DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–827]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From Italy

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

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Michael Grossman, Office of CVD/AD Enforcement II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2786.

PRELIMINARY DETERMINATION: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of certain cut-to-length carbon-quality steel plate from Italy. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, U.S. Steel Group, a Unit of USX Corporation, Gulf States, Inc., IPSCO Steel Inc., and the United Steelworkers of America (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (see Notice of Initiation of Countervailing Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea, 64 FR 12996 (March 16, 1999) (Initiation Notice)), the following events have occurred: On March 19, 1999, we issued countervailing duty questionnaires to the Government of Italy (GOI), the European Commission (EC), and the producers/exporters of the subject merchandise (CTL plate). On April 21, 1999, we postponed the preliminary determination of this investigation until no later than July 16, 1999. *See Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea: Postponement of Time Limit for Preliminary Determination of Countervailing Duty Investigations,* 64 FR 23057 (April 29, 1999).

We received responses to our initial questionnaires from the EC on May 6, 1999, and the GOI on May 10 and 28, 1999. Palini & Bertoli S.p.A. (Palini & Bertoli), a producer of the subject merchandise which had exports to the United States in 1998, submitted its questionnaire response on May 11, 1999. ILVA Lamiere e Tubi S.p.A. and ILVA S.p.A. (collectively referred to as ILVA/ILT) submitted their joint questionnaire response on May 13, 1999. (ILT produced the subject merchandise which was exported to the United States by ILVA in 1998.) On May 25, 1999, we issued a supplemental questionnaire to Palini & Bertoli, and received the company's response on June 14, 1999. On June 1, 1999, we issued supplemental questionnaires to the EC, GOI, and ILVA/ILT. The supplemental questionnaire responses were submitted by the EC on June 15, 1999, by ILVA/ILT on June 21, 1999, and by the GOI on June 22, 1999. We also issued supplemental questionnaires on June 22, 1999, to Palini & Bertoli, and June 29, 1999, to the EC, GOI, and ILVA/ILT. The responses were submitted on July 6, 1999, by Palini & Bertoli and the EC, on July 8 and 9, 1999, by the GOI, and July 9, 1999, by ILVA/ILT. On July 13 and 14, 1999, ILVA/ILT submitted additional information on the record.

In its supplemental response, Palini & Bertoli indicated that the company received benefits under two regional government laws during the POI, *i.e.*, Law 25/65 and Law 30/84. The Department did not receive a request by petitioners to examine these potential benefits, hence we did not initiate on these laws in the *Initiation Notice*. Law 25/65, adopted by the Regional Government of Friuli-Venezia Giulia, provides interest contributions on loans taken by small- and medium-sized enterprises for the construction, enlargement, or technical renovation of industrial plants throughout the region. Palini & Bertoli received interest contributions during the POI on one loan contracted in 1990. Palini & Bertoli also received a capital grant under Law 30/84 of the Regional Government of Friuli-Venezia Giulia. Regional Law 30/84 provides capital grants to industrial and handicraft enterprises intending to open new productive sites or to restructure existing plants within certain mountainous areas of the region. Due to the fact that this information was brought to the Department's attention just prior to the preliminary determination, the Department is unable to make a determination on the countervailability of these programs at this time. More specifically, the Department does not have sufficient information to perform an appropriate specificity analysis of the above mentioned programs. We will request additional and clarifying information with regard to these programs from Palini & Bertoli and the Regional Government of Friuli-Venezia Giulia, and will present our findings in the Final Determination of this investigation.

Scope of Investigation

The products covered by this scope are certain hot-rolled carbon-quality steel: (1) universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils).

Steel products to be included in this scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or

0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to these investigations is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

As stated in our notice of initiation, we set aside a period for parties to raise issues regarding product coverage. In particular, we sought comments on the specific levels of alloying elements set out in the description below, the clarity of grades and specifications excluded from the scope, and the physical and chemical description of the product coverage.

On March 29, 1999, Usinor, a respondent in the French antidumping and countervailing duty investigations and Dongkuk Steel Mill Co., Ltd. and Pohang Iron and Steel Co., Ltd., respondents in the Korean antidumping and countervailing duty investigations (collectively the Korean respondents), filed comments regarding the scope of the investigations. On April 14, 1999, the petitioners responded to Usinor's and the Korean respondents' comments. In addition, on May 17, 1999, ILVA/ILT, a respondent in the Italian antidumping and countervailing duty investigations, requested guidance on whether certain products are within the scope of these investigations.

Usinor requested that the Department modify the scope to exclude: (1) Plate that is cut to non-rectangular shapes or that has a total final weight of less than 200 kilograms; and (2) steel that is 4″ or thicker and which is certified for use in high-pressure, nuclear or other technical applications; and (3) floor plate (*i.e.*, plate with ''patterns in relief'') made from hot-rolled coil. Further, Usinor requested that the Department provide clarification of scope coverage with respect to what it argues are over-inclusive HTSUS subheadings included in the scope language.

The Department has not modified the scope of these investigations because the current language reflects the product coverage requested by the petitioners, and Usinor's products meet the product description. With respect to Usinor's clarification request, we do not agree that the scope language requires further elucidation with respect to product coverage under the HTSUS. As indicated in the scope section of every Department antidumping and countervailing duty proceeding, the HTSUS subheadings are provided for convenience and Customs purposes only; the written description of the merchandise under investigation or review is dispositive.

The Korean respondents requested confirmation whether the maximum alloy percentages listed in the scope language are definitive with respect to covered HSLA steels.

At this time, no party has presented any evidence to suggest that these maximum alloy percentages are inappropriate. Therefore, we have not adjusted the scope language. As in all proceedings, questions as to whether or not a specific product is covered by the scope should be timely raised with Department officials.

ILVA/ILT requested guidance on whether certain merchandise produced from billets is within the scope of the current CTL plate investigations. According to ILVA/ILT, the billets are converted into wide flats and bar products (a type of long product). ILVA/ILT notes that one of the long products, when rolled, has a thickness range that falls within the scope of these investigations. However, according to ILVA/ILT, the greatest possible width of these long products would only slightly overlap the narrowest category of width covered by the scope of the investigations. Finally, ILVA/ILT states that these products have different production processes and properties than merchandise covered by the scope of the investigations and therefore are not covered by the scope of the investigations.

As ILVA/ILT itself acknowledges, the particular products in question appear to fall within the parameters of the scope and, therefore, we are treating them as covered merchandise for purposes of these investigations.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (1998) and to the substantive countervailing duty regulations published in the **Federal Register** on November 25, 1998 (63 FR 65348) (CVD Regulations).

Injury Test

Because Italy is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a U.S. industry. On April 8, 1999, the ITC published its preliminary determination 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 Italy of the subject merchandise (*see Certain Cut-to-Length Steel Plate From the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia; Determinations*, 64 FR 17198 (April 8, 1999)).

Alignment With Final Antidumping Duty Determination

On July 2, 1999, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion

antidumping duty investigation. *See Initiation of Antidumping Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Republic of Korea, and the Former Yugoslav Republic of Macedonia*, 64 FR 12959 (March 16, 1999). In accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping investigations of certain cut-to-length carbon-quality steel plate.

Period of Investigation

The period of investigation for which we are measuring subsidies (the POI) is calendar year 1998.

Corporate History of ILVA/ ILT [1]

Prior to 1981, the Italian government holding company Istituto per la Ricostruzione Industriale (IRI), controlled Italy's nationalized steel industry through its wholly-owned subsidiary, Finsider S.p.A (Finsider). The steel operations of Finsider were subdivided into three main companies: Italsider (carbon steel); Terni (stainless and special steel); and Dalmine (pipe and tube). Italsider was the sector leader and the primary producer of the subject merchandise. In 1981, the GOI implemented a restructuring plan, and Finsider was restructured into several operating companies including Nuova Italsider (carbon steel flat products); Terni (speciality flat steels); Nuova Sias (special long products); and other steel product divisions. In the course of the 1981 Restructuring Plan, Italsider transferred all of its assets, with the exception of certain plants, to Nuova Italsider. Italsider became a one-company holding company with Nuova Italsider's stock as its primary asset.

During 1987, Finsider restructured three of its main operating companies: Nuova Italsider, Deltasider, and Terni. Nuova Italsider spun-off its assets to Italsider and transferred its shares in Italsider to Finsider. Nuova Italsider ceased operations after this divestment and Finsider had direct ownership of Italsider. Upon completion of the 1987 restructuring, Italsider re-emerged as the steel sector's carbon steel products producer.

Later in 1987, Finsider and its main operating companies (Italsider, TAS, and Nuova Deltasider) were placed in liquidation and the GOI subsequently implemented the 1988 Restructuring Plan. The goal of the 1988 Restructuring Plan was to restructure Finsider and its operating companies, assembling the group's most productive assets into a new operating company, ILVA S.p.A. (ILVA S.p.A. or (old) ILVA), which began operations on January 1, 1989. The 1988 Restructuring Plan, like the 1981 plan, was submitted and approved by the EC. In accordance with the plan, ILVA S.p.A. took over some of the assets and liabilities of the liquidating companies, and Finsider closed certain facilities to comply with the EC's requirements. With respect to Italsider, part of the company's liabilities and the majority of its viable assets, including all the assets associated with the production of carbon steel flat-rolled products, were transferred to ILVA S.p.A. on January 1, 1989. Non-productive assets and a substantial amount of liabilities were left behind with Finsider and the liquidating operating companies.

The facilities retained by ILVA S.p.A were organized into four primary operating groups: Carbon steel flat products, stainless steel flat products, stainless steel long products, and seamless pipe and tube. In 1992, ILVA Lamiere e Tubi (ILT), a carbon steel flat products operation, was created as a wholly-owned subsidiary of ILVA S.p.A. ILVA S.p.A. was also the majority owner of a large number of separately incorporated subsidiaries. Some of these subsidiaries produced various types of steel products. Others constituted service centers, trading companies, and an electric power company, among others. ILVA S.p.A., together with its subsidiaries, constituted the ILVA Group. The ILVA Group was wholly-owned by IRI.

Although, ILVA S.p.A. was profitable in 1989 and 1990, the company encountered financial difficulties in 1991, and became insolvent by 1993. In October 1993, ILVA S.p.A. entered into liquidation and became known as ILVA Residua (a.k.a., ILVA in Liquidation). In December 1993, IRI initiated the splitting of ILVA S.p.A.'s main productive assets into two new companies: ILVA Laminati Piani (carbon steel flat products) (ILP) and Acciai Speciali Terni (AST) (speciality and stainless steel flat products). On December 31, 1993, ILP and AST became separately incorporated firms in advance of privatization. ILT, the carbon flat steel products operation, was transferred to ILP as its wholly-owned subsidiary. The remainder of ILVA S.p.A.'s productive assets and existing liabilities, along with much of the redundant workforce, was placed in ILVA Residua.

On January 1, 1994, ILP was formally established as a separate corporation. In 1995, 100 percent of ILP was sold through a competitive public tender managed by IRI with the assistance of Istituto Mobiliare Italiano (IMI). The sale of ILP was executed through a share purchase agreement between IRI and a consortium of investors led by Riva Acciaio S.p.A. (RIVA) and investment companies. The contract of sale was signed on March 16, 1995, and all shares of ILP were transferred to the consortium on April 28, 1995. As of that date, the GOI no longer maintained any ownership interest in ILP or had any ownership interest in any of ILP's new owners.

On January 1, 1997, RIVA changed the name of ILP to ILVA S.p.A (creating the ''new'' ILVA, referred to hereafter as ILVA or (new) ILVA). ILVA continues to wholly-own ILT. Within RIVA's corporate structure, ILT, at its Taranto Works facility, produces the subject merchandise, which is exported to the United States. ILVA, with the assistance of ILVA Commerciale S.p.A. (ICO), a sales company wholly-owned by ILVA, is responsible for selling and exporting the subject merchandise to the United States and other markets.

As of 1998, RIVA owns and/or controls 82.0 percent of ILVA and two foreign-incorporated investment companies own the remaining 18.0 percent of ILVA.

According to ILVA/ILT, Sidercomit Taranto C.S. Lamiere S.r.l. (Sidercomit) was created in 1992, as an indirect subsidiary of (old) ILVA. Sidercomit became an operating unit within (new) ILVA in 1997, and currently operates service centers for the distribution of merchandise, including the subject merchandise for ILVA/ILT. Any benefits to Sidercomit under programs that have preliminarily been found countervailable have been mentioned separately within those program sections below.

Corporate History of Palini & Bertoli

Palini & Bertoli, a 100 percent privately-owned corporation, was incorporated in December 1963. Palini & Bertoli has never been part of the Italian state-owned steel industry.

Change in Ownership

In the General Issues Appendix (GIA), appended to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria*, 58 FR 37217, 37226 (July 9, 1993) (*Certain Steel from Austria*), we applied a new methodology with respect to the treatment of subsidies received prior to the sale of a government-owned

[1] As discussed in this section, ILVA/ILT's carbon steel predecessor companies are: Nuova Italsider (1981–1987), Italsider (1987–1988), ILVA S.p.A. (1989–1993), and ILP (1994–1996).

company to a private entity (*i.e.,* privatization), or the spinning-off (*i.e.,* sale) of a productive unit from a government-owned company to a private entity.

Under this methodology, we estimate the portion of the purchase price attributable to prior subsidies. We do this by first dividing the sold 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 and ending one year prior to the sale of the company. We then take the simple average of these ratios. This averaged ratio serves as a reasonable estimate of the percent that subsidies constitute of the overall value of the company. Next, we multiply this ratio by the purchase price to derive the portion of the purchase price attributable to the payment 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 the company is sold.

With respect to the spin-off of a productive unit, consistent with the Department's methodology set out above, we analyze the sale of a productive unit to determine what portion of the sales price of the productive unit can be attributable to the repayment of prior subsidies. To perform this calculation, we first determine the amount of the 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. The result of this calculation yields the amount of remaining subsidies attributable to the spun off productive unit. We next estimate the portion of the purchase price going towards repayment of prior subsidies in accordance with the methodology set out above, and deduct it from the maximum amount of subsidies that could be attributable to the spun-off productive unit.

Use of Facts Available

Both the GOI and ILVA/ILT failed to fully respond to the Department's questionnaires concerning the program ''Debt Forgiveness: 1981 Restructuring Plan.'' Section 776(a)(2) of the Act requires the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. In such cases, the Department must use the facts otherwise available in reaching the applicable determination. Because the GOI and ILVA/ILT failed to submit the information that was specifically requested by the Department, we have based our preliminary determination for this program on the facts available. In addition, the Department finds that by not providing the requested information, respondents have failed to cooperate to the best of their abilities.

In accordance with section 776(b) of the Act, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available when the party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such adverse inference may include reliance on information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review, or section 762 review; or (4) any other information placed on the record. *See* 19 CFR 351.308(c). In the absence of information from the GOI and ILVA/ILT, we consider the petition, as well as our findings from the final determination of Certain Steel from Italy to be appropriate bases for a facts available countervailing duty rate calculation.

The Statement of Administrative Action accompanying the URAA clarifies that information from the petition and prior segments of the proceeding is ''secondary information.'' *See* Statement of Administrative Action, accompanying H.R. 5110 (H.R. Doc. No. 103–316) (1994) (SAA), at 870. If the Department relies on secondary information as facts available, section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate such information using independent sources reasonably at its disposal. The SAA further provides that to corroborate secondary information means simply that the Department will satisfy itself that the secondary information to be used has probative value. However, where corroboration is not practicable, the Department may use uncorroborated information. With respect to the program for which we did not receive complete information from the respondents, the secondary information was corroborated through exhibits (*i.e.,* financial statements) attached to the petition. The financial transactions discussed within Finsider's 1984 and 1985 financial statements confirm that the GOI engaged in transactions which are tantamount to the assumption of debt and debt forgiveness. Based on such review of the transactions discussed in the financial statements, we find that the secondary information (*i.e.,* the petition and *Certain Steel from Italy*) has probative value and, therefore, the information regarding the debt forgiveness provided under the 1981 Restructuring Plan has been corroborated.

Claims for ''Green Light'' Subsidy Treatment

Section 771(5B) of the Act describes subsidies that are non-countervailable, the so-called ''green light'' subsidies. Among these are subsidies to disadvantaged regions. The GOI has requested that certain of their regional subsidies be considered non-countervailable under the green light provisions of section 771(5B).

The GOI has maintained a system of ''extraordinary intervention'' in southern Italy since the 1950's, authorizing aid to the disadvantaged region. Over time, various laws were passed, including Decree 218/78, relating to the extraordinary intervention in the South. In 1986, Law 64/86 was passed in order to consolidate all laws relating to the extraordinary intervention in the south into one development policy. Tax exemptions under Decree 218/78, for which the GOI has requested green light treatment, is considered part of Law 64/86 for this reason.

In determining whether a specific subsidy should be accorded green light status, section 771(5B)(C) of the Act establishes the threshold that the subsidy be provided pursuant to a general framework of regional development, *i.e.,* must be part of an internally consistent and generally applicable regional development policy. The region must be considered disadvantaged on the basis of neutral and objective criteria which do not favor certain regions beyond what is appropriate for the elimination or reduction of regional disparities within this framework. In *Certain Pasta from Italy,* 61 FR at 30307, the Department determined that the GOI did not perform a systematic analysis, using neutral and objective criteria, in order to identify the regions which would receive regional development assistance under Law 64/86. There is no evidence on the record of this investigation that the GOI performed this necessary analysis. While detailed analysis may have been done by the EC with respect to its own regional development policy

concerning Italy, there is no indication that the GOI undertook the same or similar efforts on a national level.

In addition, the Act outlines that a subsidy program cannot provide more aid than is appropriate for reduction of regional disparities and must include ceilings on the amount of assistance for each project. There is no evidence on the record that the GOI has given any consideration to a limit on the amount of assistance that could be awarded with regard to the program in question. Furthermore, there is no evidence that the GOI may have been concerned about awarding potentially disproportionate amounts to particular enterprises or industries.

Based on this analysis, we preliminarily determine that subsidies received under this program do not meet the standard for green light treatment. Our treatment of the benefits provided under this program is discussed below in the ''Programs Determined To Be Countervailable'' section of our notice.

Subsidies Valuation Information

Allocation Period

Section 351.524(d)(2) of the CVD Regulations states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

On June 21, 1999, ILVA/ILT submitted to the Department four tables illustrating its company-specific AUL calculations for (old) ILVA, ILP, ILT, and (new) ILVA, both separately and in combination. Based upon our analysis of the data submitted by ILVA/ILT regarding the AUL of its assets, we preliminarily determine that the calculation which takes into consideration all producers of the subject merchandise over the past 10 years is the most appropriate AUL calculation. However, because this calculation does not yield a company-specific AUL which is significantly different from the AUL listed in the IRS tables, we are using the 15 year AUL as reported in the IRS tables to allocate non-recurring subsidies under investigation for ILVA/ILT in the preliminary calculations.

Equityworthiness

In measuring the benefit from a government equity infusion, in accordance with § 351.507 (a)(2) of the Department's CVD Regulations, the Department compares the price paid by the government for the equity to actual private investor prices, if such prices exist. According to § 351.507(a)(3) of the Department's CVD Regulations, where actual private investor prices are unavailable, the Department will determine whether the firm was unequityworthy at the time of the equity infusion. In this case, private investor prices were unavailable. Therefore, our review of the record has not led us to change our finding from prior investigations, in which we found ILVA/ILT's predecessor companies, Nuova Italsider and (old) ILVA, unequityworthy from 1984 through 1988, and from 1991 through 1992. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Italy,* 58 FR 37327, 37328 (July 9, 1993) (*Certain Steel from Italy*); *Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy,* 63 FR 40,474, 40,477 (July 29, 1998) (*Wire Rod from Italy*); and *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from Italy,* 64 FR 30624, 30627 (June 8, 1999) (*Sheet and Strip from Italy*).

Section 351.507(a)(3) of the Department's CVD Regulations provides that a determination that a firm is unequityworthy constitutes a determination that the equity infusion was inconsistent with usual investment practices of private investors. The Department will then apply the methodology described in § 351.507(a)(6) of the regulations, and treat the equity infusion as a grant. Use of 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. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France,* 58 FR 37304 (July 9, 1993), and *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela,* 62 FR 55014 (October 21, 1997). The Department will consider a firm to be uncreditworthy if it is determined that, based on information available at the time of the government-provided loan, the firm could not have obtained a long-term loan from conventional sources. *See* § 351.505(a)(4)(i) of the CVD Regulations.

Italsider, Nuova Italsider, and (old) ILVA were found to be uncreditworthy from 1977 through 1993. *See Certain Steel from Italy,* 58 FR at 37328–29, *Wire Rod from Italy,* 63 FR at 40477, and *Sheet and Strip from Italy,* 64 FR at 30627. No new information has been presented in this investigation that would lead us to reconsider these findings. Therefore, consistent with our past practice, we continue to find Italsider, Nuova Italsider, and (old) ILVA uncreditworthy from 1977 through 1993. We did not analyze ILP's, (new) ILVA's, or ILT's creditworthiness in the years 1994 through 1998, because the companies did not negotiate new loans with the GOI or EC during these years.

Benchmarks for Long-Term Loans and Discount Rates

Consistent with the Department's finding in *Wire Rod from Italy,* 63 FR at 40477 and *Sheet and Strip from Italy,* 64 FR at 30626–30627, we have based our discount rates on the Italian Bankers' Association (ABI) rates. The ABI rate represents a long-term interest rate provided to a bank's most preferred customers with established low-risk credit histories. In calculating the interest rate applicable to a borrower, commercial banks typically add a spread ranging from 0.55 percent to 4.0 percent onto the ABI rate, which is determined by the company's financial health.

Additionally, information on the record indicates that the published ABI rates do not include amounts for fees, commissions, and other borrowing expenses. While we do not have information on the expenses that would be applied to long-term commercial loans, the GOI supplied information on the borrowing expenses on overdraft loans for 1997, as an approximation of expenses on long-term commercial loans. This information shows that expenses on overdraft loans range from 6.0 to 11.0 percent of interest charged. Such expenses, along with the applied spread, raise the effective interest rate

that a company would pay. Because it is the Department's practice to use effective interest rates, where possible, we are including an amount for these expenses in the calculation of our effective benchmark rates. *See* § 351.505(a)(1) of the CVD Regulations. Therefore, we have added the average of the spread (*i.e.*, 2.28 percent) and borrowing expenses (*i.e.*, 8.5 percent of the interest charged) to the yearly ABI rates to calculate the effective discount rates.

For the years in which ILVA/ILT or their predecessor companies were uncreditworthy (see Creditworthiness section above), we calculated the discount rates in accordance with the formula for constructing a long-term interest rate benchmark for uncreditworthy companies as stated in section 351.505(a)(3)(iii) of the CVD Regulations. This formula requires values for the probability of default by uncreditworthy and creditworthy companies. For the probability of default by an uncreditworthy company, we relied on the average cumulative default rates reported for the Caa to C-rated category of companies as published in Moody's Investors Service, ''Historical Default Rates of Corporate Bond Issuers, 1920–1997'' (February 1998). For the probability of default by a creditworthy company, we used the average cumulative default rates reported for the Aaa to Baa-rated categories of companies as reported in this study.[2] For non-recurring subsidies, the average cumulative default rates for both uncreditworthy and creditworthy companies were based on a 15 year term, since all of ILVA/ILT's allocable subsidies were based on this allocation period.

In addition, ILVA/ILT had two long-term, fixed-rate loans under ECSC Article 54 outstanding during the POI, each denominated in U.S. dollars. Therefore, we have selected a U.S. dollar-based interest rate as our benchmark. *See § 351.505(a)(2)(i) of the CVD Regulations. Consistent with Wire Rod from Italy,* 63 FR at 40486, we have used as our benchmark the average yield to maturity on selected long-term corporate bonds as reported by the U.S. Federal Reserve, since both of these loans were denominated in U.S. dollars. We used these rates since we were unable to find a long-term borrowing rate for loans denominated in U.S. dollars in Italy. Because ILVA was uncreditworthy in the year these loans were contracted, we calculated the uncreditworthy benchmark rates as per § 351.505(a)(3)(iii) of the CVD Regulations.

I. Programs Determined To Be Countervailable

Government of Italy Programs

A. Equity Infusions to Nuova Italsider and (old) ILVA [3]

The GOI, through IRI, provided new equity capital to Nuova Italsider or (old) ILVA in every year from 1984 through 1992, except in 1987, 1989, and 1990. We preliminarily determine that these equity infusions constitute countervailable subsidies within the meaning of section 771(5)(B)(i) of the Act. These equity infusions constitute financial contributions, as described in section 771(5)(D)(i) of the Act. Because they were not consistent with the usual investment practices of private investors (*see* Equityworthiness section above), the equity infusions confer a benefit within the meaning of section 771(5)(E)(i) of the Act. Because these equity infusions were limited to Finsider and its operating companies, Nuova Italsider and (old) ILVA, we preliminarily determine that they are specific within the meaning of section 771(5A)(D)(iii) of the Act.

We have treated these equity infusions as non-recurring subsidies given in the year the infusion was received because each required a separate authorization. We allocated the equity infusions over a 15 year AUL. Because Nuova Italsider and (old) ILVA were uncreditworthy in the years the equity infusions were received, we constructed uncreditworthy discount rates to allocate the benefits over time. *See* ''Subsidies Valuation Information'' section, above.

For equity infusions originally provided to Nuova Italsider, a predecessor company that produced carbon steel plate, we examined these equity infusions as though they had flowed directly through (old) ILVA to ILP when ILP took the carbon steel flat product assets out of (old) ILVA. Accordingly, we did not apportion to the other operations of (old) ILVA any part of the equity infusions originally provided directly to Nuova Italsider. While we acknowledge that it would be our preference to look at equity infusions into (old) ILVA as a whole and then apportion an amount to ILP when it was spun-off from (old) ILVA, we find our approach in this case to be the most feasible since information on equity infusions provided to the non-carbon steel operations of (old) ILVA is not available. For the equity infusions to (old) ILVA, however, we did apportion these by asset value to all (old) ILVA operations in determining the amount applicable to ILP.

We applied the repayment portion of our change in ownership methodology to all of the equity infusions described above to determine the subsidy allocable to ILP after its privatization. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 2.76 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not receive any equity infusions from the GOI.

B. Debt Forgiveness: 1981 Restructuring Plan

The GOI reported that the objective of the 1981 Restructuring Plan was to redress the economic and financial difficulties the iron and steel industry was realizing in the early 1980's. The GOI stated that this plan, which extended to 1985, due to the prolonged crisis within the sector, envisaged financial interventions to aid in the recovery of the Finsider group. As discussed above in the ''Use of Facts Available'' section, the GOI and ILVA/ILT failed to submit complete information in regard to the assistance provided under the 1981 Restructuring Plan. Therefore, based on the facts available, we preliminarily determine that certain financial transactions conducted in association with the 1981 Restructuring Plan are countervailable subsidies.

Following Italsider's transfer of all its company facilities to Nuova Italsider in September 1981, Italsider held 99.99 percent of Nuova Italsider's shares. In 1983, Italsider was placed in liquidation. While in liquidation, Italsider sold its shares of Nuova Italsider to Finsider in December 1994. The sales price was 714.6 billion lire. As part of this payment, Finsider assumed Italsider's debts owed to IRI of 696.4 billion lire. The difference between the 714.6 billion lire and 696.4 billion lire was paid directly by Finsider to Italsider.

On December 31, 1984, Finsider also granted to Italsider a non-interest bearing loan of 563.5 billion lire to cover losses realized from the liquidation. A matching provision was also made to Finsider's ''Reserve for

[2] We note that since publication of the CVD Regulations, Moody's Investors Service no longer reports default rates for Caa to C-rated category of companies. Therefore for the calculation of uncreditworthy interest rates, we will continue to rely on the default rates as reported in Moody Investor Service's publication dated February 1998 (at Exhibit 28).

[3] In the *Initiation Notice*, these equity infusions were separately listed as ''Equity Infusions into Italsider/Nuova Italsider'' and ''Equity Infusions into ILVA.''

Losses on Investments and Securities,'' to cover the losses of the liquidation of Italsider. Following a shareholders' meeting of Finsider on December 30, 1985, the amount of 563.5 billion lire was disbursed to cover the losses of Italsider and Italsider's state of liquidation was revoked.

In *Certain Steel from Italy*, the Department determined that the 1981 Restructuring Plan merely shifted assets and debts within a family of companies, all of which were owned by Finsider, and ultimately, by the GOI. Therefore, we determined that both the 696.4 billion lire assumption of debt and the 563.5 billion lire debt forgiveness were specifically limited to the steel companies and constitute countervailable subsidies. *See Certain Steel from Italy*, 58 FR at 37330. No new factual information or evidence of changed circumstances has been provided to the Department in this instant investigation to warrant a reconsideration of the earlier determination that the debt assumption and debt forgiveness are countervailable subsidies. Therefore, consistent with our treatment of these transactions in *Certain Steel from Italy*, we preliminarily determine that the 1984 assumption of debt and 1985 debt forgiveness constitute countervailable subsidies within the meaning of section 771(5)(B)(i) of the Act. In accordance with *Certain Steel from Italy*, debt assumption and debt forgiveness are treated as grants which constitute financial contributions under section 771(5)(D)(i) of the Act. The transactions also confer benefits to the recipient within the meaning of section 771(5)(E)(i) of the Act, in the amount of the debt coverage. Because the debt assumption and debt forgiveness were limited to Italsider, ILVA/ILT's predecessor, we preliminarily determine that these transactions are specific within the meaning of section 771(5A)(D)(iii) of the Act.

To calculate the benefit, we have treated the assumption of debt and debt forgiveness to Italsider as non-recurring subsidies because each transaction was a one-time, extraordinary event. We allocated the 1984 debt assumption and 1985 debt forgiveness over a 15 year AUL. *See* the ''Allocation Period'' section, above. In our grant formula, we used constructed uncreditworthy discount rates based on our determination that Italsider was uncreditworthy in 1984 and 1985. *See* ''Benchmark for Long-Term Loans and Discount Rates'' and ''Creditworthiness'' sections, above. As with the equity infusions made into Nuova Italsider and (old) ILVA, we have treated the assumption of debt and debt forgiveness as though the transactions had flowed directly through (old) ILVA to ILP. To determine the amount appropriately allocated to ILP after its privatization, we followed the methodology described in the ''Change in Ownership'' section above. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 1.10 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not receive any benefit under this program.

C. Debt Forgiveness: 1988 Restructuring Plan

As discussed above in the ''Corporate History of ILVA/ILT'' section of this notice, the GOI liquidated Finsider and its main operating companies in 1988, and assembled the group's most productive assets into a new operating company, ILVA S.p.A. (*i.e.*, (old) ILVA). The Finsider restructuring plan was developed at the end of 1987, and was approved by the GOI on June 14, 1988, and by the EC on December 23, 1988. The objective of the plan was to restore the industrial, financial, and economic balance to the public iron and steel-making sector in Italy. The restructuring plan included the voluntary liquidation by IRI of Finsider, and IRI's assumption of the debts not covered by the sale of assets of the companies being liquidated. IRI was the sole owner of Finsider, and therefore, the party responsible for payment of the debts of Finsider's liquidation.

A transfer of assets and liabilities from Finsider to (old) ILVA was to be accomplished at the latest by March 31, 1989. Upon completion of the 1988 Restructuring Plan, (old) ILVA owned Finsider's productive assets and a small portion of the group's liabilities. Included in the transfer were the productive portions of the flat-rolled facilities located at Taranto, Genoa, and Novi Ligure.[4] The liquidating companies retained the non-productive assets and the vast majority of the liabilities, which had to be repaid, assumed, or forgiven. Thus, while (old) ILVA emerged from the process with a positive net worth, the other companies were left with capital structures in which their liabilities greatly exceeded the liquidation value of their assets.

We preliminarily determine that certain financial transactions associated with the 1988 Restructuring Plan constituted countervailable subsidies. In 1988, IRI established a fund of 2,943 billion lire to cover losses which Finsider would realize while in liquidation. As of December 31, 1988, Finsider had accumulated losses in excess of its equity. In order to prevent Finsider from becoming insolvent during 1989, IRI utilized 1,364 billion lire of the fund to forgive debts it was owed by Finsider to cover the losses.

Later in 1990, IRI forgave debts it was owed by Finsider when it purchased (old) ILVA's stock from Finsider and Terni for 2,983 billion lire. The 2,983 billion lire was used to pay off the liquidation companies' debts which existed at the time of the sale.

In *Certain Steel from Italy*, we found IRI's purchase of ILVA's stock to be a countervailable subsidy because it effectively forgave Finsider's debts. Though ILVA/ILT, in its July 8, 1999 response, does not dispute that IRI purchased (old) ILVA's stock in 1990, the company disagrees with our earlier characterization that the share purchase was an act of debt forgiveness. We disagree with ILVA/ILT and preliminarily find that IRI's purchase of (old) ILVA's stock to be tantamount to debt forgiveness; however, we will seek further clarification of the stock purchase transaction from ILVA/ILT and the GOI.

In the February 16, 1999 petition, petitioners also alleged that IRI forgave approximately 1.9 trillion lire of Finsider's debt in 1991. They note that the Department countervailed such an amount in *Certain Steel from Italy*. In the instant investigation, both the GOI and ILVA/ILT reported that neither party has record information of such debt forgiven by IRI in 1991. We reviewed the petitioners' allegation and the documentation submitted to support their claim that IRI provided debt forgiveness of 1.9 trillion lire in 1991. In particular, we note that Finsider's 1989 Annual Report at page 12 states that: ''During the fiscal year, your company [Finsider] recorded losses totaling 1,568 billion lire; therefore, the circumstances reoccur for which the shareholder IRI later renounced its own credits necessary to cover the difference.''

Because Finsider realized a net loss of 1,568 billion lire for fiscal year 1989, in order to avoid insolvency of the company, as in 1988, IRI should have forgiven the 1,568 billion lire it was due from Finsider to cover the company's losses in excess of equity during 1990. However, according to IRI's 1990 Annual Report, IRI did not forgive the 1,568 billion lire by drawing down from the fund it established in 1988, to cover Finsider's losses while in liquidation. Since we cannot track with any degree

[4] The subject merchandise which ILT produced and (new) ILVA exported to the United States in 1998, was produced at the Taranto facilities.

of certainty what became of Finsider's indebtedness to IRI in 1990, or in subsequent fiscal years, we will gather information on what became of the 1,568 billion lire of losses in the context of seeking clarification of the assistance provided under the 1988 Restructuring Plan.

Also, in the GOI's July 8, 1999 response, the government reported that, in addition to the debt forgiveness IRI provided to Finsider in 1989, IRI disbursed 205 billion lire as authorized by the EC, to cover losses before plant closures. ILVA/ILT, however, in its July 8, 1999 response, stated that IRI provided 738 billion lire to cover losses and expenditures during the liquidation process. For purposes of this preliminary determination, we conclude, based on the information provided to the Department by ILVA/ILT, that IRI provided 738 billion lire to Finsider to cover losses in 1989. However, because the information submitted on the record with respect to the assistance IRI provided to cover losses during the liquidation process is ambiguous, we will seek further clarification of the assistance provided from the GOI and ILVA/ILT at verification.

Consistent with our determination in *Certain Steel from Italy*, we preliminarily determine that the debt forgiveness and coverage of losses, which IRI provided in 1989 and 1990, constitute countervailable subsidies within the meaning of section 771(5)(B)(i) of the Act. In accordance with our practice, debt forgiveness and coverage of losses are treated as grants which constitutes a financial contribution under section 771(5)(D)(i) of the Act, and provides a benefit in the amount of the debt coverage. Because the debt forgiveness and coverage of losses were received by only (old) ILVA, a predecessor company of ILVA/ILT, we preliminarily determine that the debt coverage is specific under section 771(5A)(D)(iii) of the Act. *See Certain Steel from Italy*, 58 FR at 37330.

To determine the benefit from these subsidies, we have treated the amount of debt forgiveness and coverage of losses provided under the 1988 Restructuring Plan as non-recurring grants because they were one-time, extraordinary events. In its July 8, 1999 response, ILVA/ILT reported that (old) ILVA did not receive all of Finsider's assets when the company was established. ILVA/ILT provided an asset allocation table, which demonstrates that only 68.4 percent of Finsider's assets were transferred to (old) ILVA. In performing the preliminary calculations, we applied this percentage to the total amount of debt forgiveness and coverage of losses provided to Finsider in 1989 and 1990, to determine the amount of debt coverage attributable to (old) ILVA. Because (old) ILVA was uncreditworthy in 1989 and 1990, the years in which the assistance was provided, we used constructed uncreditworthy discount rates to allocate the benefits over time. We allocated the debt coverage provided in 1989 and 1990, over a 15 year AUL. *See* the ''Subsidies Valuation Information'' section, above.

We also apportioned the debt coverage by asset value to all (old) ILVA operations in determining the amount applicable to ILP. We next applied the repayment portion of our change in ownership methodology to the debt forgiveness to determine the amount of the subsidy allocable to ILP after its privatization. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 3.64 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not receive any benefit under this program.

D. Debt Forgiveness: 1993–1994 Restructuring Plan, ILVA-to-ILP [5]

During 1992 and 1993, (old) ILVA incurred heavy financial losses, which compelled IRI to place the company into liquidation. In December 1993, the Italian government proposed to the EC a plan to restructure and privatize (old) ILVA by the end of 1994. The reorganization provided for splitting (old) ILVA's main productive assets into two new companies, ILP and AST. ILP would consist of the carbon steel flat production of (old) ILVA, receiving the Taranto facilities. AST would consist of the speciality and stainless steel production. The rest of (old) ILVA's productive assets (*i.e.*, tubes, electricity generation, specialty steel long products, and sea transport), together with the bulk of (old) ILVA's existing debt and redundant work force were placed in a third entity known as ILVA Residua. Under the restructuring plan, ILVA Residua would sell those productive units it could and then would be liquidated, with IRI (*i.e.*, the Italian government) absorbing the debt.

As of December 31, 1993, the majority of (old) ILVA's viable manufacturing activities had been separately incorporated (or ''demerged'') into either AST or ILP; ILVA Residua was primarily a shell company with liabilities far exceeding assets, although it did contain some operating assets that were later spun-off. In contrast, AST and ILP, ready for sale, had operating assets and relatively modest debt loads. The liabilities remaining with ILVA Residua had to be repaid, assumed, or forgiven. On April 12, 1994, the EC, through the 94/259/ECSC decision, approved the GOI's restructuring and privatization plan for (old) ILVA and IRI's intention to cover ILVA Residua's remaining liabilities.

We preliminarily determine that ILP (and consequently the subject merchandise) received a countervailable subsidy in 1993, within the meaning of section 771(5)(B)(i) of the Act, when the bulk of (old) ILVA's debt was placed in ILVA Residua, rather than being proportionately allocated to AST and ILP. In addition to the debt that was placed in ILVA Residua, we preliminarily determine that the asset write-downs which (old) ILVA took in 1993, as part of the restructuring/privatization plan, are countervailable subsidies under section 771(5)(B)(i) of the Act. The write-down of assets in 1993 officially removed the assets from (old) ILVA's books and, thus, increased the losses to be covered in liquidation. It is the Department's position that when losses, which are later covered by a government, can be tied to specific assets those assets bear the liability for the losses that resulted from the write-downs. *See Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel from Italy*, 59 FR 18357, 18359 (April 18, 1994) (*Electrical Steel from Italy).* The 1993 financial statement of (old) ILVA identifies that the write-downs can be tied to the specific assets.

We preliminarily determine that the amount of debt and losses resulting from the asset write-downs that should have been attributable to ILP, but were instead placed with ILVA Residua, was equivalent to debt forgiveness for ILP at the time of its demerger. In accordance with our practice, debt forgiveness is treated as a grant which constitutes a financial contribution under section 771(5)(D)(i) of the Act, and provides a benefit in the amount of the debt forgiveness.

We also preliminarily determine, based on record evidence, that the liquidation process of (old) ILVA did not occur under the normal application of a provision of Italian law, and therefore, the debt forgiveness is *de facto* specific under section 771(5A)(D)(iii)(II) of the Act. As stated above, the liquidation of (old) ILVA was done in the context of a massive restructuring/privatization plan of the

[5] This program was referred to as ''Debt Forgiveness Given in the Course of Privatization in Connection with the 1993–1994 Restructuring Plan'' in the *Initiation Notice* (*see* 64 FR at 13000).

Italian steel industry undertaken by the GOI and approved and monitored by the EC. Because (old) ILVA's liquidation was part of an extensive state-aid package to privatize the Italian state-owned steel industry, and the debt forgiveness was received by only privatized (old) ILVA operations, we preliminarily find that the assistance provided under the 1993–1994 Restructuring Plan is *de facto* specific. In support of this preliminary finding, we note the EC's 94/259/ECSC decision, in which the Commission identified the restructuring of (old) ILVA as a single program, the basic objective of which was the privatization of the ILVA steel group by the end of 1994. As set forth in the EC's decision, the 1993–1994 Restructuring Plan was limited by its terms to (old) ILVA and the benefits of the plan were received by only (old) ILVA's successor companies.

Consistent with the methodology that we employed in the final determination of *Sheet and Strip from Italy*, the amount of liabilities that we attributed to ILP is based on the gross liabilities left behind in ILVA Residua, as reported in the EC's 10th Monitoring Report. *See* 64 FR at 30628. In calculating the amount of unattributable liabilities remaining after the demerger of ILP, we started with the most recent ''total comparable indebtedness'' amount from the 10th Monitoring Report, which represents the indebtedness, net of debts transferred in the privatization of ILVA Residua's operations and residual asset sales, of a theoretically reconstituted, pre-liquidation (old) ILVA. In order to calculate the total amount of unattributed liabilities which amount to countervailable debt forgiveness, we made the following adjustments to this figure: for the residual assets that had not actually been liquidated as of the 10th and final Monitoring Report; for assets that comprised SOFINPAR, a real estate company (because these assets were sold prior to the demergers of AST and ILP); for the liabilities transferred to AST and ILP; for income received from the privatization of ILVA Residua's operations; for the amount of the asset write-downs specifically attributable to AST, ILP, and ILVA Residua companies; and for the amount of debts transferred to Cogne Acciai Speciali (CAS), an ILVA subsidiary that was left behind in ILVA Residua and later spun off, as well as the amount of (old) ILVA debt attributed to CAS and countervailed in *Wire Rod from Italy*, (*see*, 63 FR at 40478).

The amount of liabilities remaining represents the pool of liabilities that were not individually attributable to specific (old) ILVA assets. We apportioned this debt to AST, ILP, and operations sold from ILVA Residua based on their relative asset values. We used the total consolidated asset values reported in AST's and ILP's financial statements for the year ending December 31, 1993. For ILVA Residua, we used the sum of the purchase price plus debts transferred as a surrogate for the viable asset value of the operations sold from ILVA Residua. Because we subtracted a specific amount of ILVA's gross liabilities attributed to CAS in *Wire Rod from Italy*, we did not include its assets in the amount of ILVA Residua's privatized assets. Also, we did not include in ILVA Residua's viable assets those assets sold to IRI, because the sale does not represent sales to a non-governmental entity. To the amount of liabilities apportioned to ILP, we added the write-downs that were tied to the asset pool which ILP took when it was separately incorporated from (old) ILVA.

We have treated the debt forgiveness to ILP as a non-recurring subsidy because it was a one-time, extraordinary event. The discount rate we used in our grant formula was a constructed uncreditworthy benchmark rate based on our determination that (old) ILVA was uncreditworthy in 1993. *See* ''Benchmarks for Long-Term Loans and Discount Rates'' and ''Creditworthiness'' sections, above. We followed the methodology described in the ''Change in Ownership'' section above to determine the amount appropriately allocated to ILP after its privatization. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 12.40 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not receive any benefits under this program.

E. Capital Grants to Nuova Italsider Under Law 675/77

The Department has investigated Law 675/77 in prior investigations. *See, e.g., Certain Steel from Italy*, 58 FR at 37330–31, and the *Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils from Italy*, 64 FR 15508, 15513–14 (March 31, 1999) (*Plate in Coils from Italy*). *In Certain Steel from Italy*, we learned that Law 675/77 created a framework for planned intervention by the GOI in the economy. The law provided financial incentives to industrial firms in certain sectors that submitted development, restructuring, and conversion plans for production facilities. In total, eleven sectors were identified as eligible for assistance. The types of funding provided under Law 675/77 included: (1) Interest payments on bank loans and bond issues; (2) low interest loans granted by the Ministry of Industry; (3) grants for companies located in the South; (4) grants for personnel retraining; and (5) increased VAT reductions for firms located in the Mezzogiorno area. In that prior investigation, we found that (old) ILVA and its predecessor companies received direct mortgage loans, interest contributions, and capital grants between 1977 and 1991, under Law 675/77.

In *Certain Steel from Italy*, we verified that of the ten sectors which received Law 675/77 funding, steel accounted for 36.4 percent of the total funding provided under Law 675/77. On this basis we determined that assistance provided to steel companies under Law 675/77 is limited to a specific enterprise or industry, or group of enterprises or industries. We therefore found countervailable capital grants which (old) ILVA and its predecessor companies received under Law 675/77.

In the instant investigation, the GOI and ILVA/ILT reported that Italsider applied for a capital grant in 1981, for an investment project at the Taranto plant. The GOI approved the application in 1982, and awarded a grant of 125,040 million lire to Nuova Italsider. The capital grant was disbursed in four tranches in the years 1985 and 1987. The GOI stated that the capital grant program was established in 1977, to support the development of regions in the south of Italy. The only eligibility criterion for the receipt of this ''one-time'' assistance was the location of factories in the south of Italy.

Consistent with our finding in *Certain Steel from Italy*, we preliminarily determine that this program constitutes a countervailable subsidy within the meaning of section 771(5)(B)(i) of the Act. The capital grants constitute a financial contribution under section 771(5)(D)(i) of the Act providing a benefit in the amount of the grants. Because the steel sector was found to be the dominant user of Law 675/77 and the capital grants were limited to enterprises located in the south of Italy, we preliminarily determine that the program is specific under section 771(5A)(D)(iii) of the Act.

To determine the benefit, we have treated the capital grants as non-recurring subsidies because the receipt of the grants was a one-time, extraordinary event. Because the benefit to Nuova Italsider is greater than 0.5 percent of the company's sales for 1982 (the year in which the grant was approved), we allocated the benefit over a 15 year AUL. *See* § 351.524(b)(2) of the CVD Regulations. We applied the

change in ownership methodology to the capital grant to determine the subsidy allocable to ILP after its privatization. We divided this amount by ILVA/ILT's total consolidated sales for the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.13 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not use this program.

F. Early Retirement Benefits

Law 451/94 was created to conform with EC requirements of restructuring and capacity reduction of the Italian steel industry. Law 451/94 was passed in 1994, and enabled the Italian steel industry to implement workforce reductions by allowing steel workers to retire early. During the 1994–1996 period, and into January 1997, Law 451/94 provided for the early retirement of up to 17,100 Italian steel workers. Benefits applied for during this period continue until the employee reaches his/her natural retirement age, up to a maximum of ten years.

In the final determinations of *Plate in Coils from Italy* and *Sheet and Strip from Italy*, 64 FR at 15514–15 and 64 FR at 30629–30, respectively, the Department determined that early retirement benefits provided under Law 451/94 are countervailable subsidies under section 771(5)(B)(i) of the Act. Law 451/94 provides a financial contribution, as described in section 771(5)(D)(i) of the Act, because Law 451/94 relieves the company of costs it would have normally incurred by having to employ individuals until the normal age of retirement. Also, because Law 451/94 was developed for, and exclusively used by, the steel industry, we determined that Law 451/94 is specific within the meaning of section 771(5A)(D)(iii) of the Act. No new factual information or evidence in the instant investigation has led us to change our prior findings that early retirements under Law 451/94 are countervailable.

As we have in the recent final determinations of *Plate in Coils from Italy* and *Sheet and Strip from Italy*, we treated one-half of the amount paid by the GOI as benefitting the company. Recognizing that ILP [6] would have been required to enter into negotiations with the unions before laying off workers, it is impossible for the Department to determine the outcome of those negotiations absent Law 451/94. At one extreme, the unions might have succeeded in preventing any lay offs. If so, the benefit to ILP would be the difference between what it would have cost to keep those workers on the payroll and what ILP actually paid under Law 451/94. At the other extreme, the negotiations might have failed and ILP would have incurred only the minimal costs described under the so-called ''Mobility'' provision of Law 223/91, which identifies the minimum payment the company would incur when laying off workers permanently. Then the benefit to ILP would have been the difference between what it would have paid under Mobility and what the company actually paid under Law 451/94.

We have no basis for believing either of these extreme outcomes would have occurred. It is clear, given the EC regulations, that ILP would have laid off workers. However, we do not believe that ILP would have simply fired the workers without reaching accommodation with the unions. The GOI has indicated that failure to negotiate a separation package with the unions would likely lead to strikes, lawsuits and general social unrest. Therefore, we have proceeded on the assumption that ILP's early retirees would have received some support from ILP.

In attempting to determine the level of post-employment support that ILP would have negotiated with its unions, we examined the situation facing (old) ILVA before ILP and AST were spun off. By the end of 1993, (old) ILVA had established an overall plan for terminating redundant workers—a plan that would ultimately affect both ILP and AST. Under this plan, early retirees would first be placed on a temporary worker assistance measure under Law 223/91, Cassa Integrazione Guadagni—Extraordinario (CIG–E), while waiting for the passage of Law 451/94, and then would receive benefits under Law 451/94 when implemented. During the verification of *Plate in Coils from Italy* and *Sheet and Strip from Italy*, the Department learned from AST officials that workers were indeed receiving temporary benefits under CIG–E while they were awaiting the passage of Law 451. *See Results of AST Verification*, Memorandum to the File, dated February 3, 1999 (public version of the document is available on the public file in the Central Records Unit (CRU) of the Department, Room B–099). This indicates that, at the time an agreement was being negotiated with the unions and the labor ministry on the terms of the lay offs, (old) ILVA and its workers were aware that government contributions would ultimately be made to workers' benefits. In such situations, *i.e.*, where the company and its workers are aware at the time of their negotiations that the government will be making contributions to the workers' benefits, the Department's prior practice was to treat half of the amount paid by the government as benefitting the company. We have stated that when the government's willingness to provide assistance is known at the time the contract is being negotiated, this assistance is likely to have an effect on the outcome of the negotiations. While we continue to adhere to this logic in the preamble to the CVD Regulations, we stated that we would examine the facts of each case to determine the appropriate portion of the funds to be considered countervailable. *See* CVD Regulations, 63 FR at 65380.

With respect to ILP and its workers, we preliminarily determine that, under Italian Law 223, ILP would be required to negotiate with its unions about the level of benefits that would be made to workers permanently separated from the company. Since (old) ILVA and its unions were aware at the time of their negotiations that the GOI would be making payments to those workers under Law 451/94, some portion of the payment is countervailable. However, based on the record before us, we have no basis for apportioning the benefit. Therefore, for the preliminary determination, we consider the benefit to ILVA/ILT to be one half of the amount paid to the workers by the GOI under Law 451/94. We will verify this program further to determine the appropriate benefit.

Consistent with the Department's practice, we have treated benefits to ILVA/ILT under Law 451/94 as recurring grants expensed in the year of receipt. To calculate the benefit received by ILVA/ILT during the POI, we multiplied the number of employees by employee type (blue collar, white collar, and senior executive) who retired early by the average salary by employee type. Since the GOI was making payments to these workers equaling 80 percent of their salary, we attributed one-half of that amount to ILVA/ILT. Therefore, we multiplied the total wages of the early retirees by 40 percent. We then divided this total amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine a net countervailable subsidy to be 1.41 percent *ad valorem* for ILVA/ILT.

As mentioned in the ''Corporate History of ILVA/ILT'' section of this notice, in October 1993, (old) ILVA entered into liquidation and became known as ILVA Residua (a.k.a., ILVA in Liquidation). In December 1993, IRI

[6] On December 31, 1993, (old) ILVA's main productive assets were spun into two new companies: ILVA Laminati Piani (carbon steel flat products) (ILP) and Acciai Speciali Terni (speciality and stainless steel products) (AST).

initiated the splitting of (old) ILVA's main productive assets into two new companies, ILP and AST. On December 31, 1993, ILP and AST became separately incorporated firms. The remainder of (old) ILVA's productive assets and existing liabilities, along with much of the redundant workforce, was placed in ILVA Residua. By placing much of this redundant workforce in ILVA Residua, ILP and AST were able to begin their respective operations with a relatively ''clean slate'' in advance of their privatizations. ILP and AST were relieved of having to assume their respective portions of those redundant workers that were placed in ILVA Residua and received early retirement benefits under Law 451/94. We have, therefore, determined that ILVA/ILT has received a countervailable benefit during the POI since it was relieved of a financial obligation that would otherwise have been due.

In order to calculate the benefit received by ILVA/ILT during the POI, we first needed to determine the appropriate number of early retirees in ILVA Residua that originally should have been apportioned to ILP. To determine this number, we took the asset value of ILP in relation to the asset value of (old) ILVA at the time of the spin-off of ILP. We multiplied this percentage by the total number of ILVA Residua early retirees. It was then necessary to estimate the numbers and salaries of early retirees by employee type since the GOI did not provide this information. To do this, we applied the same ratios of workers by employee type as ILP retired, and applied this to ILVA Residua. We also used the same salaries of ILVA/ILT employees by worker type. As we did with ILP early retirees, we then multiplied the number of employees, by employee type, by the average salary by employee type. Since the GOI was making payments to these workers equaling 80 percent of their salary, we attributed one-half of that amount to ILVA/ILT. Therefore, we multiplied the total wages of the early retirees by 40 percent. We then divided this total amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine a net countervailable subsidy to be 0.67 percent *ad valorem* for ILVA/ILT.

The Sidercomit unit of ILVA/ILT also received early retirement benefits under Law 451/94 separately from ILVA/ILT. As we did with ILVA/ILT, we multiplied the total wages of the early retirees by 40 percent and then divided this amount by the total consolidated sales of ILVA/ILT during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be less than 0.005 percent *ad valorem* for ILVA/ILT.

Upon consolidation of the above determined rates, we preliminarily determine a total net countervailable subsidy of 2.08 percent *ad valorem* for ILVA/ILT under Law 451/94 for the POI. Palini & Bertoli did not use this program.

G. Exemptions From Taxes

Presidential Decree 218/1978 exempted firms operating in the Mezzogiorno from the local income tax (ILOR) and the profits tax (IRPEG). Companies are eligible for full exemption from the 16.2 percent ILOR tax on profits arising from eligible projects in the Mezzogiorno and less developed regions of the center-north for ten consecutive years after profits first arise. New companies undertaking productive activities in the Mezzogiorno are entitled to a full exemption from the 37 percent IRPEG tax on profits for ten consecutive years after the project is completed. We preliminarily determine that exemptions from ILOR and IRPEG taxes are countervailable subsidies in accordance with section 771(5)(B)(i) of the Act. These tax exemptions constitute financial contributions under section 771(5)(D)(ii) of the Act since revenue that is otherwise due is being foregone. Because these exemptions are limited to a group of enterprises or industries within a designated geographical region, they are specific in accordance with section 771(5A)(D)(iv). Benefits resulting from ILOR and IRPEG tax exemptions were found to be countervailable in *Certain Steel from Italy*, 58 FR at 37334–35.

ILT received an exemption from the IRPEG tax in 1998. In order to calculate the benefit, we multiplied ILT's total profits that would otherwise have been subject to IRPEG by the IRPEG tax rate of 37 percent. We then divided the result by ILVA/ILT's total consolidated sales during the POI to determine the *ad valorem* benefit. On this basis, we preliminarily determine the net countervailable subsidy to be 1.07 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not use this program.

H. Exchange Rate Guarantees Under Law 796/76

Law 796/76 established a program to minimize the risk of exchange rate fluctuations on foreign currency loans. All firms that contract foreign currency loans from the European Coal and Steel Community (ECSC) or the Council of Europe Resettlement Fund (CERF) could apply to the Ministry of the Treasury (MOT) to obtain an exchange rate guarantee. The MOT, through the Ufficio Italiano di Cambi (UIC), calculates loan payments based on the lire-foreign currency exchange rate in effect at the time the loan is contracted (i.e., the base rate). The program establishes a floor and ceiling for exchange rate fluctuations, limiting the maximum fluctuation a borrower would face to two percent above or below the base rate. If the lire depreciates more than two percent against the foreign currency, a borrower is still able to purchase foreign currency at the established (guaranteed) ceiling rate. The MOT absorbs the loss in the amount of the difference between the guaranteed rate and the actual rate. If the lire appreciates against the foreign currency, the MOT realizes a gain in the amount of the difference between the floor rate and the actual rate.

This program was terminated effective July 10, 1992, by Decree Law 333/92. However, the pre-existing exchange rate guarantees continue on any loans outstanding after that date. Italsider contracted two loans, one in 1978, the other in 1979. Both of these loans were ultimately transferred to ILVA/ILT. These two foreign currency denominated loans were outstanding during the POI and exchange rate guarantees applied to both.

We preliminarily determine that this program constitutes a countervailable subsidy within the meaning of section 771(5)(B)(i) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act, to the extent that the lire depreciates against the foreign currency beyond the two percent limit. When this occurs, the borrower receives a benefit in the amount of the difference between the guaranteed rate and the actual exchange rate.

During the verification of the GOI in the *Plate in Coils from Italy* and *Sheet and Strip from Italy* investigations, GOI officials explained that over the last decade, roughly half of all guarantees made under this program were given to coal and steel companies. *See Results of Verification of the Government of Italy,* Memorandum to the File, dated February 3, 1999 (public version of the document is available on the public file in the CRU, Room B–099). This is consistent with the Department's finding in a previous proceeding that the Italian steel industry has been a dominant user of the exchange rate guarantees provided under Law 796/76. *See Final Affirmative Countervailing Duty Determination: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Italy,* 60 FR 31996 (June 19, 1995). Therefore, we determine that the

program is specific under section 771(5A)(D)(iii)(II) of the Act.

Once a loan is approved for exchange rate guarantees, access to foreign exchange at the established rate is automatic and occurs at regular intervals throughout the life of the loan. Therefore, we are treating the benefits under this program as recurring grants. ILVA/ILT and its predecessor companies from which these loans were transferred, paid a foreign exchange commission fee to the UIC for each payment made. We determine that this fee qualifies as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act. Thus, for the purposes of calculating the countervailable benefit, we have added the foreign exchange commission to the total amount ILVA/ILT paid under this program during the POI. *See Wire Rod from Italy*, 63 FR at 40479.

Under this program, we have calculated the total countervailable benefit as the difference between the total loan payment due in foreign currency, converted at the current exchange rate, less the sum of the total loan payment due in foreign currency converted at the guaranteed rate and the exchange rate commission. We divided this amount by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.07 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not use this program.

European Commission Programs

A. ECSC Loans Under Article 54

Article 54 of the 1951 ECSC Treaty established a program to provide industrial investment loans directly to the member iron and steel industries to finance modernization and purchase new equipment. Eligible companies apply directly to the EC (which administers the ECSC) for up to 50 percent of the cost of an industrial investment project. The Article 54 loans are generally financed on a ''back-to-back'' basis. In other words, upon granting loan approval, the ECSC borrows funds (through loans or bond issues) at commercial rates in financial markets which it then immediately lends to steel companies at a slightly higher interest rate. The mark-up is to cover the costs of administering the Article 54 program.

We preliminarily determine that these loans constitute a countervailable subsidy within the meaning of section 771(5)(B)(i) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act, which confers a benefit to the extent the interest rate is less than the benchmark interest rate. The Department has found Article 54 loans to be specific in several proceedings, including *Electrical Steel from Italy*, 59 FR at 18362, *Certain Steel from Italy*, 58 FR at 37335, and *Plate in Coils from Italy*, 64 FR at 15515, because loans under this program are provided only to iron and steel companies. The EC has also indicated on the record of this investigation that Article 54 loans are only available to steel and coal companies which fall within the scope of the ECSC Treaty. Therefore, we preliminarily determine that this program is specific pursuant to section 771(5A)(D)(i) of the Act.

ILVA/ILT had two long-term, fixed-rate loans outstanding during the POI, each denominated in U.S. dollars. These loans were contracted by Italsider, one in 1978 and one in 1979. Consistent with *Wire Rod from Italy*, 63 FR at 40486, we have used as our benchmark the average yield to maturity on selected long-term corporate bonds as reported by the U.S. Federal Reserve, since both of these loans were denominated in U.S. dollars. We used these rates since we were unable to find a long-term borrowing rate for loans denominated in U.S. dollars in Italy. The interest rate charged on both of ILVA/ILT's two Article 54 loans was lowered part way through the life of the loan. The interest rate on the loan contracted in 1978 was lowered in 1987, and the rate on the loan contracted in 1979 was lowered in 1992. Therefore, for the purpose of calculating the benefit, we have treated these loans as if they were contracted on the date of this rate adjustment. Because ILVA was uncreditworthy in the year these loans were contracted, 1987 and 1992 (based on the interest rate adjustments mentioned above), we calculated the uncreditworthy benchmark rate as per section 351.505 (a)(3)(iii) of the CVD Regulations. *See* ''Benchmark for Long-Term Loans and Discount Rates'' section, above.

To calculate the benefit under this program, pursuant to section 351.505(c)(2) of the CVD Regulations, we employed the Department's long-term fixed-rate loan methodology. We compared ILVA/ILT's interest rates on the two loans to our benchmark interest rate for uncreditworthy companies on interest paid by ILVA/ILT during the POI. We then divided the benefit by ILVA/ILT's total consolidated sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.02 percent *ad valorem* for ILVA/ILT. Palini & Bertoli did not use this program.

ILVA/ILT was also repaying four ECSC loans under Article 54 during the POI that were taken by ILP for the construction of housing for coal and steel industry workers. Funding for these loans came entirely from the ECSC operational budget, which is composed of levies imposed on coal and steel producers, investment income on those levies, guarantee fees and fines paid to the ECSC, and interest received from companies that have obtained loans from the ECSC. Consistent with previous determinations, because ECSC funding is based on producer levies, we find these loans to be not countervailable. *See Electrical Steel from Italy*, 59 FR at 18364 and Certain Steel from Italy, 58 FR at 37336.

II. Programs Preliminarily Determined To Be Not Countervailable

A. Law 308/82

Law 308/82 was initiated on May 29, 1982, and repealed on January 15, 1991. The GOI and ILVA/ILT reported that Italsider was approved for a grant for investments that reduced energy consumption at the Taranto facilities in 1983. ILP received payment of the grant in 1996. In *Certain Steel from Italy*, we learned that Law 308/82 provided grants to encourage lower energy consumption and the use of renewable energy sources. In that prior investigation, we verified that Law 308 grants were provided to a wide range of industries and confirmed the amount of grants provided to each industrial sector. We found that benefits under Law 308/82 were widely and fairly evenly distributed throughout the sectors with no sector receiving a disproportionate amount. Therefore, because Law 308/82 grants were not limited to a specific enterprise or industry, or group of enterprises or industries, we determined them to be not countervailable. *See Certain Steel from Italy*, 58 FR at 37336. No new factual information or evidence of changed circumstances has been provided to the Department in this instant investigation to warrant the Department to revisit its earlier determination that grants provided under Law 308/82 are not countervailable.

B. Unpaid Portion of Payment Price for ILP

In the February 16, 1999 petition, petitioners alleged that the GOI effectively gave RIVA a zero-interest loan on a portion of the contract price agreed to by RIVA for ILP, because RIVA has not paid the full contract price for

ILP. RIVA reported that the company entered into arbitration after the transfer of ownership of ILP in April 1995. RIVA stated that it did not invoke arbitration to challenge the purchase price of ILP, but invoked arbitration to obtain an indemnity from pre-existing and unreported liabilities in accordance with the indemnification provision of the contract of sale. The dispute concerns whether IRI owes RIVA a sum of money as indemnification for liabilities, which RIVA has potentially incurred as a result of the acquisition of ILP. To preserve its leverage in the dispute and ensure that the company will obtain relief in the event that it is awarded indemnification by the arbitration panel, RIVA has withheld payment of amounts due to IRI under the contract of sale.

We inquired about the arbitration procedure and whether any Italian company which purchases either a government-owned or private entity can enter into arbitration to remedy a dispute. RIVA reported that Article 25 of the contract of sale provides for arbitration under the rules of the International Chamber of Commerce (ICC). Any company in Italy that purchases another company from either the government or a private seller can include such an arbitration provision in the contract of sale. Article 806 of the Italian Civil Code authorizes the use of arbitration to settle litigation. Because the arbitration which RIVA invoked to obtain an indemnity from liabilities was provided under the rules of the ICC and the Italian Civil Code, we preliminarily determine that the monetary amount, which RIVA has withheld from IRI for the purchase of ILP, is not tantamount to a zero-interest loan provided by the government.

III. Programs Preliminarily Determined To Be Not Used

Government of Italy Programs

1. Lending From the Ministry of Industry Under Law 675/77

ILVA/ILT reported that at the time of its privatization the company became responsible for certain loan obligations of its predecessor companies. ILVA/ILT were responsible for repaying the loans under Law 675/77, which were applicable to those facilities that produce the subject merchandise. Repayment obligations on these loans ended in December 1997. The GOI and ILVA/ILT both reported that no new loans have been provided under Law 675/77 since 1987. Because there were no loans provided under Law 675/77 outstanding in 1998, we preliminarily determine that the program was not used during the POI by ILVA/ILT.

2. Interest Contributions Under Law 675/77

ILVA/ILT reported that an interest contribution was received in 1998, against a loan provided under Law 675/77. Because the loan against which the interest contribution was received was repaid in full in December 1997, we preliminarily determine that this program was not used during the POI. It is the Department's policy to treat interest contributions as countervailable on the date the company made the corresponding interest payments, despite any delay in the receipt of the interest contributions. This is so because the company's entitlement to the interest contributions was automatic when it made the interest payments. Therefore, we find, for purposes of the benefit calculation, that the interest contributions were received at the time the interest payments were made. *See e.g., Stainless Steel Sheet & Strip,* and *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Italy,* 60 FR 33577, 33579 (June 28, 1995) (*Oil Country Tubular Goods from Italy*).

3. Law 305/89

ILVA/ILT reported that (old) ILVA, its predecessor company, applied for a grant under Law 305/89 in 1990. The GOI approved (old) ILVA's application in 1991, and awarded the company a grant of 2.2 billion lire. Because payment of the grant was delayed, ILP received a portion of the grant in 1994, and ILVA/ILT received payment of the remaining portion of the grant in 1996. We applied the 0.5 percent allocation test against the full grant amount approved in 1991. *See* section 351.524(b)(2) of the CVD Regulations. We calculated the benefit under Law 305/82 as less than 0.5 percent *ad valorem* of (old) ILVA's sales in 1991. Therefore, even if we preliminarily determined that Law 305/89 is countervailable, the grant would be expensed in the years of receipt, 1994 and 1996. Because the grant would be expensed and not provide any benefit to ILVA/ILT during the POI, we preliminarily determine that Law 305/89 was not used by ILVA/ILT.

4. Interest Grants for ''Indirect Debts'' Under Law 750/81

In 1984, Nuova Italsider received a residual payment of 25.3 billion lire against interest grants provided in the fiscal years 1982 and 1983. Because we do not know what portion of the 1984 payment was approved in 1982, and what portion was approved in 1983, to determine whether the 1984 grant payment should be allocated or expensed, we assumed, for purposes of the 0.5 percent allocation test, that the residual amount was approved in 1984. *See* § 351.524(b)(2) of the CVD Regulations. On this basis, we calculated the benefit of the 1984 interest grant to be less than 0.5 percent *ad valorem* of Nuova Italsider's sales in 1984. Therefore, because the interest grant is expensed in the year of receipt, we preliminarily determine that this program was not used during the POI by ILVA/ILT.

5. Capital Grants Under Law 218/78

The GOI reported that (old) ILVA received a grant in 1988, under Law 218/78. The original grant amount was approved in 1978. We applied the 0.5 percent test against the full grant amount approved in 1978. *See* § 351.524(b)(2) of the CVD Regulations. We calculated the benefit as less than 0.5 percent *ad valorem* of Italsider's sales in 1978. Additionally, Sidercomit received a grant in 1996, that was approved in 1995. We applied the 0.5 percent test against the full grant amount approved in 1995. We calculated the benefit as less than 0.5 percent *ad valorem* of ILP's sales in 1995. Therefore, even if we determined that this program is countervailable, the above-mentioned grants would be expensed in the respective years of receipt. Because the grants would be expensed and would not provide any benefit to ILVA/ILT during the POI, we preliminarily determine that capital grants were not used.

6. Urban Redevelopment Packages Under Law 181/89

ILVA/ILT and its predecessor companies, ILP and (old) ILVA, received grants under Law 181/89 between 1991 and 1997. No grants were received during the POI. Because the approved amount of each grant, separately, was less than 0.5 percent of total sales of ILVA/ILT (or predecessor company) in the corresponding year, we would expense the benefit of each approved grant in that year. *See* § 351.524(b)(2) of the CVD Regulations. Therefore, since the grants would be expensed in the years of receipt, and ILVA/ILT would not realize any benefit during the POI, we preliminarily determine that Urban Redevelopment Packages under Law 181/89 was not used.

7. Closure Payments Under Law 481/94 and Predecessor Law

8. Closure Grants Under Laws 46 and 706

9. Decree Law 120/89

10. Law 488/92

11. Law 341/95 Tax Concessions

12. Interest Rate Reductions Under Law 902

13. Interest Contributions Under the Sabatini Law

14. Export Marketing Grants Under Law 394/81

15. Law 549/95: Tax Exemptions on Reinvested Profits for Steel Producers in Objective 1, 2, and 5(B) Areas

European Commission Programs

1. European Social Fund (ESF)

The GOI has reported ESF grants were provided to Nuova Italsider, Italsider and (old) ILVA from 1985 through 1993. Because the amount of each grant, separately, was less than 0.5 percent of total sales of Nuova Italsider, Italsider or (old) ILVA (depending on the year of receipt) in the corresponding year, we would expense the benefit of each grant payment received in that year. *See* § 351.524(b)(2) of the CVD Regulations.

ILVA/ILT has reported that ESF payments were also made to ILP in 1994 and 1995, and to ILVA/ILT in 1998, for projects having taken place in 1994 and 1995. ILVA/ILT has reported that ESF funding was not used for training of ILVA/ILT employees, but for other initiatives in the Mezzogiorno region. ILVA/ILT has provided documentation that payments received by the company were solely for goods and services to IRI that were provided by ILP and ILVA/ILT.

With regard to ESF grants and payments received, because the amounts would either be expensed in the corresponding years of receipt, or were simply payments received for invoiced goods and services, ILVA/ILT would not see any benefit during the POI. Therefore, we preliminarily determine that the European Social Fund was not used.

2. Interest Rebates on ECSC Article 54 Loans

3. ECSC Conversion Loans, Interest Rebates, Restructuring Grants and Traditional and Social Aid Under Article 56

4. ERDF Aid

5. Resider and Resider II (Commission Decision 88/588)

IV. Programs Preliminarily Determined Not To Exist

1. Additional Debt Forgiveness in the Course of Privatization

2. Grants to ILVA to Cover Closure and Liquidation Expenses as Part of the 1993–1994 Privatization Plan

3. Working Capital Grants to ILVA in 1993

With respect to the programs 1, 2, and 3 listed above, the GOI reported in its May 10, 1999 questionnaire response that all monetary assistance (old) ILVA received in the course of the 1993–1994 Restructuring Plan was effected in the EC Decision 94/259/ECSC of April 12, 1994. There were no additional debt forgiveness or grants provided as part of the 1993–1994 Restructuring Plan. Therefore, we preliminary determine that these programs do not exist.

4. Personnel Retraining Grants Under Law 675/77

The GOI reported that personnel retraining grants provided under Law 675/77 were terminated in 1987. The government stated that the resources provided under this program were allocated over the years 1981 through 1987. The GOI reported that no other law providing personnel retraining grants or financial allocations under Law 675/77 have been approved since 1987.

5. VAT Reductions Under Law 675/77

The GOI reported that the tax reductions referred to in section 18 of Law 675 of August 12, 1977, were terminated effective March 29, 1991. Pursuant to section 14(3) of Law 64 of March 1, 1986, section 18 of Law 675/77, applied for a period of five years from the date of promulgation of the law.

6. Grants to ILVA

7. Grants to RIVA/ILP

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual subsidy rate for ILVA/ILT and Palini & Bertoli. We preliminarily determine that the total estimated net countervailable subsidy rate is 23.27 percent *ad valorem* for ILVA/ILT and 0.0 percent *ad valorem* for Palini & Bertoli. The All Others rate is 23.27 percent *ad valorem*, which is the rate calculated for ILVA/ILT. *See* section 705(c)(5)(A) of the Act.

Company	Net subsidy rate
ILVA/ILT	23.27% ad valorem.
Palini & Bertoli	0.0% ad valorem.
All Others	23.27% ad valorem.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain cut-to-length carbon-quality steel from Italy, 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 listed above. Since the estimated preliminary net countervailing duty rate for Palini & Bertoli is zero, the company will be excluded from the suspension of liquidation. This suspension will remain in effect until further notice.

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 351.310, 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 to be held 57 days from the date of publication of the preliminary determination at the U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 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 1870, 14th Street and Constitution Avenue, NW., 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; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. 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 351.309 and will be considered if received within the time limits specified above.

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

Dated: July 16, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–18853 Filed 7–23–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–817]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From France

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

EFFECTIVE DATE: July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai, Alysia Wilson, and Gregory Campbell, Office of Antidumping/Countervailing Duty Enforcement, Group I, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4087, 482–0108, or 482–2239, respectively.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers or exporters of certain cut-to length carbon-quality plate (''carbon plate'') from France. 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 the Bethlehem Steel Corporation, U.S. Steel Group, Gulf States Steel, Inc., IPSCO Steel Inc., and the United Steel Workers of America. (collectively referred to hereinafter as the ''petitioners'').

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 64 FR 12996 (March 16, 1999) (*Initiation Notice*)), the following events have occurred:

On March 25, 1999, we met with representatives from the Government of France (GOF) and the European Commission (EC) for a second round of consultations.

On March 17, 1999, we issued countervailing duty questionnaires to the GOF, EC, and the producers/exporters of the subject merchandise. On April 29, 1999, we postponed the preliminary determination of this investigation until July 16, 1999 (*see Certain Cut-to-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy and the Republic of Korea: Postponement of Time Limit for Countervailing Duty Investigations*, 64 FR 23057 (April 29, 1999)).

On May 11, 1999, we received responses from the GOF and the responding companies (Usinor, Sollac S.A., Creusot Loire Industrie S.A. and GTS Industries S.A.). On June 4, 1999, we issued supplemental questionnaires to the GOF, and responding companies. On June 6, 1999, we issued a supplemental questionnaire to the EC.

In their petition, the petitioners asked the Department to reinvestigate whether the 1991 equity infusions by the GOF and Credit Lyonnais provided to Usinor conferred a subsidy. These investments were found not countervailable in the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France*, 58 FR 37304, (July 9, 1993), (*Certain Steel From France*). At the time this proceeding was initiated, we determined that the petitioners had not submitted sufficient information to warrant a reinvestigation of these equity infusions. On June 10, 1999, the petitioners submitted additional information supporting their request. After a review of the petitioners' submission, we have determined that the information they have provided still does not warrant a reinvestigation of these investments. *See* Memorandum to Richard W. Moreland, Deputy Assistant Secretary for AD/CVD Enforcement, ''Petitioners'' Supplemental Allegations,'' dated July 16, 1999, on file in the Central Records Unit of the Department of Commerce.

On June 16, 1999, the Department invited interested parties to comment regarding the attribution of subsidies between GTS Industries (GTS), Sollac, and Creusot-Loire (CLI). Comments were submitted by petitioners and respondents on June 28, 1999.

On June 21, 1999, we received responses to the supplemental questionnaires from the EC and on June 23, 1999, from the responding companies and the GOF.

Scope of Investigation

The products covered by this scope are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or