearly demonstrate that the HLB (a bank wholly-owned by the GOH) was acting on behalf of the GOH in this instance.

In 1994, HSW was sold to Venuda Investments B.V. (Venuda), IHSW's parent company. At the time of privatization, the line of credit totaled DM 167.5. Under the terms of the sale, Venuda paid DM 10 million for HSW.

With respect to the line of credit, DM 154 million of the total was sold to Venuda for approximately DM 60 million according to a formula based on the net current asset value of HSW in 1994 (*i.e.*, the difference between current assets and liabilities (less the debt owed to HLB)). Although the sale of HSW was structured to have two components, the sale of shares and the sale of debt, we have treated this as a single transaction and we consider the payments made by Venuda (*i.e.*, DM 10 million and DM 60 million) to represent the price paid for HSW. The remainder of the credit line, DM 13.4 million representing "non-cash" deposits (*e.g.*, LCs, drafts, etc.), was repaid to HLB by HSW in early 1995.

Based on our view of the sale of HSW, *i.e.*, that the proceeds from both the share and debt purchase comprise the sale price, we preliminarily determine that in the year that HSW was sold the DM 154 million owed by HSW under the line of credit was forgiven. This debt forgiveness constitutes a financial contribution in the form of a direct transfer of funds from the GOH providing a benefit in the amount of DM 154 million in 1994. Moreover, we analyzed whether the program is specific "in law or in fact," within the meaning of section 771(5)(A) of the Act. Since the debt forgiveness was only provided to one company, we preliminarily determine that it is limited to a specific enterprise.

To calculate the countervailable subsidy, we used our standard grant methodology. Although HSW was sold in 1994, the company received no nonrecurring subsidies prior to the year of privatization and within its allocation period (*i.e.*, during the period 1987 through 1993). Consequently, under our privatization methodology none of the purchase price paid to the GOH constitutes repayment of prior subsidies. Thus, we allocated the subsidy according to our grant methodology and divided the benefit attributable to the POI by the total sales of IHSW during the same period. On this basis, we determine the countervailable subsidy for this program to be 5.54 percent *ad valorem* for IHSW.

II. Programs Preliminarily Determined To Be Not Countervailable

A. Saarstahl

Worker Assistance Under Article 56(2)(b)

Under Article 56(2)(b) of the ECSC Treaty, persons employed in the iron, steel and coal industries who lose their jobs may receive assistance for social adjustment. This assistance is provided

to workers affected by restructuring measures, particularly workers withdrawing from the labor market into early retirement and workers forced into unemployment. The ECSC disburses assistance under this program on the condition that the affected country makes an equivalent contribution. In 1993 through 1995, a supplementary assistance program was available to help displaced steel workers affected by massive restructuring in the industry. The supplementary program provided additional payments for early retirement (max. ECU 5,000/worker), redeployment measures (max. ECU 4,000/worker), and unemployment measures (max. 2,000 ECU/worker).

During the POI, Saarstahl received payments for its workers under Article 56(2)(b). These payments reimbursed Saarstahl for payments it had made to its workers.

When analyzing programs which provide assistance to the workers of a company, the Department examines whether the program in question relieves the company of an obligation it normally would otherwise incur. As we noted in *Certain Steel* (58 FR 37315, 37320), German companies have no legal obligations to compensate severed employees, except to the extent that they assume obligations under a social plan. Because Saarstahl had no social plan in effect during the POI, the ECSC assistance did not relieve Saarstahl of an obligation it otherwise would have had. Thus, we preliminarily determine that the ECSC benefits provided to Saarstahl are not countervailable.

B. IHSW

Provision of Land Lease

Pursuant to a 1986 lease agreement between HSW and the GOH, IHSW leases land located in the port of Hamburg from the GOH. The GOH owns approximately one third of the commercial and industrial land in the port area and leases that land under approximately 500 different lease agreements. The GOH lease rates in the port area are established by the Office of the Appraisal Committee for Property Values (Appraisal Committee), an autonomous body which records and analyzes agreements relating to the purchase and sale of land in Hamburg. According to the GOH questionnaire response, the lease rates are set according to such factors as: (1) Market value of property, (2) potential for use and facilities available in specific areas, (3) rentals for comparable areas being used, and (4) terms and conditions being paid in other Northern ports.

The GOH uses a standard lease for all enterprises in the port area. The lease has four rate categories which are based on the size and location of the property (*e.g.*, land-locked vs. direct water access). Thus, IHSW's lease contains the same terms as all other lease agreements signed with enterprises in the port area.

Because IHSW pays a standard rate charged by the GOH to all enterprises leasing land similar to IHSW's and because these prices appear to be set in reference to market conditions, we preliminarily determine that IHSW's lease rate provides adequate remuneration to the GOH and, thus, is not countervailable. Prior to our final determination, we will attempt to obtain further information with respect to the number and diversity of industries to which the GOH leases land in the port of Hamburg and private lease rates for land comparable to that of IHSW in the port area.

III. Programs for Which Additional Information Is Required

BES has claimed that each of the programs under which it received government assistance is a noncountervailable subsidy to a disadvantaged region in accordance with section 771(5B)(C) of the Act. For purposes of the final determination, we will be seeking more information and giving further consideration to whether noncountervailable subsidies are being provided to BES under the following programs:

1. *Improvement of the Regional Economies Act Investment Grants.*
2. *Investment Allowance Act Grants.*
3. *Special Depreciation Pursuant to Section Four of the Regional Development Law.*

We are also seeking additional information as to any subsidies which BES may have received during the period 1990 through 1992 and the circumstances surrounding the sale of the plant which effectively became BES.

IV. Programs Preliminarily Determined To Be Not Used

A. Saarstahl

Post-Bankruptcy Subsidies to Saarstahl

B. IHSW

In 1984, HSW emerged from bankruptcy proceedings and was taken over by a limited partnership called *Protei Produktionsbeteiligungen GmbH & Co. KG* (Protei). Because Protei was financially unable to provide New HSW with equity, the HLB "loaned" DM 20 million to Protei. The DM 20 million financing was provided to HLB by the GOH. HSW used this capital to purchase

the assets and business of Old HSW from its receiver.

According to the terms of the contract which provided these funds, repayment became due from the profits of Protei which, in turn, were derived from HSW's profits. The contract also provided that Protei could not liquidate HSW without the approval of HLB and HLB reserved rights regarding the appointment of management and members of the supervisory committee. Between 1987 and 1988, DM 2.8 million in "principal" payments and DM 2.7 million in "interest" were paid by HSW leaving an unpaid balance of DM 17.2 million.

We have preliminarily determined that the DM 20 million "loan" to Protei should be treated as equity received in 1984 in light of the terms of the financing. Although the money was given in the form of a loan to Protei, the circumstances of the loan indicate that the funds were more in the nature of equity. First, as noted above, payments on the loan were contingent on HSW being profitable: So, if the company never became profitable, there was no obligation for the loan to be repaid. Second, under the terms of the loan, Protei relinquished *pro rata* its share of profits from HSW based on the ratio between the DM 20 million loan and the total share capital of HSW. Hence, HLB's share of any future profits generated by HSW would be calculated as if the loan were paid-in capital. Third, although the loan was made to Protei, neither of the partners in the limited partnership was liable for the loan, suggesting that the Protei served as a mechanism for the GOH to invest in HSW. Fourth, as noted above, the lender, HLB, imposed numerous conditions on Protei which served to insert HLB into important management decisions affecting HSW. Finally, when this loan was examined by the Commission of the European Communities (the Commission) to determine whether it constituted state aid, the Commission determined that the loan should be considered as risk capital. Among the data developed by the Commission was a statement by the German government that the GOH "was exposed to financial risk fully comparable to the risk a shareholder injecting risk capital has to bear without becoming owner of the company." (The Commission's decision is printed in the Official Journal of the European Communities, No L 78, Vol 39, March 28, 1996, at pp. 31 ff.) While the Commission's characterization of this loan as equity is not dispositive, their reasoning in this instance is consistent with our preliminary analysis.

Given our preliminary determination that the DM 20 million loan in 1984 should be treated as equity and, in light of HSW's AUL of 10 years, this 1984 equity infusion would not give rise to benefits in the POI even if the infusion were a countervailable subsidy. Therefore, we are treating this equity as well as two other programs as "not used":

1. *1984 Equity Infusion Through Protei.*
 2. *1984 Steel Investment Allowance Grant.*
 3. *1984 Federal Ministry for Research and Technology (BMFT) Grant.*
- Other programs that were not used by IHSW:
4. *1984 Structural Improvement Assistance Grant.*
 5. *1984 Loan Guarantee to HSW.*

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted by respondents prior to making a final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated individual rates for each of the companies under investigation. WHG reported that the only subsidy it received was research and development assistance pursuant to the Industrial Technology Program of the State of North-Rhine/Westphalia. Even assuming this assistance constituted a countervailable subsidy, the benefit would be *de minimis*. Therefore, we preliminarily determine that WHG would be excluded from any potential countervailing duty order with respect to merchandise produced and exported by WHG.

To calculate the all others rate, we weight-averaged the individual company rates by each company's exports of the subject merchandise to the United States. We did not include in the weighted-average rate the companies with zero or *de minimis* subsidy rates.

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

Ad Valorem Rate

Saarstahl 17.85 percent
IHSW 5.54 percent
All Others 11.13 percent

ITC Notification

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

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 355.38, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled for September 22, 1997, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1874, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, eight copies of the business proprietary version and three copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than September 8, 1997. Eight copies of the business proprietary version and three copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than September 15, 1997. An interested party may make an affirmative presentation only on arguments included in that

party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 355.38 and will be considered if received within the time limits specified above. 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. If this investigation proceeds normally, we will make our final determination on October 14, 1997.

This determination is published pursuant to sections 703(f) and 771(i) of the Act.

Dated: July 28, 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97-20492 Filed 8-1-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071497C]

Endangered and Threatened Wildlife: Draft Recovery Plan for Shortnose Sturgeon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Availability of a Draft Recovery Plan; request for comments.

SUMMARY: NMFS is announcing the availability of the draft recovery plan for shortnose sturgeon (*Acipenser brevirostrum*). NMFS is soliciting review and comment from the public on the draft plan, and will consider these comments in the approval of a final recovery plan.

DATES: Comments on the draft recovery plan must be received on or before September 3, 1997.

ADDRESSES: Request a copy of the draft recovery plan from Mary Colligan, Habitat and Protected Resources Division, NMFS, One Blackburn Drive, Gloucester, MA 01930. Written comments and materials regarding the plan should also be directed to Mary Colligan at the above address.

FOR FURTHER INFORMATION CONTACT: Mary Colligan at 508-281-9116.

SUPPLEMENTARY INFORMATION:

Background

The shortnose sturgeon, *Acipenser brevirostrum*, is an endangered fish species that occurs in large coastal rivers of eastern North America. It

inhabits 18 rivers ranging from the Saint John River in New Brunswick, Canada to the St. Johns River, FL. The Endangered Species Act (ESA) requires NMFS to develop and implement recovery plans for most species that are listed under the ESA as threatened or endangered and that are under the jurisdiction of NMFS. In May 1997, the Shortnose Sturgeon Recovery Team submitted its final draft of the recovery plan to NMFS.

The draft recovery plan includes a synopsis of the biology and distribution of shortnose sturgeon, a description of factors affecting species recovery, an outline of actions needed to recover the species and an implementation schedule for completing specific recovery tasks.

Public Comments Solicited

NMFS intends that the final recovery plan will take advantage of information and recommendations from all interested parties. Therefore, comments and suggestions are solicited from the public, other concerned governmental agencies, the scientific community, industry, and any other person concerned with the draft recovery plan.

Dated: July 30, 1997.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97-20484 Filed 8-1-97; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072897C]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of Letters of Confirmation to conduct scientific research under the General Authorization.

SUMMARY: Pursuant to provisions of the Marine Mammal Protection Act, as amended, (16 U.S.C. 1361 *et seq.*, specifically, 104(c)(3)(C)) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216.45) letters of confirmation (LOC) to conduct level B harassment of marine mammals in the wild under authority of the General Authorization for Scientific Research have been issued. Level B harassment, as defined in section 216.3, means any act of pursuit, torment, or annoyance which

has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild. The following letters of confirmation were issued to individuals or organizations from January 1, 1996, through June 30, 1997:

Dr. Paul H. Forestell, Pacific Whale Foundation, Associate Professor and Director, Psychobiology Program, Social Science Division, Montauk 222, Long Island University, Southampton, Long Island, NY 11968 (LOC No. 21);

Dr. Robert F. Young, Assistant Professor, Marine Science Department, Coastal Carolina University, P.O. Box 1954,

Conway, SC 29526 (LOC No. 22);

Dr. Andrew J. Read, Assistant Professor, Duke University Marine Laboratory, 135 Duke Marine Lab Road, Beaufort, NC 28516 (LOC No. 23);

Howard W. Braham, Ph.D., Director, National Marine Mammal Laboratory, Alaska Fisheries Science Center, 7600 Sand Point Way, NE, BIN C15700, Bldg. 4, Room 2149, Seattle, WA 98115-0070 (LOC Nos. 782-1306, 782-1360, and 782-1352);

Mr. John J. Burns, Living Resources, Inc., P.O. Box 83570, Fairbanks, AK 99708-3570 (LOC No. 25);

Dr. Andrew J. Read, Assistant Professor, Duke University Marine Laboratory, c/o Clearwater Marine Aquarium, 249 Windward Passage, Clearwater, FL 34630 (LOC No. 26);

Mr. Kenneth C. Balcomb, III, Center for Whale Research, Inc., 1359 Smuggler's Cove Road, Friday Harbor, WA 98250 (LOC No. 27);

Mr. T. David Schofield, Senior Mammalogist/Marine Animal Rescue Coordinator, National Aquarium in Baltimore, Pier 3, 501 East Pratt Street, Baltimore, MD 21202-3194 (LOC No. 28);

Mr. Shane Guan, Grice Marine Biological Laboratory, University of Charleston, 205 Fort Johnson, Charleston, SC 29412 (LOC No. 29);

Dr. Harold N. Cones, Professor and Chairman, Department of Biology, Chemistry and Environmental Sciences, Christopher Newport University, 30 Shoe Lane, Newport News, VA 23606-2998 (LOC No. 30);

Dr. Bernd Wursig, Director, Marine Mammal Research Program, Texas A&M University, 4700 Avenue U/Building 303, Galveston, TX 77551 (LOC No. 31);

Ms. Marilyn Mazzoil, 17630 NW 67th Avenue #1211, Miami, FL 33015 (LOC No. 32);