return. An income tax benefit can potentially have numerous cash flow effects. The Department's practice is to single out the cash flow effect most directly associated with the tax benefit; in this case, the actual savings which arise when the taxes are due.

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examination of relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which in the Public File for this investigation.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an *ad valorem* subsidy rate of 17.47 percent for CIL, the one company under investigation. We are also applying CIL's rate to any companies not investigated or any new companies exporting the subject merchandise.

We have concluded a suspension agreement with the GOTT which eliminates the injurious effects of imports from Trinidad and Tobago (*see, Notice of Suspension of Investigation: Steel Wire Rod from Trinidad and Tobago* being published concurrently with this notice). As indicated in the notice announcing the suspension agreement, pursuant to section 704(h)(3) of the Act, we are directing the U.S. Customs Service to continue suspension of liquidation. This suspension will terminate 20 days after publication of the suspension agreement or, if a review is requested pursuant to section 704(h)(1) of the Act, at the completion of that review. Pursuant to section 704(f)(2)(B) of the Act, however, we are not applying the final determination rate to entries of subject merchandise from Trinidad and Tobago; rather, we have adjusted the rate to zero to reflect the effect of the agreement.

ITC Notification

In accordance with section 705(d) 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 Acting Deputy Assistant Secretary for AD/CVD Enforcement, Import Administration.

If the ITC's injury determination is negative, the suspension agreement will have no force or effect, this investigation will be terminated, and the Department will instruct the U.S. Customs Service to refund or cancel all securities posted (*see,* section 704(f)(3)(A) of the Act). If the ITC's injury determination is affirmative, the Department will not issue a countervailing duty order as long as the suspension agreement remains in force, and the Department will instruct the U.S. Customs Service to refund or cancel all securities posted (*see,* section 704(f)(3)(B) of the Act). This notice is issued pursuant to section 704(g) of the Act.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act.

Dated: October 14, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–27984 Filed 10–21–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–307–814]

Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela

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

EFFECTIVE DATE: October 21, 1997.

FOR FURTHER INFORMATION CONTACT: Christopher Cassel, Robert Copyak, or Richard Herring, Office of CVD/AD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 1874, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

Final Determination

The Department of Commerce (the Department) determines that countervailable subsidies are being provided to CVG-Siderurgica del Orinoco (SIDOR), the producer and exporter of steel wire rod from Venezuela. For information on the estimated countervailing duty rates, please see the *Suspension of Liquidation* section of this notice.

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.

Case History

Since our preliminary determination on July 28, 1997 (62 FR 41439, August 4, 1997), the following events have occurred:

We conducted verification of the countervailing duty questionnaire responses from August 27, 1997 through September 9, 1997. Petitioners and SIDOR (respondent) filed case briefs on September 23, 1997, and rebuttal briefs on September 26, 1997. A public hearing was held on October 1, 1997.

On September 12, 1997, the GOV and the U.S. Government initialed a proposed suspension agreement. On October 14, 1997, the U.S. Government and the GOV signed a suspension agreement (*see Notice of Suspension of Countervailing Duty Investigation: Steel Wire Rod from Venezuela*) which is being published concurrently with this notice in the **Federal Register**. On October 14, 1997, the petitioners also requested that the Department and the International Trade Commission (''ITC'') continue this investigation in accordance with section 704(g) of the Act. As such, this final determination is being issued pursuant to section 704(g) of the Act.

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 Venezuela 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 Venezuela 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 Venezuela of the subject merchandise (62 FR 23485).

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examination of relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

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 in determining the allocation period for non-recurring subsidies. *See General Issues Appendix (GIA),* appended to *Final Countervailing Duty Determination; Certain Steel Products from Austria,* 58 FR 37217, 37226 (July 9, 1993). 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 non-recurring 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 final determination, the Department has calculated a company-specific AUL. Based on information provided by SIDOR regarding the company's depreciable assets, the Department has determined that the appropriate allocation period for SIDOR is 20 years.

Equityworthiness: In analyzing whether a company is equityworthy, the Department considers whether or not that company could have attracted investment capital from a reasonable, private investor in the year of the government equity infusion based on information available at that time. In this regard, the Department has consistently stated that a key factor for a company in attracting investment capital is its ability to generate a reasonable return on investment within a reasonable period of time.

In making an equityworthiness determination, the Department examines the following factors, among others:

1. Current and past indicators of a firm's financial condition calculated from that firm's financial statements and accounts;
2. Future financial prospects of the firm including market studies, economic forecasts, and project or loan appraisals;
3. Rates of return on equity in the three years prior to the government equity infusion;
4. Equity investment in the firm by private investors; and
5. Prospects in the marketplace for the product under consideration.

For a more detailed discussion of the Department's equityworthiness criteria, *see* the *GIA,* 58 FR at 37244.

Petitioners alleged that SIDOR was unequityworthy from 1977 through 1992. (As explained below, while the GOV's conversion of SIDOR's external debt into equity was made effective in October 1992, we consider 1991 to be the relevant year to examine the company's equityworthiness. Therefore, throughout this notice, we will refer to the transaction as the ''1991 debt-to-equity conversion.'') On this basis, petitioners claim that any equity infusions into SIDOR by the GOV from 1977 through 1990, and the 1991 decision to convert SIDOR's external debt into equity were inconsistent with the usual investment practices of private investors. In addition, we examined whether land transferred from CVG to SIDOR in 1993 and 1994 to cancel unpaid capital subscriptions was inconsistent with the usual investment practices of private investors.

1. 1977 through 1990 Equity Infusions

On March 18, 1997, we initiated an investigation of SIDOR's equityworthiness for the years 1977 through 1990. *See* Memorandum dated March 18, 1997, from The Team to Jeffrey P. Bialos, Re: Initiation of Countervailing Duty Investigation: Steel Wire Rod from Venezuela (*Initiation Memo*), (on file in the public record of the Central Records Unit of the Department of Commerce, Room B–099). In past investigations, the Department preliminarily determined that SIDOR was equityworthy in 1977, and unequityworthy for the years 1978 through 1984. *See Preliminary Affirmative Countervailing Duty Determination; Carbon Steel Wire Rod From Venezuela*, 50 FR 28234, 28237 (July 11, 1985) (*1985 Wire Rod from Venezuela*), and *Preliminary Affirmative Countervailing Duty Determination; Certain Steel Products From Venezuela,* 50 FR 11227, 11230 (March 20, 1985) (*Steel Products from Venezuela*). The

Department also previously initiated an investigation of SIDOR's equityworthiness for the period 1985 through 1990. *See Initiation Memo,* and *Final Affirmative Countervailing Duty Determination: Circular Welded Non-Alloy Pipe from Venezuela,* 57 FR 42964 (September 17, 1992) (*Non-Alloy Pipe from Venezuela*). Although we previously found SIDOR to be equityworthy in 1977, that decision was a preliminary finding. *See* the Memorandum, dated October 15, 1991, to Eric I. Garfinkel, Re: Initiation of Countervailing Duty Investigation: Circular Welded Non-Alloy Steel Pipe From Venezuela, *appended to* the *Initiation Memo.* As such, we concluded that this preliminary finding warranted reinitiating.

In this investigation, SIDOR did not provide any new information regarding the company's financial position for the years 1977 through 1990. Because no information has been presented in this investigation that calls into question the Department's prior determinations that the company was unequityworthy for the years 1978 through 1990, we continue to find that the GOV equity investments made in those years were inconsistent with the usual investment practices of private investors. Moreover, with respect to the 1977 equity infusion, neither party has provided any information beyond what the Department examined in the prior proceeding in which we preliminarily found the company to be equityworthy for that year (*see Steel Products from Venezuela*). Therefore, because no new information has been submitted in this proceeding to indicate that our prior preliminary decision in *Steel Products from Venezuela* was incorrect, we find that it is appropriate to follow that earlier determination, and determine SIDOR to be equityworthy in 1977.

2. 1991 GOV Debt-to-Equity Conversion

We also initiated an investigation of SIDOR's equityworthiness with respect to the conversion of SIDOR's external debt into equity, which was approved by the Venezuelan Congress on May 18, 1993. *See Initiation Memo.* The transaction was made retroactive to October 28, 1992, and is reflected in SIDOR's 1992 financial statements. However, in the questionnaire responses, the GOV stated that the decision to convert 60 percent of SIDOR's external debt into equity was reached in October 1991, and that the terms of the transaction did not change by the time the transaction was approved by the Venezuelan Congress in 1993. Therefore, we consider 1991 to be the relevant year for purposes of determining whether the conversion of SIDOR's external debt into equity was consistent with the usual investment practices of private investors.

In our preliminary determination, we found SIDOR to be equityworthy in 1991. Therefore, we determined that the GOV's decision to capitalize SIDOR's external debt in 1991 was consistent with the usual investment practices of private investors. *See Preliminary Affirmative Countervailing Duty Determination: Steel Wire Rod From Venezuela,* 62 FR 41939, 41941 (August 4, 1997) (*Preliminary Determination*). In reaching our preliminary finding, we evaluated SIDOR's financial ratios for the three years prior to 1991. We also took into account respondent's claim that a major restructuring process, begun in 1989 and aimed at improving SIDOR's profitability and international competitiveness, had significantly improved the company's financial position by 1991. *See Preliminary Determination,* 62 FR at 41941. However, we also stated that additional issues must be examined before reaching a final determination with respect to the conversion of SIDOR's debt into equity. We have reexamined our preliminary finding that SIDOR was equityworthy in 1991, and, taking into account our findings at verification, and the financial results in light of high inflation, we now determine that SIDOR was not equityworthy in 1991.

In reaching our decision, we considered the specific investment factors relied upon by Venezuelan commercial bankers to evaluate the financial condition of potential customers. The bankers stated that in a high inflationary economy where financial statements are not adjusted to reflect the impact of high inflation, potential customers are evaluated not only on the basis of their financial ratios. Rather, a number of additional aspects of a company's operations are also taken into account, including: (1) a company's ability to generate real, inflation-adjusted revenue growth and cash flow, (2) the reputation of the company, and (3) the company's competitiveness. In analyzing these factors, the bankers stressed that a key issue for investors is whether a company has successfully survived the crises of the economy, including inflation, over the last years. *See* the September 19, 1997, Memorandum to Barbara E. Tillman Re: Meetings with Commercial and Investment Banks in the Countervailing Duty Investigation of Steel Wire Rod from Venezuela (*Memo Re: Meetings with Commercial Bankers*) at 2–6 (on file in the public record of the Central Records Unit of the Department of Commerce, Room B–099). Accordingly, in evaluating SIDOR's equityworthiness in 1991, we have expanded our standard analysis to consider these additional factors.

As petitioners correctly point out, the bankers indicated that SIDOR did not represent a sound investment during the early 1990s. Furthermore, in one banker's view, no private investor would have provided SIDOR with U.S. $1.0 billion in 1991. Respondent attempts to discount these statements by arguing that the bankers also concluded that an inside investor ''may well have made such an investment.'' *Memo Re: Meetings with Commercial Bankers* at 6. This argument is not persuasive. The Department has never distinguished between ''inside'' and ''outside'' investors. In the *GIA,* we stated ''it would be inappropriate, if not impossible, to fashion a unique inside investor standard as a variation of the Department's reasonable private investor standard,'' because ''the Department must render its equityworthiness determinations on the basis of objective and verifiable evidence.'' 58 FR at 37249, 37250.

Furthermore, SIDOR's competitive position was not favorable in 1991. SIDOR's restructuring efforts were insufficient to justify the conversion of almost U.S. $1.0 billion of the company's external debt. As one banker noted, ''[t]he government is not able to make the difficult restructuring changes to SIDOR. . . to make [the company a] competitive entity.'' *Memo Re: Meetings with Commercial Bankers* at 7. Our own evaluation of the restructuring process, discussed below, reaches the same conclusion. In light of the information gathered at verification, respondent's assertion that the bankers thought SIDOR's long-term prospects justified the debt restructuring is not convincing.

An analysis of SIDOR's inflation adjusted revenue growth for 1988 through 1991, also an important investment criterion, shows that SIDOR's revenue growth was not keeping pace with inflation in 1988 and 1989. While real revenue growth was 9.44 percent in 1990, in the preceding two years it was negative 13.38 percent and negative 5.15 percent, respectively. *See* the October 14, 1997, Memorandum for the File, Re: Calculations for the Final Affirmative Countervailing Duty Determination: Wire Rod From Venezuela (POI 1996) (*Final Calculations Memo*) (public version on file in the Central Records Unit of the Department of Commerce, Room B–099).

In our preliminary finding, we noted that inflation was an important issue that we would examine prior to reaching the final decision with respect to the 1991 transaction. Venezuelan commercial bankers discounted the importance of an analysis of certain financial ratios because the impact of inflation on historical financial statements is not very well understood. *See Memo Re: Meetings with Commercial Bankers* at 3. However, there are certain areas of the financials which can be analyzed in real terms and adjusting these for inflation results in a less favorable picture of the company's earnings. For example, because sales revenues are recorded during the fiscal periods and reflect the effects of inflation, the costs related to these sales may be understated as the value of inventory used for these sales may have been produced and recorded prior to the sale. Adjusting ''costs of goods sold'' to reflect the erosion of currency values shows that real costs would increase resulting in a lower net profit or higher net loss. If such an adjustment is made to SIDOR's cost of goods sold, the company's net profit margin deteriorates significantly: the positive nominal profit margin of 0.06 percent in 1988 and 3.31 percent in 1989 become negative 6.67 percent and negative 11.92 percent, respectively. The nominal profit margin for 1990 worsens from negative 5.42 percent to negative 11.77 percent. *See Final Calculation Memo* at 22. With a negative real profit margin in each of these years, SIDOR's return on equity similarly turns negative from 1988 through 1990.

In their case brief, petitioners constructed an inflation-adjusted return on equity (ROE) for SIDOR by comparing the company's nominal ROE with the rate of inflation in that year. According to this analysis, with annual inflation rates of over 30 percent, no well-run private company would be found equityworthy in Venezuela. This is an unreasonable conclusion. As noted above, we calculated an adjusted profit margin for SIDOR, based on an adjustment of the company's cost of goods sold. This is a reasonable adjustment to the company's financial results to account for high inflation during the 1988 through 1990 period.

Nevertheless, we recognize that the rate of return from a company during years of high inflation would require the company to earn very high returns, and investors would consider whether the investment would ultimately yield a real rate of return. An analysis of SIDOR's financial ratios clearly indicates that the company's rate of return, in nominal terms, was very low, or negative. In the context of the high rates of inflation during these years, the company's rate of return was very poor, and yields an unfavorable future financial outlook.

Respondent has argued that SIDOR was worth more than its nominal book value because the historical financial statements understated the value of the company's assets, and because a company's fixed assets maintain their value and increase in nominal value with inflation. *See* Respondent's September 26, 1997, rebuttal brief. While we acknowledge that this may be the case, this increase in the nominal value of the company's real assets is not compelling for determining that SIDOR was equityworthy during these years. An investor is investing in an on-going operation, and the important factor is the efficient operation of the assets in order to yield a return on those assets. As we noted in the *GIA*, a reasonable investor's decision to invest in an operating steel company such as SIDOR would be based on many factors, not just the level of nominal value of the underlying assets. *See* 58 FR at 37247. The value of the corporation's underlying assets is more important when a company is terminating and liquidating. This is not the primary consideration of an equity investor. In any case, respondent has failed to quantify this argument in any meaningful way. Only in 1994 did SIDOR begin to apply inflation adjustments to the historical figures in its financial statements, and the company has admitted that ''there is no accurate way to retroactively adjust [unadjusted statements] for inflation.'' SIDOR's July 3, 1997, questionnaire response at 10 (on file in the Central Records Unit of the Department of Commerce, Room B–099).

Another important factor during the 1988–1991 period is that little private investment was actually taking place in Venezuela. Rather, given the economic instability in the country, as evidenced by rising interest rates and steady currency devaluations, private money was in fact fleeing the country for alternative foreign currency-denominated investments. *See Memo Re: Meetings with Commercial Bankers* at 1–2. There were few exchange controls at the time, and currency was easily invested in foreign currency-denominated assets. While it is certainly true that some private investment was taking place in Venezuela during the early 1990s, SIDOR would have been an unlikely recipient of such funds, and certainly not in the magnitude of the GOV's 1991 debt conversion.

In preliminarily finding SIDOR equityworthy, we relied upon respondent's claim that the company's restructuring process, starting in 1989, had significantly improved SIDOR's competitiveness. At verification, officials from the Ministry of Finance (Hacienda) and SIDOR again stated that the restructuring process greatly improved the company's financial health and placed SIDOR on the path to becoming an internationally competitive steel company. *See* the September 19, 1997, Memorandum to Barbara E. Tillman Re: Verification of Information Provided in the SIDOR Questionnaire Responses (SIDOR VR) at 3–9, and the September 20, 1997, Memorandum to Barbara E. Tillman Re: Verification of the Government of Venezuela Questionnaire Responses (GOV VR) at 3–6 (public versions on file in the Central Records Unit of the Department of Commerce, Room B–099). Respondent also claims that the GOV's decision to convert U.S. $1.0 billion of SIDOR's external debt into equity was in large part due to the company's commitment to meet specific short- and long-term goals, and the projections of the company's financial position if it met these goals. While we acknowledge that SIDOR may have made some progress as a result of the restructuring process, we do not agree that these changes provide a basis for finding that SIDOR was equityworthy in 1991. In the *GIA*, we stated that any projections of future earnings based on restructuring plans would have to be reconciled with an analysis of past performance. 58 FR at 37245. As we will show, the projections do not provide a sufficient basis to overcome SIDOR's past performance and the company's poor reputation. Rather, but for the debt capitalization by the GOV, SIDOR's cash flow would have become so unstable that the company would have been unviable. *See* SIDOR VR at 8.

At verification, SIDOR officials explained that the 1989 restructuring process was aimed at making the company more competitive internationally and returning it to profitability. To achieve this, SIDOR intended to measure and improve several key indicators of the company's performance, including:

(1) work force productivity, as measured by tons of steel produced per worker per year;
(2) debt to equity ratio;
(3) unit cost of production and sales;
(4) the timing of deliveries; and
(5) the ratio between inventories and sales, taking into account net sales.

See SIDOR VR at 4. SIDOR also started a cost reduction program and determined that the company's product mix had to be reduced by specializing in the more profitable flat products. To become more competitive, SIDOR also reduced its work force. According to SIDOR, by 1991, the company had greatly improved all of the indicators and had released 3000 workers. An additional program to improve SIDOR's performance was initiated in 1991, as part of the debt restructuring that was agreed upon in principal in that year. Unlike the 1989 restructuring program, under this program, SIDOR made specific commitments to the GOV, and agreed to reach these performance targets by 1993. The targets included (1) an 11.0 percent reduction in per unit production costs; (2) an increase in labor productivity as measured by tons of liquid steel production per man year; (3) a reduction of inventories to 25 percent; and (4) an increase in sales volume to 2,400,000 tons per year, and capacity utilization of over 80 percent. *See* SIDOR VR at 8. According to SIDOR officials, if these targets were reached by that time, SIDOR would become competitive globally. *Id.*

However, we disagree with these arguments. It may be true that SIDOR's inability to meet its commitments to the GOV was, as respondent claims, compounded by the difficulties in the Venezuelan economy. However, petitioners correctly note that not all of the performance targets were linked directly to the success of Venezuela's economy or to worsening inflation. *See* SIDOR VR at 8. Moreover, as the bankers noted, a key factor in determining a company's potential was its ability to perform adequately *in spite of* the worsening economic conditions.

In conjunction with GOV's 1991 agreement to capitalize 60 percent of the company's external debt, although SIDOR prepared a report containing certain financial projections for the Economic Council of the Presidential Cabinet, there were no independent evaluations of this potential investment. *See* SIDOR VR at Exhibit 21 (Public Document). In analyzing SIDOR's potential, the report details a plan of action to improve the company's competitiveness. However, the report includes scant projections of the company's projected financial performance, such as profitability, and other financial indicators—important information that a private investor would consider. Rather, the report's focus is on SIDOR's projected cash flow, with and without the capitalization of 60 percent of the company's external debt. The report acknowledges that ''[d]espite implementing a cost reduction program * * * the high debt burden impedes SIDOR from accomplishing its modernization plans {and the capitalization of 60 percent of SIDOR's external debt} is the minimum required to guarantee the continued operation of the firm.'' *Id*. Moreover, respondent acknowledges that the economic indicators used in the projections ''had proved to be too optimistic.'' Respondent's September 26, 1997, Rebuttal Brief at 17. Accordingly, the company's own projections and statements indicate that, absent the debt capitalization, SIDOR's cash flow would be insufficient for the company to meet its debt obligations, and the company would become unviable.

We analyzed similar circumstances in *Certain Steel From Mexico* which involved AHMSA, a Mexican steel producer. In that case, it appeared that the financial projections were done to show that the government of Mexico's assumption of AHMSA's debt could achieve a level of cash flow to prevent the company from defaulting on its loans. Our conclusion in that case is the same we have reached here: ''the focus of the analysis was not to demonstrate to a reasonable investor that [the company] was a good investment.'' *GIA,* 58 FR at 37245. Rather, in this case, the focus of SIDOR's report for the Economic Council of the Presidential Cabinet was to show that SIDOR would have been unable to continue operations without the capitalization of 60 percent of the company's external debt. Again, our evaluation of AHMSA's projections in *Certain Steel From Mexico,* are also appropriate in this case. At that time, we stated that the reasonable investor would weigh a company's past performance ''far more than a financial projection done by the company itself in an attempt to garner more financial aid from the {government}.'' *GIA,* 58 FR at 37245.

The analysis above makes clear that SIDOR was not an equityworthy company in 1991. Accordingly, we determine that the 1991 conversion of SIDOR's external debt into equity was not consistent with the usual investment practices of private investors.

3. 1993 and 1994 CVG Land Transfers to SIDOR

In the *Preliminary Determination,* we found that in 1993 and 1994, CVG transferred land to SIDOR to cancel unpaid capital subscriptions. We also found that SIDOR was equityworthy in each of these years. *See Preliminary Determination,* 62 FR at 41941. For many of the same reasons outlined above, we have reevaluated our preliminary determination that SIDOR was equityworthy in these years. For example, SIDOR's real revenue growth from 1991 to 1993 was negative 16.97 percent, negative 8.73 percent, and negative 22.48 percent, respectively. We have also calculated SIDOR's cost of sales, adjusted for the rate of inflation, in each year from 1990 through 1993. This adjustment yields negative profit margins in each of the three years preceding the 1993 and 1994 land transfers, except 1991. However, even in that year, the adjusted return was very small, 0.18 percent. *See Final Calculation Memo* at 22. In each year that SIDOR experienced a loss after adjusting for inflation, the company's return on equity would also be negative, meaning that SIDOR was not able to generate a real return on investment in those years. Accordingly, we now determine that SIDOR was unequityworthy in 1993 and 1994.

Equity Methodology: In measuring the benefit from a government equity infusion to an unequityworthy company, the Department compares the price paid by the government for the equity to a market benchmark, if such a benchmark exists. A market benchmark can be obtained, for example, where the company's shares are publicly traded. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Spain,* 58 FR 37374, 37376 (July 9, 1993).

Where a market benchmark does not exist, the Department has determined in this investigation to continue to follow the methodology described in the *GIA,* 58 FR at 37239. Following this methodology, equity infusions made on terms inconsistent with the usual practice of a private investor are treated as grants. Using the grant methodology for equity infusions into an unequityworthy company is based on the premise that an unequityworthiness finding by the Department is tantamount to saying that the company could not have attracted investment capital from a reasonable investor in the infusion year based on the available information.

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 criteria, *see*, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France, 58 FR 37304 (July 9, 1993); and *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from the United Kingdom*, 58 FR 37393 (July 9, 1993).

Petitioners have alleged that SIDOR was uncreditworthy in each of the years the company received GOV equity infusions, *i.e.*, 1977 through 1992 (with the exception of 1988). In *Non-Alloy Pipe from Venezuela*, the Department initiated an examination of SIDOR's creditworthiness for the years 1985 through 1990. *See* 57 FR at 42964. For all other years, the Department initiated an examination of SIDOR's creditworthiness based upon an analysis of SIDOR's cash flow and financial ratios. *See Creditworthy/Equityworthy Memo.* As outlined above under the ''Equityworthiness'' section, for all the years except 1989 through 1992, SIDOR did not submit financial data beyond what was examined in the initiation stage, stating that such information was inaccessible. Therefore, because SIDOR has not provided any information that undermines the Department's initiation analysis, we determine that SIDOR was uncreditworthy from 1978 through 1987 and from 1989 through 1990.

We also now consider SIDOR to be uncreditworthy in 1991, the year of the GOV's decision to convert 60 percent of SIDOR's external debt into equity. The company's financial picture in the three years prior to 1991 was erratic. As outlined under the equityworthiness section above, in 1991, SIDOR's real revenue growth was negative in 1988 and 1989, and, after making an adjustment for inflation, the company's profit margin was negative in each of the three years preceding 1991. According to Venezuelan commercial bankers, this is a key factor in evaluating a company's ability to meet its debt obligation. *See Memo Re: Meetings with Commercial Bankers* at 3. While the bankers also stated that they would lend to Venezuelan companies with a debt-to-equity ratio of up to 300 percent, they further indicated that a key factor would be whether the company had survived the crises of the economy. This cannot be said of SIDOR. The company's own projections at the time made clear that without the GOV's conversion of SIDOR's external debt, the company would not have been able to meet its debt obligations. *See* SIDOR VR at Exhibit 21 and the ''Equityworthiness'' discussion above.

We have also determined that SIDOR was unequityworthy in 1993 and 1994. Therefore, we have also examined the company's financial statements over the period 1990 through 1993, to analyze SIDOR's ability to obtain commercial financing at commonly available interest rates. For the three years after 1991, SIDOR's liquidity improved significantly, with current assets exceeding current liabilities by over two to one. In addition, SIDOR's ability to service its long-term debt also improved, and the cash flow to debt ratio increased to over 14 percent in 1992 and 1993. While SIDOR's financial picture remained weak during the period 1990 through 1993, the lessened debt burden and improved liquidity indicate that SIDOR would have been able to obtain commercial financing at commonly available interest rates in 1993 and 1994. Therefore, we determine SIDOR to be creditworthy in each of these years.

Discount Rates: For uncreditworthy companies, our practice is to use as the discount rate the highest long-term fixed interest rate commonly available to firms in the country plus an amount equal to 12 percent of the prime rate. Because we were unable to locate a prime rate in Venezuela, we added 12 percent to the discount rate. *See e.g., Final Affirmative Countervailing Duty Determination: Certain Steel Products From Brazil*, 58 FR 37295, 37298 (July 9, 1993) (*Brazil Steel*), *Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel From Italy*, 59 FR 18357, 18358 (April 18, 1994). (*GOES*).

In the *Preliminary Determination*, we calculated the benefit from non-recurring countervailable subsidies received by SIDOR through 1987 by using as the discount rate the long-term corporate bond rates in Venezuela, published by Morgan Guaranty Trust Company in *World Financial Markets. See* 62 FR at 41942. For the period after 1987, we used as the discount rate the average short-term interest rate, because the long-term corporate bond rates were not available after 1987, and because the primary mechanism for obtaining long-term domestic currency financing in Venezuela has been through short-term, roll-over, loans.

Based on our findings at verification, we now determine that it is not appropriate to use long-term corporate bond rates as the discount rate. Central Bank of Venezuela officials stated at verification that ''[c]ommercial banks in Venezuela have never given long-term loans. The general practice is to give one-year loans at a short-term rate and roll it over each year with a new short-term rate.'' *GOV VR* at 3.

In the *Preliminary Determination*, we also stated that it was appropriate to adjust the discount rate to take into account inflation because Venezuela has experienced intermittent periods of high inflation over the past twenty years, and because SIDOR has adjusted its financial statements to take into account the effects of inflation since 1994. *See Preliminary Determination*, 62 FR at 41942. We have modified our approach for this final determination and no longer consider it appropriate to make such an adjustment to the short-term discount rate. In addition, we now determine that, in calculating the benefit from non-recurring subsidies, it is appropriate to account for inflation only for the period 1987 through 1996. Therefore, for the years 1978 through 1986, we are using, as the discount rate, the short-term bolivar interest rates described above. As noted above, these rates represent the primary mechanism for obtaining long-term domestic currency financing in Venezuela.

We have determined that the most reasonable way to account for inflation for the is to convert the equity infusions into U.S. dollars, and to then apply, as the discount rate, a long-term dollar lending rate. Therefore, for our discount rate, we used data for U.S. dollar lending in Venezuela for long-term non-guaranteed loans from private lenders, as published in the World Bank Debt Tables: External Finance for Developing Countries. This conforms with our practice in *Brazil Steel. See* 58 FR at 37298. The changes to our calculation methodology are discussed more fully below under the *GOV Equity Infusions into SIDOR and Interested Party Comment* sections of the notice. Because we determine SIDOR to be uncreditworthy for the years 1978 through 1991 (except 1988), we added to the discount rates a risk premium equal to 12 percent of the discount rate in each of those years.

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

I. Programs Determined To Be Countervailable

A. GOV Equity Infusions into SIDOR

SIDOR received GOV equity infusions in every year from 1977 through 1991, except 1988. SIDOR is a 100-percent government-owned company. Its parent company is Corporacion Venezolana de Guayana (CVG), a holding company owned by the GOV charged with promoting industrial development in the Guayana Region. The majority of the equity infusions were made by the Fondo de Inversiones de Venezuela (FIV), a GOV investment fund. The remaining funds were provided by the Hacienda, primarily as interest payments on loans. According to the response of the GOV, the government equity infusions into SIDOR were provided pursuant to special laws adopted with respect to government-approved expansion projects of SIDOR. Thus, these equity infusions were specific under section 771(5A)(D) of the Act.

The first law, published in the Gaceta Oficial No. 30,587 on January 2, 1975, authorized SIDOR's 1974–79 ''Plan IV'' expansion. This expansion was aimed at increasing SIDOR's steel production by 3.6 million tons as well as increasing the company's rolling capacity for flat and non-flat products. The government equity infusions under Plan IV were not disbursed in the amounts or at the time originally projected in this plan. However, the amounts received by SIDOR were recorded in the company's annual financial statements in the year they were received. Equity funds also were provided to SIDOR in accordance with a 1987 law passed by the Venezuelan Congress. This law was published in the Gaceta Oficial No. 33,771 on December 21, 1987. The FIV received both preferred and common shares for these equity investments into SIDOR.

As noted above, funds were also provided to SIDOR by the Hacienda. Funds provided by the Hacienda between 1977 and 1981 were authorized under Article 11 of a 1976 Special Law for Public Credit and were also made pursuant to a June 26, 1977, agreement between the Hacienda, FIV, CVG and SIDOR. Under this agreement, the Hacienda agreed to pay SIDOR's interest on loans from the FIV in return for shares in the company. Equity payments made between 1984 and 1986 were provided pursuant to government Decree 390 of December 1984, authorizing the Hacienda to help SIDOR service its foreign debt. Finally, a 1987 loan from the Hacienda to SIDOR was converted into equity, but recorded as an advance for future capital increase.

SIDOR records all Hacienda equity funds in the years the funds were received. However, the capital investments appeared in SIDOR's annual financial statements as ''Advances for Future Capital Increase.'' In 1989, all advances were converted into shares issued to Hacienda, the delay stemming from a disagreement between the Hacienda and CVG as to who should take ownership of the shares. The issue was resolved in 1989, and on the same day the shares were issued to Hacienda, they were transferred to CVG, SIDOR's parent company. We have treated these Hacienda funds as capital investments in each year in which they were received by SIDOR.

According to the agreement under which the Hacienda funds were provided, the funds are to be treated as capital infusions.

In 1991, following several years of restructuring by SIDOR, the GOV agreed to convert 60 percent of SIDOR's debt and the interest accrued on the debt into equity which was converted into shares provided to Hacienda. This debt related to SIDOR's pre-1986 foreign currency loans that had been restructured in accordance with government Decree 1261 of November 15, 1990. As a result of this conversion, the Hacienda now holds 39.68 percent of SIDOR's shares. As of December 31, 1996, the remaining 60.32 percent were held by SIDOR's parent company, CVG.

In 1993 and 1994, also in connection with SIDOR's Plan IV expansion project, CVG transferred some of the land on which the company constructed the Plan IV expansion. The land was used as payment for unpaid capital subscriptions from CVG. At the time, CVG purchased only about half of the 1,860,000 shares in SIDOR it had subscribed to. We consider the land transfers to be capital investments in each year in which they were received by SIDOR.

We determine that the equity infusions into SIDOR in the years 1978 through 1987, 1989 through 1991, 1993 and 1994 confer a benefit under section 771(5)(E)(i) of the Act because the GOV investments were not consistent with the usual investment practice of private investors. *See* the discussion on ''Equityworthiness'' above. Also, these equity infusions are specific within the meaning of section 771(5A)(D) because they were limited to one company.

As explained in the ''Subsidies Valuation Information'' section, we have treated equity infusions in unequityworthy companies as grants given in the year the capital was received. We have further determined these infusions to be non-recurring subsidies. Therefore, we have allocated the benefits over 20 years.

Venezuela experienced periods of high inflation during the period 1978 through 1996 (the rates ranged from 7 percent to 103 percent). In the *Preliminary Determination*, we found that it was appropriate to take into account the effects of inflation to accurately value the benefit from GOV equity infusions. *See* 62 FR at 41943. We did this by adjusting the principal component of the benefit by the inflation index, using the year of receipt as the reference year to measure inflation. We also adjusted the interest component by adding the rate of inflation in each year to the discount rate.

Based on our verification and comments from interested parties, we find that the methodology used in the preliminary determination to account for inflation should be changed. First, prior to 1987, inflation was relatively low and, as such, we do not consider it appropriate to adjust for inflation prior to 1987. In 1987, inflation increased to 40 percent and thereafter remained consistently high, reaching 103 percent in 1996. The period after 1986, therefore, can clearly be distinguished from the prior years as marked by consistently high inflation. Accordingly, when calculating the benefit to SIDOR during the POI from the GOV equity infusions, we adjusted the nominal values of the equity infusions to account for inflation from 1987 through 1996. *See* the *Interested Party Comment* section of this notice for a more detailed discussion of this adjustment.

As we noted under the ''Discount Rate'' section above, in calculating the benefit from equity infusions received prior to 1987, we have used the short-term bolivar interest rates. For the period 1987 through 1996, we have accounted for inflation in our benefit calculation by converting the equity infusions into U.S. dollars after 1986. This conforms with our past practice and with business practices in Venezuela. *See Brazil Steel*, 58 FR at 37298. For example, a principle source of funding for capital investment in Venezuela was ''overseas foreign currency-denominated financing.'' *See Memo Re: Meetings with Commercial Bankers* at 2. Also, SIDOR's long-term loans were denominated in foreign currency. Accordingly, for equity infusions received prior to 1987, we converted the remaining face value of the grant in 1987 into U.S. dollars using the bolivar/dollar exchange rate prevailing in that year. For the remaining allocation period, we then applied the long-term U.S. dollar interest rate described in the ''Discount Rate'' section of this notice. For equity infusions received after 1986, we converted the infusion into U.S. dollars at the exchange rate in effect on the day the infusion was received by SIDOR. The discount rate used was the same described above.

To calculate the total benefit from the infusions to SIDOR, we summed the benefit allocated to the POI from each equity infusion. After converting the benefit from U.S. dollars into bolivars, we then divided that total benefit by SIDOR's total sales of all products during the POI. On this basis, we determine the net subsidy for this program to be 23.61 percent *ad valorem* for SIDOR.

B. Dividend Advances From the Hacienda

Between 1977 and 1981, pursuant to a June 26, 1977, agreement among the Hacienda, FIV, CVG and SIDOR, the Hacienda paid dividends on behalf of SIDOR on the preferred shares held by FIV. These were recorded in SIDOR's accounting records as ''Dividend Advances.'' These dividend advances are still reported in SIDOR's 1996 financial statement. According to the 1996 financial statement, the final treatment of these dividend advances has not been decided. Because the payment by the Hacienda of dividends on behalf of SIDOR is based on an agreement signed by the Hacienda, FIV, CVG and SIDOR, the payment of dividends by the Hacienda, a government agency, is limited to one company, SIDOR, and is, thus, specific under section 771(5A)(D) of the Act. To determine whether a benefit has been provided, the Department must determine whether SIDOR was obligated to pay dividends to FIV on the preferred shares. If the Hacienda relieved SIDOR of a payment obligation, then the payment of dividends by the Hacienda on behalf of SIDOR constitutes a countervailable subsidy.

According to its supplemental questionnaire response, SIDOR had fiscal losses in the years the dividend payments were made. Therefore, SIDOR stated that it was not obligated to pay any dividends. To determine whether SIDOR was obligated to pay the dividends to FIV on the preferred shares, we examined the 1977 agreement among the Hacienda, FIV, CVG and SIDOR. We verified that under this agreement, the preferred shares yielded a fixed yearly dividend equivalent to seven percent of their nominal value. Therefore, SIDOR was obligated to pay fixed yearly dividends to FIV. Because the payment of dividends by the Hacienda to FIV relieved SIDOR of a financial obligation, we determine that the outstanding balance of the ''Dividend Advances'' constitutes a benefit under section 771(5)(E) of the Act.

In order to calculate the benefit from this program, we treated the dividend advances as interest-free short-term loans because the advances appear to be liabilities of SIDOR. The 1977 agreement under which these dividends were paid does not state that these are capital infusions into SIDOR by the Hacienda. In addition, neither the GOV or SIDOR has treated these dividend advances as capital infusions. Thus, it appears, that SIDOR is still liable for repayment of the dividend advances.

To calculate the benefit in the POI, we took the amount of the dividend advances reported in SIDOR's 1996 financial statement and calculated the amount of interest the company would have paid in 1996 if it had received an interest-free loan equal to the amount of the dividend advances. We used as our benchmark interest rate the annual average short-term interest rate reported by the GOV in its supplemental response. We used this as the benchmark because we verified that SIDOR did not have short-term bolivar lending during the period of investigation. The calculated interest savings was then divided by SIDOR's total sales in the POI. On this basis, we determine the net subsidy for this program to be 0.08 percent *ad valorem* for SIDOR.

II. Programs Determined To Be Not Countervailable

A. GOV Loan to SIDOR in 1990

We initiated an investigation of this program based upon petitioners' allegation that the GOV replaced a $1,507 million commercial loan to SIDOR with a 15-year loan from the government. We verified that this 1990 GOV loan to SIDOR was part of a debt restructuring program which was examined and found not countervailable in the *Final Affirmative Countervailing Duty Determination: Ferrosilicon From Venezuela; and Countervailing Duty Order for Ferrosilicon From Venezuela*, 58 FR 27539 (May 10, 1993). Because petitioners have provided no new information or evidence of changed circumstances to warrant a reconsideration of that determination, we continue to find this GOV debt restructuring program, under which this 1990 loan was received, not countervailable.

B. Government Provision of Electricity

Electricity is provided to SIDOR by EDELCA, a government-owned utility company. Both SIDOR and EDELCA are part of the CVG Group. EDELCA is the largest utility company in Venezuela and generates 70 percent of the electricity consumed in Venezuela. Electricity rates between EDELCA and its industrial customers are not regulated. Tariff rates are set by EDELCA for a one-year period corresponding to the calendar year.

Almost all of EDELCA's clients are industrial customers or other utility companies in Venezuela. The rates between EDELCA and the other utility companies are regulated by the Regulatory Commission of Electric Energy (RCEE), while the rates charged by EDELCA to its industrial clients are not regulated. In 1990, EDELCA began using dollar per-unit rates rather than bolivar per-unit rates for its industrial rates in order to protect its tariff structure against the effects of inflation. In that year, EDELCA also changed its rate structure to one based upon its costs plus a return on its capital. To calculate its costs, EDELCA divided capital costs by capacity and factored in general operating costs, transmission costs, administrative costs, and a ten percent return on capital. To calculate its base industrial tariff rate, it then determined how much higher a price the company would need to charge in order to generate enough income to service its debt and maintain a profit. This base rate then served as the basis for the industrial rates set in subsequent years. Because this base rate was calculated in dollars, it has generally been increased in each subsequent year by the U.S. Consumer Price Index.

EDELCA makes small adjustments to this base rate to take into account different transmission and transformation costs for its customers. We verified that certain industrial clients with higher transmission costs due to the distance from the generation site paid slightly more than the basic rate in order to account for EDELCA's increased cost of transmission. In addition, some other industrial clients, such as SIDOR, maintained their own substations and transformers. These customers received a slightly lower rate.

According to section 771(5)(E) of the Act, the adequacy of remuneration with respect to a government's provision of a good or service ''* * * shall be determined in relation to prevailing market conditions for the good or service being provided or the goods being purchased in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of purchase or sale.'' Particular problems can arise in applying this standard when the government is the sole supplier of the good or service in the country or within the area where the respondent is located. In this situation, there may be no alternative market prices available in the country (*e.g.*, private prices, competitively-bid prices, import prices, or other types of market reference prices). Hence, it becomes necessary to examine other options for determining whether the good has been provided for less than adequate remuneration. This consideration of other options in no way indicates a departure from our preference for relying on market conditions in the relevant country, specifically market prices, when determining whether a good or service is being provided at a price which reflects adequate remuneration.

With respect to electricity, some of the options may be to examine whether the government has followed a consistent rate-making policy, whether it has covered its costs, whether it has earned a reasonable rate of return in setting its rates, and/or whether it applied market principles in determining its rates. Such an approach is warranted where it is only the government that provides electricity within a country or where electricity cannot be sold across service jurisdictions within a country and there are divergent consumption and generation patterns within the service jurisdictions.

In the instant case, we verified that during the period of investigation EDELCA set its industrial rates, including the rate charged to SIDOR, based upon market principles, including adjusting its standard industrial rate for differences in transmission and transformation costs and for level of consumption. In addition, we note that EDELCA's rate making policy incorporates a return on its costs and that the return earned by EDELCA on it sales to SIDOR was higher than the average return of its industrial clients. We verified that EDELCA's pricing policies with respect to SIDOR and its industrial customers are consistent with the pricing policies of private utility companies in Venezuela. Therefore, we find that the rates charged by EDELCA to SIDOR are not countervailable under section 771(5)(E) of the Act.

Adequacy of remuneration is a new statutory provision which replaced ''preferentiality'' as the standard for determining whether the government's provision of a good or service constitutes a countervailable subsidy. The Department has had no experience administering section 771(5)(E) and Congress has provided no guidance as to how the Department should interpret this provision. This case and the other concurrent wire rod cases mark the first instances in which we are applying the new standard. We anticipate that our policy in this area will continue to be refined as we address similar issues in the future.

III. Programs 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-denominated loans linked to the London Interbank Offering Rate (LIBOR).

We verified that 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 we verified that the KfW and Credito Italiano loans were tied to financing the expansion of SIDOR's pipe mill, we 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 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. Government Provision of Iron Ore

Iron ore is a bulky, low-priced commodity that is traded on the international market and is used in the production of steel. Petitioners alleged that Ferrominera, a government-owned company, provided iron ore to SIDOR for less than adequate remuneration. SIDOR and Ferrominera are two of the 37 companies which comprise the CVG Group, a holding company owned by the GOV. SIDOR purchases all of its iron ore from Ferrominera. Ferrominera is the only producer of iron ore in Venezuela, and 99 percent of its domestic sales are to the steel industry.

As explained in our preliminary determination, SIDOR and Ferrominera maintain two separate contracts—one for the supply of iron ore and one for its transportation. SIDOR and Ferrominera have a multi-year supply contract under which Ferrominera sets SIDOR's iron ore prices on an annual basis. The unit price (*i.e.*, the price per ''metric ton natural iron unit'') is set in U.S. dollars, and the terms of sale are FOB, place of loading. When Ferrominera announced a new price for 1996, SIDOR objected and tried to renegotiate the price. Because of this objection, Ferrominera did not apply the new price. After negotiations failed, SIDOR and Ferrominera entered into arbitration conducted by the CVG Group.

For the preliminary determination, we calculated a program rate by comparing the price of iron ore that Ferrominera charged SIDOR during 1996 with a benchmark price constructed from published price information on the record. However, at verification we learned that the CVG arbitration decision was not made until March 1997; thus the price that SIDOR had to pay for the iron ore was not finally set until after our period of investigation. Because the 1996 price of iron ore was not finalized until after the period of investigation and final payment was not made by SIDOR until July 1997, we consider it inappropriate to assess the countervailability of Ferrominera's provision of iron ore to SIDOR for purposes of this final determination.

We have taken this approach in light of our practice to countervail subsidies based on the timing of the receipt of the subsidy. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy*, 61 FR 30288 (June 14, 1996), and *Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe From Turkey: Final Results of Countervailing Duty Administrative Reviews*, 62 FR 43984 (August 18, 1997). Because the final price for the iron ore was not set and paid until 1997, the receipt of any potential benefit under this program is 1997, which is outside the period of investigation. Moreover, because the standard for adequate remuneration specifies that transportation is one of the factors to consider in determining whether the provision of a good is for less than adequate remuneration, we do not consider it appropriate in this case to analyze the transportation services for the delivery of iron ore separately from the pricing contract of such ore.

Therefore, the issue of whether iron ore is provided to SIDOR for less than adequate remuneration will be examined in an administrative review conducted under section 751 of the Act, if a countervailing duty order is issued.

We note that the interested parties submitted comments on whether iron ore was provided to SIDOR for less than adequate remuneration. These comments dealt with the methodology which should be employed in analyzing whether iron ore was provided for less than adequate remuneration. Because we are not making a determination with respect to the countervailability of this program, and because none of the comments were related to the issue of the timing of the potential benefit, it is not necessary to address the comments submitted by the interested parties for purposes of this final determination.

C. 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. We verified that SIDOR never applied for or received benefits under this program. Therefore, we determine that this program was not used by SIDOR during the POI.

IV. Program Determined To Be Terminated

Special Permissive Regulations for Exporters (REFE)

The REFE program was enacted September 9, 1994, to enable companies and individuals to access foreign currency more easily. Prior to 1994, companies and individuals were not allowed to maintain foreign currency accounts. Rather, they had to make specific requests for access to foreign currency from the Office of Technical Exchange Administration (OTAC, Officina Technica de Administration de Combina). In 1994, Venezuela endured a banking crisis. In response to this crisis, the GOV halted all exchange of bolivars for foreign currency, leaving companies and individuals with virtually no access to foreign currency. During July and August, 1994, companies in Venezuela were unable to service foreign currency-denominated debt. In response to this situation, the GOV initiated the REFE program. The REFE program allowed companies and individuals to use directly their foreign currency receipts. Under the program, a company could maintain a foreign account with which it could directly service its foreign currency debts or directly pay for imported inputs.

We verified that on April 17, 1996, the GOV terminated the REFE program with the enactment of Decree 1,292, which established the free convertibility of currency in Venezuela and removed the exchange control regulations then in place. With the establishment of the free convertibility of currency, we also determine that there are no residual benefits from the REFE program. Thus, we determine that the REFE program is terminated.

Interested Party Comment

Comments not already addressed in the ‘‘Subsidies Valuation’’ and program sections above, are addressed separately below:

Comment: Issues regarding the equity methodology. Both petitioners and respondent argue that the methodology the Department used in the preliminary determination to calculate the benefit arising from equity infusions into SIDOR incorrectly accounts for inflation. Petitioners' position is that the Department should not have used variable short-term interest rates as discount rates. Rather, they argue that the Department should account for inflation by dollarizing (i.e., converting the grant amount into dollars and using a discount rate denominated in dollars) for both the amounts of the subsidies and the interest rates used to allocate them across time. They contend that, at a minimum, the Department should dollarize the period 1987 to 1996.

Respondent argues that, contrary to prior practice, the Department adjusted the benefit derived from the allocated principal for periods which were not consistently hyperinflationary. They argue that hyperinflation is defined as 50 percent inflation or higher, and that therefore the Department's methodology should include inflation adjustments only for the period 1994–1996. Second, they argue that, in adjusting the interest benefit derived from the outstanding balance of the equity infusion, the Department double-counted the effects of inflation by combining the benchmark rate from the year of receipt of the equity infusion and the inflation rate for 1996. Finally, they contend that, in calculating the risk premium for an uncreditworthy company, the Department used an incorrect basis in certain years which overstated the risk premium. They propose that national average short-term interest rates should be used to calculate the risk premium for all years in which countervailable equity infusions were received.

Department's position: As outlined above, for this final determination, we have altered our methodology for calculating the benefit to SIDOR from GOV equity infusions. Some of the modifications to the calculation methodology reflect our agreement with arguments made by both respondent and petitioners. For example, we agree with respondent that it is not appropriate to account for inflation over the entire allocation period. Also, we accept petitioners argument that, to capture the impact of inflation on the nominal benefit to SIDOR in the years 1987 through 1996, it is appropriate to convert the subsidy amounts into U.S. dollars. Additional changes, in particular the use of short-term discount rates through 1986 and U.S. dollar discount rates from 1987 through 1996, reflect our findings at verification and the practices in Venezuelan financial markets.

During the period 1978 through 1986, the annual inflation rates in Venezuela ranged from 7 to 21 percent. In 1987, however, the annual inflation rate increased to 41 percent. Since then, it has not fallen below 30 percent and has reached levels as high as 100 percent by 1996. The period after 1986, therefore, can clearly be distinguished from the prior years, because the latter period was marked by consistently high and rising inflation.

According to respondent, inflation in Venezuela only reached ‘‘hyperinflationary’’ levels from 1994 to 1996, when the rates ranged between 57 and 103 percent. Therefore, respondent argues that in calculating the benefit from GOV equity infusions, inflation should be taken into account only during the period 1994 through 1996. In support of this, respondent cites certain steel products from Mexico, where the Department found that Mexico was hyperinflationary from 1983 through 1988, when inflation ranged between 57 and 131 percent. *See Final Affirmative Countervailing Duty Determination: Certain Steel Products From Mexico*, 58 FR 37352, 37355 (July 9, 1993). We did not account for inflation in that case when the rate was between 19 and 29 percent. Accordingly, respondent implies that the methodology used in *Steel From Mexico* stands for the proposition that the Department only takes into account inflation during periods in which annual inflation is 50 percent or higher.

We disagree with respondent's interpretation of the approach used in that case. In *Steel From Mexico*, we did not specify that an economy must reach a certain level of annual inflation before we will account for inflation in the benefit calculation. Adopting a threshold would miss the point of adjusting for inflation. Rather, in *Steel From Mexico*, our concern was how to treat a period of high inflation that was in the middle of the allocation stream and clearly anomalous with respect to the periods before and after. As respondent noted, the inflation rate in Mexico dropped from 114 percent in 1988 to 20 percent in 1989, bringing to an end the period of anomalous rates. In contrast, inflation in Venezuela has been consistently high from 1987 onwards, reaching 81 percent in 1989, and topping 100 percent in 1996, the POI. At no time after 1987 did inflation return to the lower levels experienced during the period prior to 1986. Petitioners correctly note that, during periods of consistently high inflation, as experienced by Venezuela after 1986, the nominal value of a company's non-monetary assets increases with inflation. Therefore, untied subsidies that are allocated over time and which benefit a company's productive activities also increase in real terms because of inflation. Adjusting for inflation during anomalous periods of high inflation merely recognizes this fact, and the adjustment takes into account the value, in real terms, of the subsidy. With respect to this, the methodology used in the *Preliminary Determination* to calculate the interest component of the benefit, was incorrect. In particular, we incorrectly added the rate of inflation to the discount rate. This approach treats inflation as a benefit in each year. However, as explained above, inflation increases the real value of non-monetary assets, such as machinery, over time, and is not a benefit in each year. In any case, we have modified our approach by converting the equity infusions into dollars after 1986, so that an adjustment to the interest component is no longer necessary.

As explained in the ''GOV Equity Infusions into SIDOR'' section above, we determine that, for periods of high inflation in Venezuela (*i.e.*, 1987 through the POI) it is appropriate to convert non-recurring subsidies into dollars. This approach is consistent with the Department's past practice, in particular when no appropriate long-term domestic discount rate exists for use in our grant calculation. Further, as petitioners correctly note, this approach conforms with SIDOR's actual business practices and commercial practices in Venezuela. *See Memo Re: Meetings with Commercial Bankers* at 2.

Respondent argues that inflation was not a constant phenomenon in Venezuela. For this reason, respondent claims that other cases in which the Department adopted a dollarization methodology, such as *Brazil Steel*, are not relevant because, in that case, inflation was consistently above 350 percent. We disagree with respondent because, once again, the issue is not whether annual inflation reaches a certain threshold level in a country. Rather, as noted above, adjusting the benefit for inflation merely accounts for the fact that, when inflation is consistently high, the value of non-monetary assets increases, and the value of the subsidy that benefits the non-monetary assets also increases. By converting the subsidy into dollars at the beginning of a high inflation period and later converting the benefit allocable to the POI back into domestic currency at the exchange rate prevailing in the POI, we are taking into account that increase in the real value of the subsidy.

Respondent claims that the risk premium used by the Department for the 1978 through 1986 period is overstated, and that the Department should use the short-term interest rates, with a risk premium, to calculate the benefit. Because we are now using the rate advocated by respondent for the 1978 through 1986 period, the issue is now moot.

Suspension of Liquidation

In accordance with section 705(c)(1)(B) of the Act, we have calculated a subsidy rate for SIDOR, the one company under investigation. This subsidy rate is 23.69 percent *ad valorem*. This rate would also be applicable to any companies not investigated or any new companies exporting the subject merchandise.

We have concluded a suspension agreement with the Government of Venezuela which eliminates the injurious effects of imports from Venezuela (see, *Notice of Suspension of Investigation: Steel Wire Rod from Venezuela* being published concurrently with this notice). As indicated in the notice announcing the suspension agreement, pursuant to section 704(h)(3) of the Act, we are directing the U.S. Customs Service to continue suspension of liquidation. This suspension will terminate 20 days after publication of the suspension agreement or, if a review is requested pursuant to section 704(h)(1) of the Act, at the completion of that review. Pursuant to section 704(f)(2)(B) of the Act, however, we are not applying the final determination rate to entries of subject merchandise from Venezuela; rather, we have adjusted the rate to zero to reflect the effect of the agreement.

We will notify the International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary 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 Deputy Assistant Secretary for Import Administration.

If the ITC's injury determination is negative, the suspension agreement will have no force or effect, this investigation will be terminated, and the Department will instruct the U.S. Customs Service to refund or cancel all securities posted (*see*, section 704(f)(3)(A) of the Act). If the ITC's injury determination is affirmative, the Department will not issue a countervailing duty order as long as the suspension agreement remains in force, and the Department will instruct the U.S. Customs Service to refund or cancel all securities posted (*see*, section 704(f)(3)(B) of the Act).

This notice is issued pursuant to section 704(g) of the Act.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act.

Dated: October 14, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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