

Dated: November 5, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-063]

Certain Iron-Metal Castings From India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review

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

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on certain iron-metal castings from India. The period covered by this administrative review is January 1, 1997 through December 31, 1997. For information on the net countervailable subsidy rate for each reviewed company, as well as for all non-reviewed companies, please see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review* section of this notice. Interested parties are invited to comment on these preliminary results. (See *Public Comment* section of this notice.)

EFFECTIVE DATE: November 12, 1999.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Michael Grossman, Office of CVD/AD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1980, the Department of Commerce (the Department) published in the **Federal Register** (45 FR 50739) the countervailing duty order on certain iron-metal castings from India. On October 14, 1998, the Department notified all interested parties of the opportunity to request an

administrative review of this order. We received timely requests for review, and we initiated a review covering the period January 1, 1997 through December 31, 1997, on November 30, 1998 (63 FR 65748).

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. The producers/exporters of the subject merchandise for which the review was requested are:

AGV Exports,
Agarwal Hardware,
Ambika Exports,
Bengal Export Corporation,
Bengal Iron Corporation,
Bhagyadevi Factory,
Calcutta Ferrous Ltd.,
Carnation Enterprise Pvt. Ltd.,
Carnation Industries,¹
Commex Corporation,
Crescent Foundry Co. Pvt. Ltd.,
Delta Enterprises,
Delta Corporation Ltd.,
Dinesh Brothers Pvt. Ltd.,
Dugar International,
Edcons Castings,
Essen International,
Ganapati Suppliers,
Global Intertrade,
Hargolal & Sons,
Hindustahn Malleables & Forgings Ltd.,
J.K. Udyog,
Kajaria Iron Castings Ltd.,²
Kajaria Iron Castings Pvt. Ltd.,
Kauntia Exports,
Kejriwal Iron & Steel Works,
Kiswok Industries Pvt. Ltd.,³
Metflow Corporation Pvt. Ltd.,
Nandikeshwari Iron Foundry Pvt. Ltd.,
Orissa Metal Industries,
Overseas Iron Foundry Pvt. Ltd.,
Rangilal & Sons,
RBA Exports,
R.B. Agarwalla & Company,
R.B. Agarwalla & Company Pvt. Ltd.,
RR Enterprise,
RSI Limited,
RS Ispat Pvt. Ltd.,
Samitex Corporation,
Sammitex,
Serampore Industries Pvt. Ltd.,
Shakti Isabgel Industries,
Shree Hanuman Foundry & Engineering Co. Ltd.,
Shree Rama Enterprises,
Shree Uma Foundries Pvt. Ltd.,
Siko Exports,
Sitaram Maohogarhia & Sons Pvt. Ltd.,
Sociedad J.B. Nagar,
SSL Exports,
Super Iron Foundry,
Tara Engineering Works,
Thames Engineering,

¹ Carnation Industries was formerly Carnation Enterprise Pvt. Ltd.

² Kajaria Iron Castings Ltd. was formerly Kajaria Iron Castings Pvt. Ltd.

³ Kiswok Industries Pvt. Ltd. was formerly Kejriwal Iron & Steel Works.

Tirupati International Pvt. Ltd.,
Trident Industries,
Trident International,
Uma Iron & Steel, and
Victory Castings Ltd.

The following companies, for which a review was requested, certified that they either do not produce or did not export the subject merchandise to the United States during the period of review (POR): AGV Exports, Agarwal Hardware Works & Foundries Pvt. Ltd., Ambika Exports, Bengal Iron Corporation, Bhagyadevi Factory, Delta Enterprises, Edcons Castings Pvt. Ltd., Essen International, Hargolal & Sons, Hindustahn Malleables & Forgings Ltd., J.K. Udyog, Kauntia Exports, Metflow Corporation Pvt. Ltd., Orissa Metal Industries, Overseas Iron Foundry Pvt. Ltd., RBA Exports, R.B. Agarwalla & Company Pvt. Ltd., RR Enterprise, RS Ispat Pvt. Ltd., Samitex Corporation, Sammitex, Shree Hanuman Foundry & Engineering Co. Ltd., Shree Rama Enterprises, Shree Uma Foundries Pvt. Ltd., Siko Exports, Sitaram Madhogarhia & Sons Pvt. Ltd., Tara Engineering Works, Tirupati International Pvt. Ltd., and Tirupati Trading Company. In addition, the Government of India (GOI) certified that the following companies either do not exist or do not export the subject merchandise to the United States: Dugar International, Global Intertrade, Shakti Isabgel Industries, Sociedad J.B. Nagar, and Trident Industries. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations, we are rescinding the review with respect to these companies.

On December 1, 1998, the Department issued a questionnaire to the GOI and the producers/exporters of the subject merchandise. The Department received questionnaire responses from the GOI and the producers/exporters of the subject merchandise on February 1, 4, and 8, 1999. The Department issued a supplemental questionnaire on April 26, 1999. On April 28, 1999, the Department extended the preliminary results of this administrative review until no later than November 2, 1999 (see 64 FR 23822, May 4, 1999). The Department then on June 2, 1999, corrected the deadline for issuance of this notice of preliminary results to November 1, 1999. See *Memorandum to the File: Correction of Deadline for Notice of Results of Preliminary Results*, dated June 2, 1999 (public document on file in the Central Records Unit (Room B-099 of the Main Commerce Building) (CRU)). The Department received the respondents' supplemental questionnaire responses on June 4, 14, 22, 28, and July 9, 1999. Additional

supplemental questionnaires were issued to the respondents on July 30, 1999, and August 4, 1999, and their responses were received on August 11, 12, and 20, 1999.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR Part 351 (1998).

Scope of the Review

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

Verification

As provided in section 782(i) of the Act, we verified information submitted by the GOI, regional government of West Bengal, and certain producers/exporters of the subject merchandise over the dates of August 19, 1999 through August 27, 1999. We followed standard verification procedures, including meeting with government and company officials and conducting an examination of all relevant accounting and financial records and other original source documents. Our verification results are outlined in public versions of the verification reports, which are on file in the Central Records Unit (Room B-099 of the Main Commerce Building).

Use of Facts Available

The following companies, for which a review was requested, failed to respond to the Department's questionnaires: Delta Corporation Ltd., SSL Exports, Thames Engineering, and Trident International. 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 these companies failed to submit the information that was specifically requested by the Department, we have based our preliminary results for these companies on the facts available. In addition, the Department finds that by not providing the requested information, the 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 Section 351.308(c) of the Department's regulations. In the absence of information from the respondents, we consider information placed on the record by other respondent producers/exporters to be the appropriate basis for a facts available countervailing duty rate calculation.

Therefore, to calculate the *ad valorem* subsidy rate for these non-respondent companies, we summed the highest company-specific net countervailable subsidy rate for each program under review. See *Preliminary Results of Review* section of the notice below for the preliminary *ad valorem* rate calculated for these companies.

Analysis of Programs

I. Programs Found To Confer Countervailable Subsidies

A. Pre-Shipment Export Financing

The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment financing, or "packing credits," to exporters. Upon presentation of a confirmed export order or letter of credit, companies may receive pre-shipment loans for working capital purposes, *i.e.*, for the purchase of raw materials and for packing, warehousing, and transporting of export merchandise. Exporters may also establish pre-shipment credit lines upon

which they may draw as needed. Credit line limits are established by commercial banks, based upon a company's creditworthiness and past export performance. Companies that have pre-shipment credit lines typically pay interest on a quarterly basis on the outstanding balance of the account at the end of each period. In general, packing credits are granted for a period of up to 180 days.

Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates determined by the RBI. The rate of interest charged on pre-shipment export loans up to 180 days was 13.0 percent for the period January 1, 1997 through October 21, 1997, and 12.0 percent for the period October 22, 1997 through December 31, 1997. For pre-shipment loans not repaid within 180 days, the banks charged interest at the following rates for the number of days the loans were overdue: 15.0 percent for the period January 1, 1997 through October 21, 1997, and 14.0 percent for the period October 22, 1997 through December 31, 1997. An exporter would lose the concessional interest rate if the export loan was not repaid within 270 days. If that occurred, the banks were able to assess interest at a non-concessional interest rate above the ceiling rate of interest set by the RBI.

In prior administrative reviews of this order, the Department has found this program to be an export subsidy because receipt of pre-shipment export financing is contingent upon export performance, and the interest rates are below those which would be obtained for comparable commercial financing. See, *e.g.*, *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*, 63 FR 64050 (November 18, 1998) (1996 *Indian Castings Final Results*). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with sections 771(5)(D) and (E) of the Act, we continue to find this program countervailable because it results in a financial contribution by the government in the form of a loan and provides a benefit to the recipient in the amount of the interest savings. Moreover, because receipt of the financing is contingent upon export performance, we continue to find the program to be an export subsidy under section 771(5A)(B) of the Act.

To determine the benefit conferred under this program, we compared the interest rates charged under the pre-shipment financing program to a

benchmark interest rate. As our benchmark, we used the cash credit rate. In the 1994 administrative review of this order, the Department determined that, in the absence of a company-specific benchmark, the most comparable short-term benchmark to measure the benefit under the pre-shipment export financing scheme is the cash credit interest rate. *See Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*, 62 FR 32297, 32304 (June 13, 1997) (1994 *Indian Castings Final Results*). The cash credit interest rate is for domestic working capital finance, and thus comparable to pre-and post-shipment export finance. For the POR, we calculated a cash credit rate of 16.31 percent based on the short-term interest rate and spread information reported by the GOI in its February 1, 1999 questionnaire response.

We compared the cash credit benchmark rate to the interest rates charged on pre-shipment rupee loans and found that for loans granted under this program, the interest rates charged were lower than the benchmark rate. Therefore, in accordance with section 771(5)(E)(ii) of the Act, this program conferred countervailable benefits during the POR because the interest rates charged on the export loans were less than what a company otherwise would have paid on comparable short-term commercial loans.

To calculate the benefit from the pre-shipment loans, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rate. Where the benchmark rate exceeded the program rates, the difference between those amounts is the benefit.

If the pre-shipment financing loans were received solely to finance exports of subject merchandise to the United States, we divided the benefit derived from those loans by exports of subject merchandise to the United States. For all other pre-shipment financing loans, we divided the benefit by total exports to all destinations. On this basis, we preliminarily determine the net countervailable subsidies from this program to be as follows:

Producers/exporters which used the program during the POR	Ad valorem rates (percentages)
Calcutta Ferrous Ltd	0.04
Commex Corporation	0.03
Dinesh Brothers (Pvt.) Ltd	0.44
Ganapati Suppliers Pvt. Ltd	0.24
Kajaria Iron Castings Ltd	0.22

Producers/exporters which used the program during the POR	Ad valorem rates (percentages)
Nandikeshwari Iron Foundry Pvt. Ltd	0.38
R.B. Agarwalla & Company	0.17
RSI Limited	0.38
Serampore Industries Pvt. Ltd	0.19
Uma Iron & Steel Company	0.03
Victory Castings Ltd	0.40

B. Post-Shipment Export Financing

Post-shipment export financing consists of loans in the form of trade bill discounting or advances by commercial banks. The credit covers the period from the date of shipment of the goods, to the date of realization of export proceeds from the overseas customer. Post-shipment finance, therefore, is a working capital finance or sales finance against receivables. The interest amount owed is deducted from the total amount of the bill at the time of discounting by the bank. The exporter's account is then credited for the rupee equivalent of the net amount.

In general, post-shipment loans are granted for a period of up to 90 days. The following interest rates were charged on post-shipment loans up to 90 days: 13.0 percent for the period January 1, 1997 through June 23, 1997, 12.0 percent for the period June 24, 1997 through October 21, 1997, and 11.0 percent for the period October 22, 1997 through December 31, 1997.

For loans not repaid within the negotiated number of days (90 days maximum), banks assessed the following rates of interest for the number of days the loans were overdue, up to six months from the date of shipment: 15.0 percent for the period January 1, 1997 through June 23, 1997, 14.0 percent for the period June 24, 1997 through October 21, 1997, and 13.0 percent for the period October 22, 1997 through December 31, 1997. If a post-shipment loan was not repaid within six months of the date of shipment, an exporter would lose the concessional interest rate on the financing, and interest would be charged at a commercial rate determined by the banks.

In prior administrative reviews, the Department has found this program to be an export subsidy because receipt of the post-shipment financing is contingent upon export performance, and the interest rates are below those which would be obtained for comparable commercial financing. *See, e.g., 1996 Indian Castings Final Results* at 63 FR 64051. No new information or evidence of changed circumstances has

been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with sections 771(5)(D) and (E) of the Act, we continue to find this program countervailable because it results in a financial contribution by the government in the form of a loan and provides a benefit to the recipient in the amount of the interest savings. Moreover, because receipt of the financing is contingent upon export performance, we continue to find the program to be an export subsidy under section 771(5A)(B) of the Act.

To determine the benefit conferred under this program, we compared the interest rates charged under the post-shipment financing program to a benchmark interest rate. To measure the benefit each company received under the post-shipment financing scheme, we used as our benchmark interest rate the cash credit rate for 1997, as discussed above in the pre-shipment export financing section. Because the loans under this program are discounted, and the effective interest rates paid by the exporters on the loans are discounted rates, we derived a discounted benchmark rate from the cash credit rate of 14.02 percent to measure the benefits conferred by this program.

We compared the discounted cash credit benchmark rate to the interest rates charged on post-shipment loans. We found that for loans granted under this program, the interest rates charged were lower than the benchmark rate. Therefore, in accordance with section 771(5)(E)(ii) of the Act, this program conferred countervailable benefits during the POR where the interest rates charged on the loans were less than what a company otherwise would have paid on comparable short-term commercial loans.

To calculate the benefit from these loans, we followed the same short-term loan methodology discussed above for pre-shipment financing. We divided the benefit by either total exports to all markets, total exports to the United States, or exports of the subject merchandise to the United States, depending on whether the company was able to segregate its post-shipment financing by merchandise and destination. On this basis, we preliminarily determine the net countervailable subsidies from this program to be as follows:

Producers/exporters which used the program during the POR	Ad valorem rates (percentages)
Bengal Export Corporation	0.23
Calcutta Ferrous Ltd	0.25

Producers/exporters which used the program during the POR	Ad valorem rates (percentages)
Calcutta Iron Foundry	0.37
Carnation Industries Ltd	0.25
Commex Corporation	0.19
Crescent Foundry Co. Pvt. Ltd ...	0.11
Dinesh Brothers (Pvt.) Ltd	0.31
Ganapati Suppliers Pvt. Ltd	0.40
Kajaria Iron Castings Ltd	0.35
Nandikeshwari Iron Foundry Pvt. Ltd	0.20
R.B. Agarwalla & Company	0.22
RSI Limited	0.29
Serampore Industries Pvt. Ltd	0.24
Uma Iron & Steel Company	0.20
Victory Castings Ltd.0.23%	0.30

C. Exemption of Export Credit From Interest Taxes

Indian commercial banks are required to pay a tax on all interest accrued from borrowers. The banks pass along this interest tax to borrowers in its entirety. As of April 1, 1993, the GOI exempted from the interest tax all interest accruing to a commercial bank on export-related loans. In the 1993 administrative review, we determined that this tax exemption is an export subsidy, and thus countervailable, because only interest accruing on loans and advances made to exporters in the form of export credit is exempt from the interest tax. See *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*, 61 FR 64676, 64686 (December 6, 1996) (1993 *Indian Castings Final Results*). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with sections 771(5)(D) and (E) of the Act, we continue to find this program countervailable because it results in a financial contribution by the government in the form of revenue forgone and provides a benefit to the recipient in the amount of the interest tax savings. Moreover, because receipt of the interest tax exemption is contingent upon export performance, we continue to find the program to be an export subsidy under section 771(5A)(B) of the Act.

During the POR, fifteen of the respondent companies made interest payments on export-related loans, through either or both, the pre- and post-shipment financing schemes, and thus, were exempt from paying the interest tax under this program. To calculate the benefit for each company, we first determined the total amount of interest paid by each exporter during the POR by adding the interest

payments made on all pre- and post-shipment export loans. We then multiplied this amount by the tax rate which the interest amount would have been subject to, if not for the exemption during the POR. During the POR, exporters were exempt from paying a three (3.0) percent interest tax for the period January 1, 1997 through March 31, 1997, and a two (2.0) percent interest tax for the period April 1, 1997 through December 31, 1997.

Next, we divided the benefit by the f.o.b. value of each company's total exports to all markets, total exports to the United States, or exports of subject merchandise to the United States, depending on whether the export financing was tied to total exports or only exports of subject castings to the United States. On this basis, we preliminarily determine the net countervailable subsidies from this program to be as follows:

Producers/exporters which used the program during the POR	Ad valorem rates (percentages)
Bengal Export Corporation	0.05
Calcutta Ferrous Ltd	0.06
Calcutta Iron Foundry	0.05
Carnation Industries Ltd	0.14
Commex Corporation	0.04
Crescent Foundry Co. Pvt. Ltd ...	0.02
Dinesh Brothers (Pvt.) Ltd	0.11
Ganapati Suppliers Pvt. Ltd	0.13
Kajaria Iron Castings Ltd	0.16
Nandikeshwari Iron Foundry Pvt. Ltd	0.09
R.B. Agarwalla & Company	0.07
RSI Limited	0.13
Serampore Industries Pvt. Ltd	0.07
Uma Iron & Steel Company	0.06
Victory Castings Ltd	0.12

D. Income Tax Deductions Under Section 80HHC

Under section 80HHC of the Income Tax Act, the GOI allows exporters to deduct profits derived from the export of merchandise from taxable income. In prior administrative reviews of this order, the Department has found this program to be an export subsidy, and thus countervailable, because receipt of the benefit is contingent upon export performance. See, e.g., *1994 and 1996 Indian Castings Final Results* at 62 FR 32298 and 63 FR 64051, respectively. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with sections 771(5)(D) and (E) of the Act, we continue to find this program countervailable because it results in a financial contribution by the government in the form of tax revenue

not collected which also constitutes the benefit. Moreover, because receipt of the tax deduction is contingent upon export performance, we continue to find the program to be an export subsidy under section 771(5A)(B) of the Act.

In its questionnaire responses, Kiswok Industries (P) Ltd (Kiswok Industries) stated that its profit rate on export sales of subject castings is lower than the profit rate the company realizes on the export sales of other castings. The company submitted audited derivations of its profit rate for exports of subject castings in 1997, and its profit rate for exports of other castings for the same year. The company then calculated that portion of the 80HHC tax deduction which was applicable to export profit earned on subject castings.

In prior reviews of this order, the Department has found the section 80HHC tax deduction program to be an "untied" export subsidy program. The benefits provided under this program are not tied to the production or sale of a particular product or products. It is the Department's consistent and longstanding practice to attribute a benefit from an export subsidy that is not tied to a particular product or market to all products exported by the company. See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey*, 61 FR 30366, 30370, (June 14, 1996). Therefore, to calculate the benefit Kiswok Industries received under the section 80HHC program, we have not made any adjustments to our standard allocation methodology.

To calculate the benefit each company received under section 80HHC, we subtracted the total amount of income tax the company actually paid during the review period from the amount of tax the company otherwise would have paid had it not claimed a deduction under section 80HHC. We then divided this difference by the f.o.b. value of the company's total exports.

For those companies which used section 80HHC during the POR, we preliminarily determine the net countervailable subsidies from this program to be as follows:

Producers/exporters which used the program during the POR	Ad valorem rates (percentages)
Bengal Export Corporation	8.07
Calcutta Ferrous Ltd	1.66
Carnation Industries Ltd	0.33
Commex Corporation	2.45
Crescent Foundry Co. Pvt. Ltd ...	0.71
Dinesh Brothers (Pvt.) Ltd	0.74
Ganapati Suppliers Pvt. Ltd	4.40
Kajaria Iron Castings Ltd	0.70
Kiswok Industries Pvt. Ltd	14.90

Producers/exporters which used the program during the POR	Ad valorem rates (percentages)
Nandikeshwari Iron Foundry Pvt. Ltd	1.77
R.B. Agarwalla & Company	3.10
RSI Limited	0.10
Serampore Industries Pvt. Ltd	0.54
Super Iron Foundry	1.08
Uma Iron & Steel Company	1.81

E. Import Mechanism (Sale of Licenses)

The GOI allows companies to transfer certain types of import licenses to other companies in India. In prior administrative reviews of this order, the Department has found the sale of these licenses to be an export subsidy, and thus countervailable, because companies receive these licenses based on their status as exporters. See, e.g., *1996 Indian Castings Final Results* at 64051. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in accordance with sections 771(5)(D) and (E) of the Act, we continue to find this program countervailable because it results in a financial contribution by the government and provides a benefit in the amount of revenue received on the sale of the license. Moreover, because receipt of the license is contingent upon export performance, we continue to find the program to be an export subsidy under section 771(5A)(B) of the Act.

During the POR, two of the respondent companies sold Special Import Licenses. Special Import Licenses are issued to exporters classified as export houses, trading houses, and star trading houses by the Ministry of Commerce. Special Import Licenses are effective for a period of 12 months and are issued at a certain percentage of f.o.b. value of exports. Because the sale of the Special Import Licenses were not tied to specific shipments, we calculated the net subsidy rates by dividing the total amount of proceeds each company received from the sale of the licenses by the total f.o.b. value of its exports of all products to all markets. We preliminarily determine the net countervailable subsidies from the sale of the Special Import Licenses to be as follows:

Producers/exporters which used the program during the POR	Ad valorem rates (percentages)
Kajara Iron Castings Ltd	0.16
Serampore Industries Pvt. Ltd	0.47

F. Passbook Scheme

On April 1, 1996, the GOI introduced the Passbook Scheme which provided exporters with credits that could be used to pay the countervailing and custom duties levied on imported products. The Passbook Scheme was available to certain categories of exporters, i.e., those manufacturer and merchant exporters which were granted the status of export house, trading house, star trading house, or super star trading house. Upon the export of finished goods, which were produced with indigenous raw materials, and not imported materials, the exporter was eligible to claim credits which could be used to pay customs duties on subsequent imports. The passbook scheme was only applicable for those exported products for which standard input/output norms had been fixed. The standard input/output norms set out quantities of imported raw materials needed to produce one unit of finished output. The credit in the passbook scheme was calculated on the basis of input/output norms for the deemed input content of the exported product. The Indian Customs Authority (ICA) determined the basic customs duty payable against the input as if it had been imported and not sourced from the domestic market. A company's passbook account was then credited for the amount equivalent to the basic customs duty payable on such deemed imports. The company could then utilize the credits in its passbook account to pay the countervailing and customs duty levied on imported goods. Any good which was not included in the Negative List of Imports could be imported under the Passbook Scheme. Payment of the duties was made through a debit entry in the company's passbook account by the ICA.

The GOI reported, and we verified, that it was not mandatory for the passbook holder to consume the goods, imported with passbook credits, in the production of exported products. There was no relation between the imported goods and the production of the exporter and no relation between the standard input/output norms of the export product and the goods being imported with passbook credits. The norms were simply used to calculate the credits. A company could not transfer or sell passbook credits received, but the goods imported with passbook credits could be transferred or sold in the domestic market. See *Memorandum to David Mueller: Verification of the Questionnaire Responses Submitted by the Government of India*, (September 9,

1999), at page 3-4, (public document on file in CRU) (*GOI Verification Report*).

The Passbook Scheme was terminated effective April 1, 1997, with the introduction of the Duty Entitlement Passbook Scheme (see "Duty Entitlement Passbook Scheme" section below). Exports made on or before March 31, 1997, were eligible for passbook credits. The last day a company could apply for passbook credits was December 31, 1997. A company had until June 30, 1999, to use the passbook credits to pay import duties.

The Illustrative List of Export Subsidies, incorporated as Annex I of the Subsidies Agreement, under item (i) specifies that the remission or drawback of import charges in excess of those levied on imported inputs that are consumed in the production of the exported product constitutes an export subsidy. The SAA states that, though the Illustrative List has no direct application to the CVD portion of the Subsidies Agreement, the Department will adhere to the List, except where it is inconsistent with the principles set forth in the Act. See SAA at 928. Therefore, to determine whether inputs are consumed in the production process, the Department establishes whether the government of the exporting country has in place a system to confirm which inputs are consumed in the production process of the exported product. With respect to the Passbook Scheme, no such system existed. The credits granted to passbook holders were calculated on the basis of standard input/output norms independently of whether the inputs were imported, whether duty was paid on them, or whether the inputs were actually used for export production. Moreover, the passbook holder was under no obligation to either import the inputs used to produce the exported product against which the credits were received or consume the imported goods in the production of exported goods. Under the Passbook Scheme, upon the export of a finished product, a exporter was simply granted an amount of credit based on the amount of customs duty which would have been paid on the input materials had they been imported.

Based on these facts, in accordance with sections 771 (5)(D), (E), and (5A)(B) of the Act, we preliminarily determine that the Passbook Scheme is a countervailable export subsidy. Within the meaning of section 771(5)(D) of the Act, a financial contribution was provided by the government in the form of customs duty revenue forgone. The amount of customs duty which should have been paid by the company to

import the goods constitutes the benefit under section 771(5)(E) of the Act. Because receipt of the passbook credits was contingent upon export performance, we preliminarily find the program to be an export subsidy under section 771(5A)(B) of the Act. During the POR, Calcutta Ferrous Ltd., Kajaria Iron Castings Ltd. (Kajaria Iron Castings), and Nandikeshwari Iron Foundry Pvt. Ltd. used passbook credits to import goods duty free.

To calculate the benefit conferred by this program, we summed the amount of passbook credits each respondent company used during the POR to pay the customs duty on goods imported. We then divided the benefit by each company's f.o.b. value of total exports for 1997. On this basis, we preliminarily determine the net countervailable subsidies from the Passbook Scheme to be as follows:

Producers/exporters which used the program during the POR	Ad valorem rates (percent-ages)
Calcutta Ferrous Ltd	7.27
Kajaria Iron Castings Ltd	3.60
Nandikeshwari Iron Foundry Pvt. Ltd	9.82

G. Duty Entitlement Passbook Scheme

The Duty Entitlement Passbook Scheme (DEPB) was introduced on April 1, 1997, to replace the Passbook Scheme. Like the Passbook Scheme, receipt of DEPB credits is contingent upon export performance. The DEPB provides credits to passbook holders either on a pre-export or post-export basis. All merchant and manufacturing export units are eligible for DEPB credits. A company which exported during a three-year period prior to submitting an DEPB application is eligible for pre-export credits. DEPB on a pre-export basis assists an exporter in obtaining import materials required for the production of an exported good. DEPB on a post-export basis is virtually identical to the Passbook Scheme. Post-export credits, which are granted against exports already made, are allowed at a percentage of f.o.b. value of exports which is announced by the Ministry of Commerce. The DEPB percentage rates are determined on the basis of the standard input/output norms table, which sets forth the average amount of inputs required for the manufacture of one unit of finished product. The percentage of f.o.b. value at which castings exporters can claim DEPB credits is 6.0 percent. During the POR, those castings exporters which used the program received DEPB credits on a

post-export basis. To calculate a castings exporter's DEPB credits on a post-export basis, the GOI simply multiplies the company's total f.o.b. value of exports by 6.0 percent. The company's passbook account is then credited in an amount equivalent to 6.0 percent of its total f.o.b. value of exports. DEPB credits, received on a post-export basis, are valid for a period of 12 months and can be used to pay the import duties on any good (i.e., raw material or capital good), except those included on the Negative List of Imports. The goods imported with DEPB credits can either be incorporated in the production of a domestic or export good, or directly sold on the domestic market. Similarly, DEPB credits earned on a post-export basis can be sold in the form of a license on the domestic market. During the POR, no respondent used DEPB credits to import goods, but three castings exporters sold DEPB licenses.

Like the Passbook Scheme, we preliminarily find that DEPB on a post-export basis is not a permitted drawback or substitution drawback scheme. The GOI does not have in place a system or procedure to confirm whether the imported inputs are consumed in the production of an exported product. When a company exports goods, it is granted DEPB credits which can be used without restriction. With DEPB credits earned on a post-export basis, a company has the option of using the credits to: (1) import goods for domestic or export production, (2) import goods for domestic sale, or (3) sell the credits in the form of a license to another company.

Therefore, in accordance with sections 771(5)(D), (E), and (5A)(B) of the Act, we preliminarily determine that DEPB on a post-export basis is a countervailable export subsidy. Within the meaning of section 771 (5)(D) and (E) of the Act, a financial contribution is provided and the amount of revenue received on the sale of the DEPB license constitutes the benefit. Moreover, because receipt of the subsidy is contingent upon export performance, we preliminarily find the program to be an export subsidy under section 771(5A)(B) of the Act. During the POR, Dinesh Brothers (Pvt.) Ltd., Nandikeshwari Iron Foundry Pvt. Ltd., and Victory Castings sold DEPB credits on the domestic market.

To calculate the benefit conferred by this program, we summed the revenue each company received from the sale of the DEPB post-export credits. If the DEPB credits were received on the basis of exports of subject merchandise to the United States, then we divided the benefit by the company's f.o.b. value of

export of subject merchandise to the United States for 1997. For DEPB credits received on the basis of all exports, we divided the benefit by the company's f.o.b. value of total exports for 1997. On this basis, we preliminarily determine the net countervailable subsidies from DEPB on a post-export basis to be as follows:

Producers/exporters which used the program during the POR	Ad valorem rates (percent-ages)
Dinesh Brothers (Pvt.) Ltd	0.11
Nandikeshwari Iron Foundry Pvt. Ltd	1.46
Victory Castings Ltd	1.06

II. Programs Preliminarily Determined Not To Be Countervailable

A. Long-Term Financing From "All-India Development Banks"

In their "Additional Subsidy Allegations" submission of November 6, 1998, petitioners allege that the GOI is providing long-term, low-interest financing to certain Indian producers/exporters through a number of All-India Development Banks. The All-India Development Banks include the following financial institutions: Industrial Development Bank of India (IDBI), Industrial Investment Bank of India (IIBI), Industrial Credit and Investment Corporation of India, Industrial Financial Corporation of India, and Life Insurance Corporation (LIC). In their submission, petitioners allege that these financial institutions, which are either wholly- or majority-owned by the GOI, are "non-conventional" and "non-commercial" in nature. They contend that financial assistance provided by the All-India Development Banks is export-related and, therefore, specific.

In its questionnaire responses, the GOI reported and we verified that the All-India Development Banks function as the principal financial institutions for promoting and developing industries. These credit agencies assist and promote industrial development, reconstruction and revival, and undertake the rehabilitation of medium- and large-sized industrial units by providing assistance and operating schemes. Financial assistance is provided under a number of schemes, such as: project finance, equipment finance, asset credit, corporate loan, working capital loan, and equipment lease. With respect to the project finance scheme, the program under which two respondent companies received loans, the financial institutions provide long- and medium-term credits to promoters/

entrepreneurs who want to construct new industrial units, expand existing units, and rehabilitate sick units in India. Any company, a domestic producer or exporting unit, in any industrial sector can receive a term loan under the project finance scheme provided that the borrower is creditworthy and the proposed project is financially and commercially viable. Receipt of a loan is not contingent upon exportation.

When deciding whether to grant a loan, the financial institutions examine the following financial indicators of the company: debt-to-equity ratio, debt services coverage ratio, gross profit, operating profit, break-even ratio, internal rate of return, and cost of capital. In addition, the financial institutions request data regarding a borrower's sales information, which does include export data, market opportunities (both domestic and international), and domestic and international competition. This information is collected so the banks can assess the commercial viability of the promoters' project and the borrowers' financial health and thus, ability to repay the loan. See *GOI Verification Report* at 5.

During the POR, Kajaria Iron Castings had outstanding project finance term loans from the IDBI, IIBI, and LIC, and Kiswok Industries had outstanding a project finance term loan from the IDBI. At verification, we meet with IDBI, IIBI, and LIC bank officials to discuss the number and types of companies to which the financial institutions have extended long-term loans under the project finance scheme over the period 1993 through 1997, in particular exporters and the basic metals sector. The officials stated that the banks do not maintain databases which indicate the number of loans and loan amounts granted specifically to exporters; however, their lending patterns to industrial borrowers are presented in their annual reports.

At verification, we reviewed the banks' annual reports which discuss industry-wide term loan assistance provided from fiscal year 1993–1994 through fiscal year 1997–1998. See *GOI Verification Report* at Exhibit 2. We noted that the institutions extended loans to a wide and diverse range of industries, including: food manufacturing, cotton textiles, paper and paper products, rubber products, chemical and pharmaceutical, fertilizers, cement, basic metals which includes iron, steel, and non-ferrous metals, metal products, machinery (other than electrical), electrical machinery/equipment, transport

equipment, electricity generation, services including hotels, and others. The officials explained that the institutions lend long-term loans to a wide range of industries because the institutions' exposure to any one industry cannot exceed 15 percent of the total loan amount granted in a fiscal year.

We analyzed whether the financial assistance provided by the All-India Development Banks is export-related. Based on the fact that a company, whether a domestic producer or exporting unit, can receive a long-term loan from the All-India Development Banks and that the financing is not contingent upon export performance, we preliminarily determine that financing provided by the IDBI, IIBI, and LIC is not an export subsidy under section 771(5A)(B) of the Act.

We also analyzed whether the long-term financing provided by the All-India Development Banks is specific in law (*de jure* specificity), or in fact (*de facto* specificity), within the meaning of section 771(5A)(D)(i) and (iii) of the Act. See also SAA, H. Doc. No. 316, Vol. 1, 103d Cong. 2d Sess. 932 (1994). First, we examined the respective banking acts for the IDBI, IIBI, and LIC. We noted that the banking act for each financial institution did not, in any way, limit the industries or companies to which the institutions can provide financial assistance or instruct the institutions to provide financial assistance to exporting units. We also examined the specifications for receipt of a term loan under the project finance scheme. We noted that any industrial concern is eligible for assistance. An industrial concern is defined as any concern engaged, or to be engaged in, a number of areas, including, but not limited to:

(i) The manufacture, preservation or processing of goods; (ii) shipping; (iii) mining including development of mines; (iv) the hotel industry; (v) the transport of passengers of goods by road or by water or air; (vi) the generation, storage, or distribution of electricity of any other form or energy; (vii) providing medical, health, or other allied services, etc. See The Industrial Development Bank of India Act, 1964, and the Industrial Reconstruction Bank of India Act, 1984, for a complete description of an industrial concern, submitted as Annexure II and Annexure III, respectively, in the GOI's June 22, 1999 response. Based on our analysis, we preliminarily determine that long-term loans provided by the IDBI, IIBI, and LIC are not *de jure* specific under section 771(5A)(D)(i) of the Act.

We then examined data on the distribution of long-term loans under the project finance scheme by the financial institutions to determine whether the provision of the loans meet the criteria for *de facto* specificity under section 771(5A)(D)(iii) of the Act. We found that term loans provided under the project finance scheme were distributed to a large number of companies in a wide variety of industries. The basic metals sector did not receive a disproportionate amount of the loans provided by the financial institutions. We also found that the GOI did not exercise any discretion over the financial institutions with respect to their lending decisions. Based on these facts, we preliminarily determine that long-term loans provided by the IDBI, IIBI, and LIC are not *de facto* specific under section 771(5A)(D)(iii) of the Act. Therefore, based on our analysis, we preliminarily determine that long-term financial assistance provided by the All-India Development Banks is not countervailable.

B. Long-Term Loan From the West Bengal Industrial Finance Corporation

Petitioners allege that the regional government of West Bengal is providing various subsidies to companies located in the region through such development policies as the West Bengal Incentive Scheme (see "West Bengal Incentive Scheme" section below) and agencies such as the West Bengal Industrial Development Corporation and West Bengal Financial Corporation (WBFC). With respect to this review, petitioners requested the Department to examine the long-term loan which Victory Iron Works received from the WBFC.

In 1996, Victory Iron Works received a long-term loan from the WBFC under the equipment refinance scheme (ERS) for upgrading machinery and for pollution and quality control equipment. At verification, we met with officials of the WBFC to discuss the nature and purpose of the state institution. We learned that the objective of the WBFC, like other state corporations, is to promote the industrial development of the region, in particular by providing financing to companies. They stated that the WBFC provides assistance to all small- and medium-sized manufacturing units in West Bengal in the form of term loans, working capital term loans, and consultancy, guidance, and counseling for preparation of project reports, market surveys, etc. To receive a loan under the ERS, a company must satisfy the following criteria: (1) The company must have been in operation for at least four years prior to the application date.

(2) The company must have earned a profit (declared dividends) in the two fiscal years prior to the application date. (3) The company must not have defaulted with a financial institution during its existence. (4) The financial assistance sought must be used for the purchase of machinery and equipment (i.e., loans under the ERS are provided for specific purchases). (5) The company's promoters must be able to contribute 25 percent of the total project's cost. (6) The project for which financing is sought must be commercially and economically viable. See *Memorandum to David Mueller: Verification of the Questionnaire Responses Submitted by the Regional Government of West Bengal*, (September 9, 1999), at 5-6, (public version is on file in the CRU) (*WB Verification Report*).

At verification, we also discussed the number and types of companies to which the WBFC lends funds under the equipment refinance scheme. The officials provided data regarding the WBFC's lending pattern under the ERS for the years 1996-97, 1997-98, and 1998-99. See *WB Verification Report* at Exhibit 10. We noted that, in granting the term loans, the WBFC did not give preference to any particular industrial sector or extend disproportionate financing to companies located in the backward regions of West Bengal. The WBFC provides financing to a wide range of industries, including, but not limited to: chemicals, basic metals, engineering, food processing, metal products, paper & paper products, printing and packaging, rubber, pharmaceuticals, services, and textiles.

We analyzed whether the long-term financing provided by the WBFC is specific in law (*de jure* specificity), or in fact (*de facto* specificity), within the meaning of section 771(5A)(D)(i) and (iii) of the Act. See also SAA, H. Doc. No. 316, Vol. 1, 103d Cong. 2d Sess. 932 (1994). We examined a profile of the WBFC, which was submitted as Annexure WB-III of the GOI's June 22, 1999 response. We noted that the WBFC provides financial assistance to new and existing industrial units in the small and medium sectors, which intend to expand, modernize, diversify, and upgrade their activities. We also examined the specifications for receipt of a term loan under the equipment refinance scheme. We noted that any small- or medium-sized concern is eligible for assistance provided the unit meets the criteria outlined above. Based on our analysis, we preliminarily determine that term loans provided by the WBFC are not *de jure* specific under section 771(5A)(D)(i) of the Act.

We then examined data on the distribution of term loans under the equipment refinance scheme to determine whether the provision of the loans meet the criteria for *de facto* specificity under section 771(5A)(D)(iii) of the Act. We found that term loans provided under the scheme were distributed to a large number of companies in a wide variety of industries located across West Bengal. The basic metals sector did not receive a disproportionate amount of the loans provided by the institution. We also found that neither the regional government of West Bengal nor the GOI exercised any discretion over the WBFC with respect to its lending decisions. Based on these facts, we preliminarily determine that term loans provided by the WBFC are not *de facto* specific under section 771(5A)(D)(iii) of the Act. Therefore, we preliminarily determine that term loan assistance provided by the WBFC is not countervailable.

C. Leasing of Land From the Regional Government of West Bengal

Petitioners allege that the regional government of West Bengal through the West Bengal Incentive Scheme of 1993, and the West Bengal Industrial Development Corporation (WBIDC), is providing subsidies to manufacturers and/or exporters of the subject merchandise. In their "Additional Subsidy Allegations" submission of November 6, 1998, petitioners noted that Kajaria Iron Castings acquired land from the government of West Bengal for the construction of a pig iron plant and requested the Department to examine the land purchase. In its June 4, 1999 questionnaire response, Kajaria Iron Castings reported that the company has not purchased land under the West Bengal Incentive Scheme of 1993, or from the WBIDC. Rather, the company is leasing industrial land in Durgapur from the Asansol Durgapur Development Authority (ADDA), an agency of the regional government of West Bengal.

According to section 771(5)(E)(iv) of the Act, the adequacy of remuneration with respect to a government's provision of a good or service "shall be determined in relation to prevailing market conditions for the good or service being provided or the goods being purchased in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of purchase or sale." Particular problems can arise in applying this standard when the government is the sole or predominant

supplier of the good or service in the country or within the area where the respondent is located. In these situations, there may be no alternative market prices available in the country (e.g., private prices, competitively-bid prices, import prices, or other types of market reference prices). Hence, it becomes necessary to examine other options for determining whether the good has been provided for less than adequate remuneration. This consideration of other options does not indicate a departure from our preference for relying on market conditions in the relevant country, specifically market prices, when determining whether a good or service is being provided at a price which reflects adequate remuneration.

With respect to the leasing of land, some of the possible factors we can consider are whether the government has covered its costs, whether it has earned a reasonable rate of return in setting its rates, and whether it applied market principles in determining its prices. See *Final Affirmative Countervailing Duty Determination: Steel Wire Rod From Germany*, 62 FR 54990, 54994 (October 22, 1997). In the instant case, we attempted to obtain information on the market prices for leasing of industrial land in West Bengal through independent research and a private land broker in India. However, we have found no alternative market reference prices to use in determining whether the government is leasing the land for less than adequate remuneration. As such, we have examined whether the government's price was determined according to the same market factors that a private lessor would use in determining whether to lease land to a company. During the verification of this review, we met with officials of the ADDA to discuss the development authority's leasing of industrial land in West Bengal. See *Memorandum to David Mueller: Verification of the Questionnaire Responses Submitted by the Asansol Durgapur Development Authority*, (September 9, 1999), (public document on file in the CRU).

In December 1995, Kajaria entered into a lease agreement with the ADDA to lease 132 acres of industrial land in Durgapur for the construction of a pig iron plant. The ADDA presently manages 60,000 acres of land. Of the total land acreage only 600 acres are being used for industrial purposes. The majority of the land being leased by the ADDA is residential land. The ADDA is currently leasing industrial land to approximately 120 small-scale companies.

The lease rates for industrial land in West Bengal are established by the ADDA. The ADDA takes into consideration the following factors to determine the price per acre of industrial land: (1) The cost of acquiring the land; (2) the cost of constructing needed infrastructure on the land (e.g., building roads, drainage facilities, electricity transformers); (3) the cost of filling the land; and (4) the authority's cost of capital. Because the topography, location, and types of infrastructure built on various tracks of land differ, the price per acre land, classified as either "high land" or "low land" by the ADDA, may vary. However, the factors examined by the ADDA to determine the leasing prices paid by all companies across West Bengal are uniform. The ADDA's prices per acre of land are set prices which are non-negotiable. The ADDA's price per acre of land does not vary with respect to the type of industry or company leasing the land. The ADDA advertizes in national and local newspapers the industrial land which is available for lease and the price per acre of high and low land. With this information a prospective lessee can compare the leasing prices of the ADDA to the price of land being sold by private land owners.

The ADDA uses a standard agreement to lease industrial land to all companies in West Bengal. All companies which lease land from the ADDA must pay 50 percent of the total lease amount up-front to execute the lease agreement (the amount was 30 percent in 1995). After the lease agreement is executed a company then makes annual installment payments. The number of payments a company must make is outlined in the lease agreement. All companies must also make a yearly rent payment of 10 rupees per acre of land.

At verification, we found that a large number of companies are currently leasing industrial land from the ADDA. These enterprises represent a wide variety of industries, e.g., auto parts, ceramics, chemicals, electronic switches, engineering parts, fertilizers, glass, paints and polishes, pig iron, and tire retreading. The ADDA does not extend special leasing provisions or show a pricing preference to any particular industry or industries. We also ascertained that Kajaria Iron Castings is paying a standard lease rate which the ADDA charges all companies leasing land in West Bengal. The price per acre of industrial land is set in reference to market factors. Therefore, based on these facts, we preliminarily determine that Kajaria Iron Castings' lease rate is not countervailable.

III. Programs Preliminarily Found Not To Be Used

We examined the following programs and preliminarily find that the producers/exporters of the subject merchandise did not apply for or receive benefits under these programs during the POR:

A. West Bengal Incentive Scheme 1993

Petitioners allege in their "Additional Subsidy Allegations" submission of November 6, 1998, that the West Bengal Incentive Scheme 1993 (Scheme 1993), a regional development policy, provides various benefits including a waiver of electricity duty, a state capital investment subsidy, a development subsidy, and sales tax deferments. They claim that both new and expanding industrial projects can receive benefits under the scheme. Petitioners assert that assistance provided under Scheme 1993 is specific insofar as it is provided in inverse proportion to the development level of areas within West Bengal.

The regional government of West Bengal reported that Scheme 1993 was introduced by the WBIDC on April 1, 1993. Though the program was terminated effective March 31, 1999, assistance is still being provided under the scheme. The objective of Scheme 1993 is to assist in the growth of medium- and large-scale industries, the tourism industry, the expansion of existing units, and revival of sick units in the state of West Bengal through the provision of incentives. All industrial projects which receive an industrial license, registration certificate, and term loans from a financial institution are eligible to receive benefits under Scheme 1993. The program offers various incentives and tax concessions to entrepreneurs and industrial units to assist them in the construction of new units or expansion of existing units, and the building of infrastructure in the backward areas of West Bengal. The amount of financial assistance an industrial unit is eligible to receive is determined by its location in West Bengal. The regional government reported that West Bengal is divided into four groups: Group A (i.e., Calcutta) is classified as developed while Groups B through D are categorized as less developed, with Group D deemed the most backward. Industrial units located in the more backward areas receive greater monetary assistance than those units located in the more developed areas. For example, financial assistance provided in the form of a state capital investment subsidy is as follows: Eligible units in Group B are entitled to receive a subsidy at the rate of 15

percent of the fixed capital investment made in the approved project or Rs. 15 lakh, whichever is less. Eligible units in Group C are entitled to receive a subsidy at the rate of 20 percent of the fixed capital investment made in the approved project or Rs. 20 lakh, whichever is less. Eligible units in Group D are entitled to receive a subsidy at the rate of 20 percent of the fixed capital investment made in the approved project or Rs. 30 lakh, whichever is less.

In its responses, the regional government reported that both Carnation Industries Ltd. (Carnation Industries) and Kajaria Iron Castings received state capital investment subsidies under Scheme 1993 (see "State Capital Investment Subsidy," section below). Kajaria Iron Castings also received a bridge loan (see "Program Preliminarily Found To Be De Minimis—Bridge Loan" section below).

1. State Capital Investment Subsidy

The regional government reported that state capital investment subsidies are provided by the WBIDC to industrial units as an incentive for the construction of new industries in the backward areas of West Bengal, where infrastructure is poor and industrialization is weak. The amount of cash payment a company is entitled to receive is based on the total capital investment cost and location of the project (see, "West Bengal Incentive Scheme 1993" section above). Of the total sanctioned grant amount, 85 percent may be disbursed in two or three installments, as funds are available, before the start of commercial production. The balance of the grant amount is disbursed after the commencement of production.

In their questionnaire responses, Carnation Industries and Kajaria Iron Castings reported that they applied for and received state capital investment subsidies from the WBIDC. In November 1996, Carnation Industries was approved for a grant in connection with the construction of a new ductile iron plant in Uluberia, which is located in Group B. The company took receipt of the first disbursement of the subsidy in November 1997. The second disbursement of the subsidy occurred in 1998. The company reported that the following criteria had to be satisfied for receipt of the subsidy: (1) Receipt of a registration certificate from the Directorate of Industry of the State Government; (2) submission of detailed feasibility and project report; and (3) approval of the project and receipt of financial assistance from a commercial bank.

At verification, we examined Carnation Industries' application for incentives under Scheme 1993 and the corresponding eligibility certification. We confirmed that Carnation Industries applied for and received a grant for the construction of a spheroidal graphite and malleable cast iron castings facility (i.e., ductile iron plant). See *Memorandum to David Mueller: Verification of the Questionnaire Responses Submitted by Carnation Industries Ltd.*, (September 9, 1999), at 1-3 (public version on file in the CRU) (*Carnation Verification Report*). During verification, we discussed with WBIDC officials whether, at the point of bestowal, a state capital investment subsidy is tied to the production of a particular product or tied to a particular production facility. We learned that a state capital investment subsidy is tied to the production of that product/facility for which the company applied for an eligibility certificate. See *WB Verification Report* at 4.

In regard to Carnation Industries, the company applied for incentives under Scheme 1993 specifically for the manufacture of spheroidal graphite CI castings and malleable cast iron at its Uluberia facility. All assistance Carnation receives under the scheme is for the manufacture of spheroidal graphite CI castings and malleable cast iron at its Uluberia facility. The WBIDC officials stated, at verification, that each company which receives assistance must submit a progress report on their facility which describes the types of products being produced. See *Id.*

The scope of this order covers gray iron castings and not ductile iron castings, the goods produced at the Uluberia facility. At the point of bestowal, the grant was connected to the production of ductile iron castings, which is non-subject merchandise. Based on these facts, we preliminarily determine that the state capital investment subsidy which Carnation Industries received provides no benefits to the production and exportation of the subject merchandise, and therefore, the program was not used.

With respect to Kajaria Iron Castings, the company was approved for a state capital investment subsidy in December 1995, for the construction of a pig iron plant in Durgapur (Group C). The first disbursement of the subsidy was received in 1998, which is outside the period of this review.

- B. Market Development Assistance (MDA)
- C. Rediscouping of Export Bills Abroad (EBR)
- D. International Price Reimbursement Scheme (IPRS)

- E. Cash Compensatory Support Program (CCS)
- F. Programs Operated by the Small Industries Development Bank of India (SIDBI)
- G. Export Promotion Replenishment Scheme (EPRS) (IPRS Replacement)
- H. Export Promotion Capital Goods Scheme
- I. Benefits for Export Oriented Units and Export Processing Zones
- J. Special Imprest Licenses
- K. Special Benefits
- L. Duty Drawback on Excise Taxes
- M. Payment of Premium Against Advance Licenses
- N. Pre-Shipment Export Financing in Foreign Currency (PCFC)
- O. Subsidies Provided by the State of Orissa
- P. Advance Licenses

IV. Program Preliminarily Found To Be De Minimis

Bridge Loan

The WBIDC provides bridge loans to entrepreneurs who are granted state capital investment subsidies under the West Bengal Incentive Scheme to bridge the time lag between the approval of the grant and the disbursement of the money. If the WBIDC anticipates a late disbursement of the grant, the agency encourages companies encountering financial difficulties to apply for a bridge loan. Not all companies awaiting a state capital investment subsidy are eligible to receive a bridge loan. To receive a bridge loan, a company must be financially solvent and be promoting a commercially viable project. A company which receives a bridge loan must use the funds for the advancement of the project. See *WB Verification Report*, at 2-3.

The loans are provided against the grant receivable and are repaid when the grant is disbursed. Only those companies which have been approved for a grant are eligible to receive a bridge loan. At verification, we learned that the WBIDC charges a fixed interest rate of 20.0 percent against a bridge loan. However, if a company makes timely interest payments, then the interest rate is reduced to 16.0 percent. Typically, bridge loans are short-term loans which are extended for a period up to the date of disbursement of the grant. See *Id.*

Because receipt of the its grant was delayed, Kajaria Iron Castings applied for a short-term bridge loan with the WBIDC in September 1997. Kajaria Iron Castings took receipt of the loan in 1997, and made an interest payment during the POR. See *Memorandum to David Mueller: Verification of the Questionnaire Responses Submitted by*

Kajaria Iron Castings Ltd., (September 9, 1999), at 4-5 (public version on file in the CRU) (*Kajaria Verification Report*).

As discussed in the "Pre-Shipment Export Finance" section above, the short-term benchmark interest rate for the POR is 16.31 percent. To determine the benefit provided by the loan, we compared the cash credit benchmark rate to the interest rate charged on the bridge loan. We found that the interest paid on the bridge loan was less than the interest the company would have paid on a comparable short-term commercial loan. We calculated that the bridge loan provided a benefit of less than 0.005 percent *ad valorem* during the POR. Because the benefit provided by the bridge loan is less than 0.005 percent *ad valorem* and has no affect on the net countervailable subsidy rate for Kajaria Iron Castings, we preliminarily determine that it is not necessary, at this time, to analyze whether bridge loans provided under the West Bengal Incentive Scheme are specific. See *Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom*, 63 FR 18367, 18370 (April 15, 1998).

V. Programs Preliminarily Found Not To Exist

A. State Value-Added Tax "Set-Off" Program

The GOI reported in its February 1, 1999 questionnaire response that a state value-added tax "set-off" program does not yet exist. They reported that the state value-added tax scheme is only a concept at this time and has not yet been implemented.

B. Interest Rate Surcharge Exemption

In its February 1, 1999 questionnaire response, the GOI stated that the RBI introduced an interest rate surcharge on import finance in October 1995. The surcharge was 15.0 percent over the cash credit rate and was exempt on packing credit provided for exports. The GOI further reported that the interest rate surcharge was withdrawn effective July 24, 1996. In its July 14, 1999 response, the GOI submitted official documentation of the RBI, which announced the termination of the interest rate surcharge.

Preliminary Results of Review

In accordance with section 777A(e)(1) of the Act, we calculated an individual *ad valorem* subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1997 through December 31, 1997, we preliminarily determine the

net countervailable subsidy rates for the reviewed companies to be as follows:

Producers/exporters	Ad valorem rates (percentages)
Bengal Export Corporation	8.35
Calcutta Ferrous Ltd.	9.28
Calcutta Iron Foundry	0.42
Carnation Industries Ltd.	0.72
Commex Corporation	2.71
Crescent Foundry Co. Pvt. Ltd. ..	0.84
Delta Corporation Ltd.	27.65
Dinesh Brothers (Pvt.) Ltd.	1.71
Ganapati Suppliers Pvt. Ltd.	5.17
Kajaria Iron Castings Ltd.	5.19
Kiswok Industries Pvt. Ltd.	14.90
Nandikeshwari Iron Foundry Pvt. Ltd.	13.72
Rangilal & Sons	0.00
R.B. Agarwalla & Company	3.56
RSI Limited	0.90
Serampore Industries Pvt. Ltd.	1.51
SSL Exports	27.65
Super Iron Foundry	1.08
Thames Engineering	27.65
Trident International	27.65
Uma Iron & Steel Company	2.10
Victory Castings Ltd.	1.88

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service (Customs) to assess countervailing duties as indicated above. The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties as indicated above of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. See 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul*

Corporation and the Torrington Company v. United States, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e) (now 19 CFR 351.212(c)), the antidumping regulation on automatic assessment, which is identical to 19 CFR section 355.22(g)). Therefore, the cash deposit rates for all companies, except those covered by this review, will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. See *1996 Indian Castings Final Results*. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. See *1993 Indian Castings Final Results*. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1997 through December 31, 1997, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to the parties of this proceeding within five days after the date of publication of this notice, the calculations performed in this review. Interested parties may request a hearing not later than 30 days after the date of publication of this notice. Pursuant to 19 CFR 309, interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted five days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) A statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are issued and published in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), 19 CFR 351.213.

Dated: November 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99-29204 Filed 11-10-99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-063]

Revocation of Countervailing Duty Order: Iron Metal Castings From India

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

ACTION: Revocation of Countervailing Duty Order: Iron Metal Castings From India.

SUMMARY: Pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the International Trade Commission ("the Commission") determined that revocation of the countervailing duty order on iron metal castings from India would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (64 FR 58442 (October 29, 1999)). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(e)(4), the Department of Commerce ("the Department") is publishing notice of the revocation of the countervailing duty order on iron metal castings from India. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), the effective date of revocation is January 1, 2000.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of