and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: January 30, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3067 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–401–804]

Certain Cut-to-Length Carbon Steel Plate From Sweden; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of final results of Countervailing Duty Administrative Review.

SUMMARY: On August 24, 1995, the Department of Commerce (the Department) published in the Federal Register its preliminary results of administrative review of the countervailing duty order on certain cut-to-length carbon steel plate from Sweden for the period December 7, 1992 through December 31, 1993. We have completed this review and determine the net subsidy to be 2.98 percent *ad valorem* for all companies for the periods December 7, 1992 through April 5, 1993, and August 17, 1993 through December 31, 1993. Merchandise entered on or after April 6, 1993 and before August 17, 1993 is to be liquidated without regard to countervailing duties.

EFFECTIVE DATE: February 12, 1996.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Gayle Longest, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2849; (202) 482–3338.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 24, 1995, the Department published in the Federal Register (60 FR 44017) the preliminary results of its administrative review of the countervailing duty order on certain cut-to-length carbon steel plate from Sweden. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On September 25, 1995, a case brief was submitted on behalf of Bethlehem Steel Corporation, Geneva Steel, Gulf States Steel Inc. of Alabama, Inland Steel Industries, Inc., Lukens Steel Company, Sharon Steel Corporation, and U.S. Steel Group, a unit of USX Corporation (petitioners). On October 2, 1995, rebuttal comments were submitted by SSAB Svenskt Stal AB (SSAB) (respondent).

The review covers the period December 7, 1992 through December 31, 1993. The review involves one company, SSAB, the sole known producer/exporter of the subject merchandise during the review period, and ten programs.

Because the period of review (POR) covers only three weeks in 1992 (December 7 through December 31, 1992), the Department determined that it was appropriate to apply the assessment rate calculated for 1993 to exports made during the three-week period. *See, Memorandum for Joseph A. Spetrini from the Steel Team* dated October 3, 1994, regarding calculation of the assessment rate in the first administrative reviews of the Certain Steel Countervailing Duty Orders, which is on file in the Central Records Unit, Room B–099 of the Department of Commerce.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. However, references to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Scope of the Review

Imports covered by this review are shipments of certain cut-to-length carbon steel plate from Sweden. These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width or in a closed box pass, or a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, or rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. During the review period, such merchandise was classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this order are flat-rolled products of non-rectangular cross-section where 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. Excluded from this order is grade X–70 plate. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

Because SSAB is the only manufacturer/exporter of the subject merchandise to the United States, SSAB's net subsidy rate is also the country-wide rate.

Privatization

SSAB was partially privatized twice, in 1987 and in 1989. In the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Sweden* (58 FR 37385; July 9, 1993) (*Final Determination*), the

Department found that SSAB had received countervailable subsidies prior to these partial privatizations. Further, the Department found that a private party purchasing all or part of a government-owned company can repay prior subsidies on behalf of the company as part or all of the sales price (see the General Issues Appendix appended to the *Final Countervailing Duty Determination; Certain Steel Products from Austria* (58 FR 37217, at 37262; July 9, 1993) (*General Issues Appendix*)). Therefore, to the extent that a portion of the sales price paid for a privatized company can be reasonably attributed to prior subsidies, that portion of those subsidies will be extinguished.

To calculate the subsidies remaining with SSAB after each partial privatization, we performed the following calculations. We first calculated the net present value (NPV) of the future benefit stream of the subsidies at the time of the sale of the shares. We then multiplied the NPV by the percentage of shares the government retained after the sale and derived the amount of subsidies not affected by privatization. Next, we estimated the portion of the purchase price which represents repayment of prior subsidies in accordance with the methodology described in the ''Privatization'' section of the *General Issues Appendix* (58 FR at 37259). This amount was then subtracted from the NPV, and the result was divided by the NPV to calculate the ratio representing the amount of subsidies remaining with SSAB after each partial privatization.

With respect to sales of ''productive units'' by SSAB, we have followed the same methodology used in the *Final Determination* (58 FR at 37385). In accordance with that methodology, a portion of the price paid when a productive unit is sold is allocable to the repayment of subsidies received in prior years by the seller of the productive unit. The subsidies allocated to the POR have been reduced for all of the programs, as described above. These subsidies were further adjusted by the asset value of the productive unit. For a further explanation of the Department's methodology regarding ''sales of productive units'' and these calculations, see the ''Restructuring'' section of the *General Issues Appendix* (58 FR at 37265).

To calculate the benefit provided to SSAB, we multiplied the benefit calculated for 1993, adjusted for sales of productive units, by the ratio representing the amount of subsidies remaining with SSAB after the partial privatization. We then divided the results by the company's total sales in 1993.

Analysis of Programs

Based upon our analysis of the questionnaire responses, verification, and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

1. Equity Infusion

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 0.82 percent *ad valorem*.

2. Structural Loans

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 0.38 percent *ad valorem*.

3. Forgiven Reconstruction Loans

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 1.77 percent *ad valorem*.

4. Grants for Temporary Employment for Public Works

In the preliminary results we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary finding that the net subsidy for this program is 0.01 percent *ad valorem*.

II. Programs Found Not To Confer Subsidies

In the preliminary results we found that the following programs did not confer countervailable benefits during this period of review:

1. Research & Development (R&D) Loans and Grants.

2. Fund for Industry and New Business Research and Development

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings.

III. Programs Found Not To Be Used

In the preliminary results we found the following programs to be not used:

1. Regional Development Grants.
2. Transportation Grants.
3. Location-of-Industry Loans.

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings.

IV. Program Found To Be Terminated

In the preliminary results we found the State Stockpiling Subsidies program to be terminated. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our preliminary findings.

Analysis of Comments

Comment 1: Petitioners argue that the Department's privatization methodology is contrary to economic reality and the requirements of the countervailing duty law. According to petitioners, the Department's determination that privatization ''repays'' a portion of the subsidies received before privatization is contrary to economic reality because the resources provided by the government to SSAB, which the market would not have provided, still remain with SSAB after privatization and continue to benefit the production of the merchandise. No resources were transferred from SSAB to the Government of Sweden (GOS). Furthermore, they contend that the Department's privatization methodology is contrary to the countervailing duty law because the countervailing duty statute, 19 U.S.C. § 1671(a), requires that subsidies bestowed upon the production, manufacture, or exportation of merchandise imported into the United States be countervailed. Since the subsidies received by SSAB continue to benefit its production of the subject merchandise after the partial privatizations, these subsidies continue to be fully countervailable.

The respondent argues in rebuttal that the new shareholders' arm's length purchases result in the repayment of prior subsidies as a matter of economic reality and as a result of the functional identity between a company and its shareholders in the context or privatization.

Department's Position: We disagree with petitioners. The Department previously addressed this issue in the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Sweden* (58 FR 37385, July 9, 1993) (*Final Determination*) and in the

General Issues Appendix appended to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria* (58 FR 37261—2, July 9, 1993) (*General Issues Appendix*). In this proceeding, petitioners have not submitted any new arguments which would warrant reconsideration of this issue.

Comment 2: Petitioners argue that the Department's privatization methodology is flawed and not supported by facts. Petitioners contend that the basis of the Department's methodology is that purchasers of shares in a subsidized company paid more for those shares than they would otherwise have absent subsidization; that because the new owners are presumably profit-maximizers, the privatized firm must now generate a reasonable rate of return on the owner's investment; and that to the extent that the new owners invested more in the company because of the subsidies, the company presumably faces an obligation to generate more earnings so as to provide a reasonable rate of return. They argue that this premise is incorrect, and that the Department is confusing countervailable subsidy benefits with the effects of subsidies on the value of the company. Petitioners also argue that the Department's repayment methodology assumes that private investors have different expectations than government investors, however the Department offers no evidence to support this assumption. Finally, petitioners argue that if the repayment methodology applies to purchases of shares in state-owned companies, it must also apply to purchases of shares in private companies that have received subsidies.

Department's Position: The arguments presented by the petitioners have been previously addressed by the Department. *See General Issues Appendix* (58 FR 37217, at 37259, 37264). In this proceeding petitioners have presented no new evidence or arguments regarding this issue that would warrant reconsideration of the Department's determination that past subsidies bestowed upon SSAB are affected by privatization. Thus, the Department's preliminary results remain unchanged with respect to this issue.

We note, however, that petitioners went beyond the Department's position in outlining their interpretation of the basis of the Department's methodology by stating that ''purchasers of shares in a subsidized company paid more for those shares than they would have, and that to the extent that the new owners invested more in the company because of the subsidies, the company presumably faces an obligation to generate more earnings to provide a reasonable rate of return.'' The Department neither stated nor implied such a position. The Department has stated that the owner-shareholders' expectations of a return on their investment cannot be separated from the profitability of the newly privatized company, and that the owners will seek to extract a rate of return from their company at least equal to that of alternative investments of similar risk. The Department also stated that to the extent that a portion of the price paid for a privatized company can reasonably be attributed to prior subsidies, that portion of those subsidies will be extinguished. *See General Issues Appendix* (58 FR 37217, at 37262).

Comment 3: Petitioners contend that the Department's privatization methodology was rejected by the Court of International Trade (CIT) in *British Steel plc* v. *United States, British Steel plc* v. *U.S.*, 879 F. Supp. 1254 (CIT 1995) (*British Steel*). Petitioners contend that in *British Steel,* the court stated that it would seem at best that the only way to extinguish a previously given gift or subsidy would be to repay the gift or subsidy to the original donor government. To the extent that the sale of shares involves only a change in the beneficial ownership of the company, it does not cause any change in the company itself and no such repayment occurs. Petitioners also contend that although the CIT's statements in British Steel regarding repayment are dicta, in the final remand determinations in *British Steel,* the Department accepted the CIT's reasoning and abandoned its repayment methodology. Therefore, the petitioners argue that because SSAB has not repaid the GOS for prior subsidies, such benefits remain with the company, and are countervailable.

Respondent contends that because the CIT has yet to issue its final judgment in *British Steel,* it is inappropriate to even suggest that the CIT's opinion has any bearing on this case.

Department's Position: We disagree with petitioners. The CIT has not entered an order with respect to the remand determinations in *British Steel.* The Department is not required to follow a CIT opinion that is still subject to litigation and to which the Department has not acquiesced. In such instances, the Department does not change its methodology while litigation is pending. *See, Color Television Receivers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review* (59 FR 13700, at 13702; March 23, 1994). Therefore, we have followed our privatization methodology as set forth in the *Final Determination.*

Comment 4: Petitioners argue that the Department has failed to explain the logic underlying its privatization methodology. Specifically, petitioners argue that the Department has failed to explain why a ratio of the subsidies received by a company each year to the company's net worth in that year serves as a ''reasonable surrogate'' for the percentage of the company's net value that the subsidies represent, and how a simple arithmetic average of these ratios relates to the value of the subsidies at the time the company is sold, much less to the extinguishment of subsidy benefits.

Respondent argues that the Department has substantial discretion and wide latitude in developing reasonable methodologies to properly implement the countervailing duty law. As a factual matter, the Department has adequately explained the bases for its repayment formula in the *General Issues Appendix.*

Department's Position: As explained in the *General Issues Appendix,* the methodology applied by the Department attempts to estimate the proportion of the purchase price attributable to subsidies. The ratio, cited by petitioners, represents, in the Department's view, the most reasonable approach to that estimation. In arguing the issue of the impact of privatization upon formerly government-owned companies which previously benefitted from subsidies, petitioners in the *Final Determination* stated that privatization does not affect the amount of subsidies allocable to the privatized steel companies, while respondents argued that privatization of a government-owned company extinguishes any pre-existing subsidies. The Department considered, but ultimately rejected, both of these extreme positions. The Department determined that prior subsidies are allocable to the privatized companies upon their sale to private parties. However, it also concluded that a portion of the price paid by the private parties constituted repayment for the subsidies previously bestowed on the formerly government-owned companies.

The Department recognized that any methodology developed to determine what portion of the sales price constituted repayment for prior subsidies would yield only a rough estimate. In attempting to estimate that portion of the purchase price attributable to prior subsidies, the Department concluded that the most reasonable approach was to look at ratio of the privatized company's subsidies (over time) to the company's net worth

during the period from 1977 (the earliest point at which subsidies providing countervailable benefits in the period of investigation could have been bestowed) until the year before privatization. The subsidy-to-net worth ratio is intended to provide the Department with an estimate of the contribution subsidies have made to the value of a company.

Final Results of Review

In accordance with 19 CFR § 355.22(b)(1), an administrative review ''normally will cover entries or exports of merchandise during the most recently completed reporting year of the government of the affected country.'' However, because this is the first administrative review of this countervailing duty order, in accordance with 19 CFR § 355.22(b)(2), it covers the period, and the corresponding entries, ''from date of suspension of liquidation * * * to the end of the most recently completed reporting year of the government of the affected country.'' This period is December 7, 1992 through December 31, 1993.

The Department issued its preliminary affirmative countervailing duty determination in the investigation on December 7, 1992 (57 FR 57793). On March 8, 1993 in accordance with section 705(a)(1) of the Act, as amended, we aligned the final countervailing duty determinations with the final antidumping duty determinations on certain steel products from various countries (58 FR 12935; March 8, 1993). Under 19 CFR 355.20(c)(1)(ii), and pursuant to article 5.3 of the GATT Subsidies Code, the Department cannot require suspension of liquidation for more than 120 days without the issuance of a countervailing duty order. Accordingly, the Department instructed Customs to terminate the suspension of liquidation of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 6, 1993. The Department reinstated suspension of liquidation and the cash deposit requirement for entries made on or after August 17, 1993, the date of publication of the countervailing duty order. Thus, merchandise entered on or after April 6, 1993, and before August 17, 1993 is to be liquidated without regard to countervailing duties.

For the periods December 7, 1992 through April 5, 1993, and August 17, 1993 through December 31, 1993, we determine the net subsidy to be 2.98 percent *ad valorem*.

The Department will instruct the U.S. Customs Service to assess the following countervailing duties:

Period	Manufacturer/ exporter	Rate (percent)
December 7, 1992–April 5, 1993.	All companies	2.98
April 6, 1993–August 16, 1993.	All companies	.....
August 17, 1993–December 31, 1993.	All companies	2.98

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties of 2.98 percent of the f.o.b. invoice price on all shipments of the subject merchandise from all manufacturers, producers, and exporters, entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: January 31, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–3068 Filed 2–9–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Admiistration

[I.D. 020696D]

Gulf of Maine Take Reduction Team Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Take Reduction Team (TRT) for the Gulf of Maine (GME) harbor porpoise/sink-gillnet fishery will hold a meeting to develop a Take Reduction Plan (TRP) as described in the Marine Mammal Protection Act (MMPA) focusing on reducing bycatch in the sink-gillnet fisheries of the GME and the Bay of Fundy, Canada.

DATES: The meeting will be held on February 14 and 15, 1996, 8:30 a.m. until 4:30 p.m.

ADDRESSES: The TRT meeting will be held at the King's Grant Inn/Quality Inn, on Route 128, Danvers, MA 01923, (508) 774–6800.

FOR FURTHER INFORMATION CONTACT: Kevin Chu, (508) 281–9254, or Michael Payne, (301) 713–2322

SUPPLEMENTARY INFORMATION: On April 30, 1994, the 1994 Amendments to the MMPA were signed into law. Section 117 of the MMPA requires that NMFS complete stock assessment reports for all marine mammal stocks within U.S. waters. Each stock assessment report is required to categorize the status of the stock as one that either has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or is a strategic stock, with a description of the reasons therefore; and estimate the potential biological removal (PBR) level for the stock, describing the information used to calculate it, including the recovery factor. The Stock Assessment Report and the calculated PBR was published by NMFS in July 1995.

The MMPA defines a ''strategic stock'' as a marine mammal stock for which the level of direct human-caused mortality exceeds the PBR level; which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 (ESA) within the foreseeable future; or which is listed as a threatened species or endangered species under the ESA, or is designated as depleted under the MMPA. The MMPA further defines the term ''potential biological removal,'' or PBR, as ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.'' The GME harbor porpoise population was proposed as threatened under the ESA on January 7, 1993, and the bycatch of the GME population of harbor porpoise (approximately 1,300 per year in 1992 and 1993) is significantly greater (an order of magnitude greater) than the calculated PBR (approximately 400). The GME population of harbor porpoise, therefore, is considered ''strategic'' under the MMPA.

For a strategic stock, section 118(f) of the MMPA requires NMFS to appoint a TRT, and this TRT must develop a TRP designed to assist in the recovery or