

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-412-811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Preliminary Results 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 (the Department) is conducting an administrative review of the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom. The period covered by this administrative review is January 1, 1995, through December 31, 1995. For information on the net subsidy for each reviewed company, as well 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 indicated in the "Preliminary Results of Review" section of this notice. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 7, 1997.

FOR FURTHER INFORMATION CONTACT: Christopher Cassel or Dana Mermelstein, Office of CVD/AD Enforcement VI, 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 March 22, 1993, the Department published in the **Federal Register** (58 FR 15327) the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom. On March 4, 1996, the Department published a notice of "Opportunity to Request an Administrative Review" (61 FR 8238) of this countervailing duty order. We received timely requests for review from Inland Steel Bar Co. and United States/Kobe Steel Co., interested parties to this proceeding. We initiated the review, covering the period January 1, 1995,

through December 31, 1995, on April 25, 1996 (61 FR 18378).

In accordance with 19 CFR § 355.22(a), this review covers only those producers or exporters for which a review was specifically requested. Accordingly, this review covers British Steel Engineering Steel Limited (formerly United Engineering Steels Limited), and British Steel plc. On November 29, 1996, we extended the period for completion of the preliminary results pursuant to section 751(a)(3) of the Tariff Act of 1930, as amended. *Extension of the Time Limit for Certain Countervailing Duty Administrative Review*, 61 FR 60684 (November 29, 1996). Therefore, the deadline for these preliminary results is no later than March 31, 1997, and the deadline for the final results of this review is no later than 120 days from the date on which these preliminary results are published in the **Federal Register**.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

Imports covered by this review are hot-rolled bars and rods of non-alloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and for Customs purposes,

our written description of the scope of this proceeding is dispositive.

Verification

As provided in section 782(i) of the Act, we verified information submitted by the Government of the United Kingdom, British Steel plc., and British Steel Engineering Steels. We followed standard verification procedures, including meeting with government and company officials and examining relevant accounting and financial records and other original source documents. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099 of the Main Commerce Building).

Facts Available

Section 776(a)(2) of the Act, requires the Department to use facts available if "an interested party or any other person * * * withholds information that has been requested by the administering authority * * * under this title." The facts on the record show that British Steel plc received assistance during the period of review (POR) under the European Union BRITE/EuRAM program. The facts also show that this assistance was unreported in the questionnaire response, notwithstanding a specific question on this program in the Department's questionnaire. See the March 31, 1997, *Memorandum for Acting Assistant Secretary Re: Facts Available for New Subsidies Discovered at Verification*, public document, on file in the Central Records Unit, Room B-099 of the Department of Commerce).

Section 776(b) of the Act permits the administering authority to use an inference that is adverse to the interests of an interested party if that 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 the investigation under this title, (3) any previous review under section 751 or determination under section 753 regarding the country under consideration, or (4) any other information placed on the record. Because respondents were aware of the requested information but did not comply with the Department's request for such information, we find that respondents failed to cooperate by not acting to the best of their ability to comply with the Department's request. Therefore, we are using adverse inferences in accordance with section 776(b) of the Act. The adverse inference

is a finding that the BRITE/EuRAM program is specific under section 771(5A) of the Act, and that the grants constitute a financial contribution which benefits the recipient. As such, these grants are countervailable. This finding conforms with the Department's facts available determination in the *Final Affirmative Countervailing Duty Determination; Certain Pasta From Turkey*, 61 FR 30366, 30367 (June 14, 1996).

Change in Ownership

(I) Background

On March 21, 1995, British Steel plc (BS plc) acquired all of Guest, Keen & Nettlefolds' (GKN) shares in United Engineering Steels (UES), the company which produced and exported the subject merchandise to the United States during the original investigation. Thus, during the POR, UES became a wholly-owned subsidiary of BS plc and was renamed British Steel Engineering Steels (BSES). For ease of reference, we will continue to refer to the company as UES in this notice.

Prior to this change in ownership, UES was a joint venture company formed in 1986 by British Steel Corporation (BSC), a government-owned company, and GKN. In return for shares in UES, BSC contributed a major portion of its Special Steels Business, the productive unit which produced the subject merchandise. GKN contributed its Brymbo Steel Works and its forging business to the joint venture. BSC was privatized in 1988 and now bears the name BS plc.

In the investigation of this case, the Department found that BSC had received a number of subsidies prior to the 1986 transfer of its Special Steels Business to UES. See *Final Affirmative Countervailing Duty Determination; Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom*, 58 FR 6237, 6243 (January 27, 1993) (*Lead Bar*). Further, the Department determined that the sale to UES did not alter the effect of these previously bestowed subsidies, and thus the portion of BSC's pre-1986 subsidies attributable to its Special Steels Business transferred to UES. *Lead Bar* at 6240.

In the 1993 certain steel products investigations, the Department modified the *Lead Bar* allocation methodology. Specifically, the Department stated that it could no longer be assumed that the entire amount of subsidies allocated to a productive unit follows it when it is sold. Rather, when a productive unit is spun-off or acquired, a portion of the sales price of the productive unit

represents the reallocation of prior subsidies. See the General Issues Appendix (GIA), appended to the *Final Countervailing Duty Determination; Certain Steel Products From Austria*, 58 FR 37217, 37269 (July 9, 1993) (*Certain Steel*). In a subsequent Remand Determination, the Department aligned *Lead Bar* with the methodology set forth in the "Privatization" and "Restructuring" sections of the GIA. *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Remand Determination* (October 12, 1993) (*Remand*).

(II) Analysis of BS plc's Acquisition of UES

On March 21, 1995, BS plc acquired 100 percent of UES. In determining how this change in ownership affects our attribution of subsidies to the subject merchandise, we relied on Section 771(5)(F) of the Act, which states that a change in ownership does not require a determination that past subsidies received by an enterprise are no longer countervailable, even if the transaction is accomplished at arm's length. The Statement of Administrative Action, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (SAA), explains that the aim of this provision is to prevent the extreme interpretation that the arm's length sale of a firm automatically, and in all cases, extinguishes any prior subsidies conferred. While the SAA indicates that the Department retains the discretion to determine whether and to what extent a change in ownership eliminates past subsidies, it also indicates that this discretion must be exercised carefully by considering the facts of each case. SAA at 928.

In accordance with the SAA, we have examined the facts of BS plc's acquisition of UES, and we preliminarily determine that the change in ownership does not render previously bestowed subsidies attributable to UES no longer countervailable. However, we also preliminarily determine that a portion of the purchase price paid for UES is attributable to its prior subsidies. Therefore, we have reduced the amount of the subsidies that "travel" with UES to BS plc, taking into account the allocation of subsidies to GKN, the former joint-owner of UES. See the March 31, 1997, *Memorandum For Acting Assistant Secretary Re: BS plc's March 1995 Acquisition of UES* (public document, on file in the Central Records Unit, Room B-099 of the Department of Commerce) (*Acquisition Memo*). To calculate the amount of UES' subsidies that passed through to BS plc as a result of the acquisition, we applied the

methodology described in the "Restructuring" section of the GIA. See GIA, 58 FR at 37268-37269. This determination is in accordance with our changes in ownership finding in *Final Affirmative Countervailing Duty Determination; Pasta From Italy*, 61 FR 30288, 30289-30290 (June 14, 1996), and our finding in the 1994 administrative review of this case, in which we determined that "[t]he URAA is not inconsistent with and does not overturn the Department's General Issues Appendix methodology or its findings in the *Lead Bar Remand Determination*." *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 61 FR 58377, 58379 (November 14, 1996).

With the acquisition of UES, we also need to determine whether BS plc's remaining subsidies are attributable to the subject merchandise. Where the Department finds that a company has received untied countervailable subsidies, to determine the countervailing duty rate, the Department allocates those subsidies to that company's total sales of domestically produced merchandise, including the sales of 100-percent-owned domestic subsidiaries. If the subject merchandise is produced by a subsidiary company, and the only subsidies in question are the untied subsidies received by the parent company, the countervailing duty rate calculation for the subject merchandise is the same as described above. Similarly, if such a company purchases another company, as was the case with BS plc's purchase of UES, then the current benefit from the parent company's allocable untied subsidies is attributed to total sales, including the sales of the newly acquired company. See, e.g., GIA, 58 FR at 3762 ("the Department often treats the parent entity and its subsidiaries as one when determining who ultimately benefits from a subsidy"); *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Germany*, 58 FR 37315 (July 9, 1993). Accordingly, we preliminarily determine that it is appropriate to collapse BSES with BS plc for purposes of calculating the countervailing duty for the subject merchandise. BSES, as a 100 percent-owned subsidiary of BS plc, now also benefits from the remaining benefit stream of BS plc's untied subsidies.

In collapsing UES with BS plc, we also preliminarily determine that UES' untied subsidies "rejoin" BS plc's pool of subsidies with the company's 1995 acquisition. All of these subsidies were

untied subsidies originally bestowed upon BSC (BS plc). After the formation of UES in 1986, the subsidies that "traveled" with the Special Steels Business to their new home were also untied, and were found to benefit the company as a whole. See the *Acquisition Memo*.

(III) Calculation of Benefit

To calculate the countervailing duty rate for the subject merchandise in 1995, we first determined BS plc's benefits in 1995, taking into account all spin-offs of productive units (including the Special Steel Business) and BSC's full privatization in 1988. See *Final Affirmative Countervailing Duty Determination; Certain Steel Products from the United Kingdom*, 58 FR 37393 (July 9, 1993) (*UK Certain Steel*). We then calculated the amount of UES's subsidies that "rejoined" BS plc after the 1995 acquisition, taking into account the reallocation of subsidies to GKN. As indicated above, in determining both these amounts, we followed the methodology outlined in the *GIA*. After adding BS plc's and UES' benefits for each program, we then divided that amount by BS plc's total sales of domestically produced merchandise in 1995.

In this administrative review, we preliminarily find it appropriate to make two changes to the calculation methodology. These changes involve (1) The calculation of the net present value in administrative reviews and (2) the period of allocation for non-recurring subsidies.

(1) The Net Present Value Calculation in Administrative Reviews

To calculate the benefit to UES in the original investigation, we determined the subsidies that were allocated from BSC to UES by following the *GIA* methodology described above. To do this, we first divided the asset value of BSC's Special Steels Business by the value of BSC's total assets. This ratio represents the portion of BSC's subsidies that were attributable to its Special Steels Business. The Department then applied this ratio to the net present value, in the year of the spin-off, of the future benefit streams from all of BSC's prior subsidies. The future benefit stream took into account prior spin-offs of BSC productive units. That amount represented the subsidies allocated to the Special Steels Business.

The Department next estimated the portion of the purchase price that could be attributed to prior subsidies by determining the portion of BSC's net worth that was accounted for by subsidies at the time of the spin-off.

This was calculated by dividing the face value of the allocable subsidies received by BSC in each year from fiscal year 1977/78 through fiscal year 1984/85 (the year prior to the spin-off) by BSC's net worth in the same year. The simple average of these ratios was then multiplied by the purchase price of the productive unit to determine the portion of the purchase price that can be attributed to prior subsidies. This amount was then subtracted from the amount of subsidies attributed to BSC's Special Steels Business at the time of the sale. The result is the amount of subsidies allocated to UES in 1986. We then divided the subsidies allocated to UES by the net present value in 1986 of the future benefit streams from all non-recurring subsidies received by BSC prior to the spin-off. The resulting percentage represented the portion of BSC's future benefit streams apportioned to UES. This percentage was then multiplied by the benefit amount from BSC's previously bestowed subsidies. The result represented the total amount of countervailable subsidies to UES for that period.

In each of the two prior administrative reviews of this case, and in each administrative review of other cases involving changes in ownership, we recalculated the amount of subsidies that were extinguished due to privatization, or which "pass-through" as a result of a change in ownership. Specifically, we revisited the original privatization or change in ownership calculation, and excluded from the future benefit streams subsidies whose benefit had expired in the year prior to the POR. We then recalculated the net present value of the remaining subsidies in the year of the transaction. This recalculation results in a change in the amount of subsidies that pass-through or that may be extinguished as a result of a change in ownership. The rationale underlying that approach was that in the calculation for a specific POR, the net present value of the future stream of benefits should include only the subsidies benefitting the company during the POR.

We have revisited that methodology in this administrative review and preliminarily determine that it is not appropriate to modify the calculation in the manner described above. The change in ownership of a company is a fixed event at a particular point in time. Thus, the percentage of subsidies that "travel" with a company or that may be extinguished due to privatization in a given year is also fixed at that same point in time and does not change. See the March 31, 1997, *Memorandum for Acting Assistant Secretary Re:*

Privatization/Change in Ownership Calculation Methodology (public document on file in the Central Records Unit, Room B-099 of the Department of Commerce). Therefore, the pass-through percentage will no longer be altered once it has initially been determined in an investigation or administrative review. We have modified the UES spin-off calculations in this administrative review to reflect the change outlined above.

(2) Allocation Methodology

In the past, the Department has relied upon information from the U.S. Internal Revenue Service (IRS) on the industry-specific average useful life (AUL) of assets in determining the allocation period for non-recurring subsidies. *GIA*, 58 FR at 37226. However, in *British Steel plc. v. United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) ruled against this allocation methodology. In accordance with the Court's remand order, the Department calculated a company-specific allocation period based on the AUL of non-renewable physical assets for BS plc. This allocation period was 18 years. This remand determination was affirmed by the Court on June 4, 1996. *British Steel plc v. United States*, 929 F. Supp. 426, 439 (CIT 1996) (*British Steel II*).

The Department has acquiesced to the Court's decision and, as such, we have been determining the allocation period for non-recurring subsidies using company-specific AUL data where reasonable and practicable. In other cases, the Department has stated that it is reasonable and practicable to allocate all new non-recurring subsidies (*i.e.*, subsidies that have not yet been assigned an allocation period) based on a company-specific AUL. However, we have further determined that if a subsidy has already been countervailed based on an allocation period established in an earlier segment of the proceeding, it does not appear reasonable or practicable to reallocate that subsidy over a different period of time. In other words, since the countervailing duty rate in earlier segments of the proceeding was calculated based on a certain allocation period and resulting benefit stream, redefining the allocation period in later segments of the proceeding would entail taking the original grant amount and creating an entirely new benefit stream for that grant. Such a practice may lead to an increase or decrease in the amount countervailed and, thus, would result in the possibility of over-countervailing or under-countervailing the actual benefit.

As such, the Department found that a more reasonable and accurate approach was, normally, to continue using the allocation period first assigned to the subsidy. See, e.g., *Certain Carbon Steel Products from Sweden; Preliminary Results of Countervailing Duty Administrative Review*, 61 FR 64062 (December 3, 1996) (*Swedish Steel*).

However, notwithstanding the general approach outlined above, due to the unique circumstances of this case, we preliminarily determine that it is appropriate to change the allocation period for the previously bestowed subsidies attributed to UES, even though all of these subsidies were bestowed prior to the POR and had established allocation periods. The Department's acquiescence to the CIT's decision in the *Certain Steel* cases has resulted in different allocation periods between the *UK Certain Steel* and *Lead Bar* proceedings (18 years vs. 15 years). Different allocation periods for the same subsidies in two different proceedings involving the same company generate significant inconsistencies. For instance, the portion of BSC's subsidies attributed to UES in *UK Certain Steel* is different from the portion calculated in the *Lead Bar* proceeding. Furthermore, with BS plc's reacquisition of UES in 1995, UES became a wholly-owned subsidiary of BS plc. Because we have now collapsed the two companies, UES' subsidies now "rejoin" BS plc's subsidies (see the *Acquisition Memo*). To maintain a consistent allocation period across the *Lead Bar* and *UK Certain Steel* proceedings, as well as in the different segments of *Lead Bar*, we preliminarily determine that it is appropriate to apply the company-specific 18-year allocation period to all non-recurring subsidies in this review. See the March 31, 1997, *Memorandum For Acting Assistant Secretary Re: Allocation Period for Nonrecurring Subsidies* (in the Central Records Unit of the Department of Commerce, Room B-099 of the Main Commerce Building) (*Allocation Memo*).

Analysis of Programs

I. Programs Conferring Subsidies

In determining the subsidies previously bestowed to BSC/BS plc that were allocated to UES, we examined the following programs: equity infusions, Regional Development Grants, a National Loan Fund loan cancellation, and loans and interest rebates under ECSC Article 54.

(A) Equity Infusions

In every year from 1978/79 through 1985/86, BSC/BS plc received equity capital from the Secretary of State for

Trade and Industry pursuant to section 18(1) of the Iron and Steel Acts 1975, 1981, and 1982. According to section 18(1), the Secretary of State for the Department of Trade and Industry may "pay to the Corporation (BSC) such funds as he sees fit." The Government of the United Kingdom's equity investments in BSC/BS plc were made pursuant to an agreed external financing limit which was based upon medium-term financial projections. BSC's performance was monitored by the Government of the United Kingdom on an ongoing basis and requests for capital were examined on a case-by-case basis. The UK government did not receive any additional ownership, such as stock or additional rights, in return for the capital provided to BSC/BS plc under section 18(1) since it already owned 100 percent of the company.

In *Lead Bar* (58 FR at 6241), the Department found BSC/BS plc to be unequityworthy from 78/79 through 1985/86, and thus determined that the Government of the United Kingdom's equity infusions were inconsistent with commercial considerations. Although, prior to the formation of UES, BSC's section 18(1) equity capital was written off in two stages (£3,000 million in 1981 and £1,000 million in 1982) as part of a capital reconstruction of BSC, the Department determined that BSC/BS plc benefitted from these equity infusions, notwithstanding the subsequent write-off of equity capital. Therefore, the Department countervailed the equity investments as grants given in the years the equity capital was received. No new information or evidence of changed circumstances was presented in this review to warrant a reconsideration of that finding.

Because the Department determined in *Lead Bar* that the infusions are non-recurring, we have allocated the benefits over BS plc's company-specific average useful life of renewable physical assets (18 years).

To calculate the benefit from these grants, we have used a discount rate which includes a risk premium. See, e.g., *Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Mexico*, 58 FR 37352, 37354 (July 9, 1993) (*Mexican Steel*). While uncreditworthiness was not specifically alleged or investigated during the investigation on *lead bar*, in *UK Certain Steel* the Department found that BSC/BS plc was uncreditworthy from 1977/78 through 1985/86. No new information or evidence of changed circumstances was presented in this review to warrant a reconsideration of that finding.

To calculate the benefit to the subject merchandise from this program, we first summed the benefit to BS plc from all infusions allocated to 1995. Then, we determined the portion of that benefit still remaining with BS plc after accounting for privatization and spin-offs. To that we added the portion of UES's subsidies under this program that "rejoined" BS plc with the acquisition. See the "Change in Ownership" section of the notice. We then divided the result by BS plc's total sales of all products domestically-produced during 1995. On this basis, we preliminarily determine the net subsidy for this program to be 6.55 percent *ad valorem* in 1995.

(B) Regional Development Grant Program

Regional development grants were paid to BSC/BS plc under the Industry Act of 1972 and the Industrial Development Act of 1982. In order to qualify for assistance under these two Acts, an applicant had to be engaged in manufacturing and located in an assisted area. Assisted areas are older, industrial regions identified as having deep-seated, long-term problems such as high levels of unemployment, migration, slow economic growth, derelict land, and obsolete factory buildings. Regional development grants were given for the purchase of specific assets. According to the Government of the United Kingdom, the program involved one-time grants, sometimes disbursed over several years.

BSC/BS plc received regional development grants during the period between fiscal years 1978/79 and 1985/86. The Department found this program countervailable in *Lead Bar* (58 FR at 6242), because it is limited to specific regions. No new information or evidence of changed circumstances was presented in this review to warrant a reconsideration of that finding.

In *Lead Bar*, we determined that, since each grant required a separate application, these grants are non-recurring. Accordingly, we have calculated the benefits from this program by allocating the benefits over BS plc's company-specific average useful life of renewable physical assets (18 years). See *British Steel II*, 929 F. Supp. at 439. Since BSC/BS plc was uncreditworthy from 1978/79 through 1985/86 (as discussed under the "Equity Infusions" section, above), we have used a discount rate which includes a risk premium (see *Mexican Steel*, 58 FR at 37354) to calculate the benefits from these grants.

To calculate the benefit from this program, we followed the same methodology described above for equity

infusions. On this basis, we preliminarily determine the net subsidy for this program to be 0.23 percent *ad valorem* in 1995.

(C) National Loan Funds Loan Cancellation

In conjunction with the 1981/1982 capital reconstruction of BSC, section 3(1) of the Iron and Steel Act of 1981 extinguished certain National Loans Fund (NLF) loans, as well as the accrued interest thereon, at the end of BSC's 1980/81 fiscal year. Because this loan cancellation was provided specifically to BSC, the Department determined in *Lead Bar* (58 FR at 6242) that it provided a countervailable benefit. No new information or evidence of changed circumstances was presented in this review to warrant a reconsideration of that finding.

We calculated the benefit for this review using our standard methodology for non-recurring grants. We allocated the benefits from this loan cancellation over BS plc's company-specific average useful life of renewable physical assets (18 years). See *British Steel II*, 929 F. Supp. at 439. Because BSC/BS plc was found to be uncreditworthy in 1981/82 (as discussed under "Equity Infusions" section, above), we have used a discount rate which includes a risk premium. See *Mexican Steel*, 58 FR at 37354.

To calculate the benefit from this program, we followed the same methodology described above for equity infusions. On this basis, we preliminarily determine the net subsidy for this program to be 0.56 percent *ad valorem* in 1995.

(D) European Coal and Steel Community (ECSC) Article 54 Loans/Interest Rebates

The European Coal and Steel Community's (ECSC) Article 54 Industrial Investment loans are direct, long-term loans from the Commission of the European Communities to be used by the iron and steel industry for purchasing new equipment or financing modernization. The purpose of the program is to facilitate the borrowing process for companies in the ECSC, some of which may not otherwise be able to obtain loans. In *UK Certain Steel*, the Department determined that this program is limited to the iron and steel industry, and thus is countervailable to the extent that it provides loans on terms inconsistent with commercial considerations. 58 FR at 37397. No new information or evidence of changed circumstances was presented in this review to warrant a reconsideration of that finding.

In addition, interest rebates on Article 54 loans were granted to steel

companies during the restructuring and modernization of the industry in the early 1980s. To qualify for the rebates, companies had to meet certain criteria, such as being in the process of reducing their steel production capacity or of implementing improvements in processing that would yield energy savings and improved efficiency.

The interest rebates, which were limited to a maximum of 3 percent of the total investment over a period of five years, were funded from the ECSC operational budget. While levies imposed on ECSC steel companies have provided the revenues for the operational budget since 1985, contributions by Member States supplemented the budget before that time. For this reason, the Department determined in *UK Certain Steel* that a portion of those interest rebates was countervailable. *Id.* Following the same methodology in this review to determine the countervailable portion, we calculated the ratio of the contributions by Member States to the ECSC's total available funds for each year in which the rebates were given, and then multiplied this ratio by the rebate amount.

BSC/BS plc received one Article 54 loan in fiscal year 76/77 and two Article 54 loans in fiscal year 77/78, all of which were provided in U.S. dollars were still outstanding during the POR. BSC/BS plc also received interest rebates during the first five years of the 76/77 loan. Because BSC/BS plc qualified for the interest rebate at the time the loan was granted, we considered the rebate to constitute a reduction in the interest rate charged rather than a grant.

We considered the loan made to BSC/BS plc during its creditworthy period (*i.e.*, in BSC's 76/77 fiscal year) separately from the two loans made during its uncreditworthy period (*i.e.*, in BSC's 77/78 fiscal year). For the Article 54 loan provided when BSC/BS plc was creditworthy, we used as our benchmark the average U.S. long-term commercial rate for 1977. We used this rate because we did not have information on U.S. dollar loans borrowed in the United Kingdom in 1977. To calculate the benefit from this loan we employed our long-term loan methodology. See, *e.g.*, *Final Affirmative Countervailing Duty Determinations: Certain Steel Products From France*, 58 FR 37304, 37308 (July 9, 1993) (*French Steel*). We then compared the amount of interest that would have been paid on the benchmark loan to the interest paid by BSC/BS plc (factoring in the interest rebate as discussed above) and found

that BSC's interest payments were higher than those it would have made on the benchmark loan. Therefore, we find that this particular loan was provided on terms consistent with commercial considerations.

For the loans provided when BSC/BS plc was uncreditworthy, we used as our benchmark the highest U.S. lending rate available for long-term fixed rate loans at the time the loan was granted, plus a risk premium equal to 12 percent of the U.S. prime rate for 1977. See, *e.g.*, *Final Affirmative Countervailing Duty Determination: New Steel Rail, Except Light Rail, from Canada*, 54 FR 31991 (August 3, 1989); see also, *French Steel*, 58 FR at 37309. Again, we used a U.S. interest rate because we did not have information on U.S. dollar loans borrowed in the United Kingdom in 1977. We then compared the cost of the benchmark financing to the cost of the financing that BSC/BS plc received under this program and found that the two Article 54 loans to BSC/BS plc during its uncreditworthy period were provided on terms inconsistent with commercial considerations.

To calculate the benefit from these loans we used our long-term loan methodology and a benchmark discount rate which includes a risk premium (*French Steel*, 58 FR at 37308). We first calculated the grant equivalent and allocated it over the life of the loans. We then followed the same methodology described above for equity infusions. On this basis, we preliminarily determine the net subsidy for this program to be 0.001 percent *ad valorem* in 1995.

(E) BRITE/EuRAM

As explained in the "Facts Available" section of this notice, BS plc received assistance under the BRITE/EuRAM program during the POR that was unreported in the questionnaire response, notwithstanding a specific question on this program in the Department's questionnaire. Because respondents failed to comply with the Department's request for information, we are applying adverse inferences in accordance with section 776(b) of the act. Therefore, we preliminarily determine that the BRITE/EuRAM program is specific under section 771(5A) of the Act and, therefore, countervailable. See the March 31, 1997, *Memorandum for Acting Assistant Secretary Re: Facts Available for New Subsidies Discovered at Verification*, public document, on file in the Central Records Unit, Room B-099 of the Department of Commerce).

We have calculated the benefit under this program for the POR using our standard methodology for non-recurring

grants. See *GIA*, 58 FR at 37226. However, the grants received by BS plc under this program were less than 0.5 percent of BS plc's total sales, and thus were allocated to the year of receipt. On this basis, we preliminarily determine the net subsidies for this program to be 0.001 percent *ad valorem*.

II. Programs Preliminarily Determined To Be Not Used

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

- (A) New Community Instrument Loans
- (B) ECSC Article 54 Loan Guarantees
- (C) NLF Loans
- (D) ECSC Conversion Loans
- (E) European Regional Development Fund Aid
- (F) Article 56 Rebates
- (G) Regional Selective Assistance
- (H) ECSC Article 56(b)(2) Redeployment Aid
- (I) Inner Urban Areas Act of 1978
- (J) LINK Initiative
- (K) Transportation Assistance

III. Programs Preliminarily Determined To Be Terminated Transportation Assistance

The Department originally found that BS plc received preferential rail transport freight subsidies under this program in the *Certain Steel* investigation. *UK Certain Steel*, 58 FR at 37397. During this administrative review, however, we found that this program has been terminated and that there are no residual benefits. See the March 31, 1997, *Memorandum to the File Re: Transportation Assistance* (public document on file in the Central Records Unit, Room B-099 of the Department of Commerce).

Preliminary Results of Review

In accordance with 19 CFR 355.22(c)(4)(ii), we have calculated an individual subsidy rate for each producer/exporter subject to this administrative review. As discussed in the "Change in Ownership" section of the notice, above, we are treating British Steel plc and British Steel Engineering Steels as one company for purposes of this proceeding. For the period January 1, 1995 through December 31, 1995, we preliminarily determine the net subsidy for British Steel plc/British Steel Engineering Steel/United Engineering Steel (BS plc/BSES/UES) to be 7.35 percent *ad valorem*. If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess countervailing duties

for BS plc/BSES at 7.35 percent *ad valorem*. The Department also intends to instruct the U.S. Customs Service to collect a cash deposit of 7.35 percent of the f.o.b. invoice price on all shipments of the subject merchandise from BS plc/BSES/UES, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

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 countervailing duty cases are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. Requests for administrative reviews must now specify the companies to be reviewed. See 19 CFR § 355.22(a). The requested review will normally cover only those companies specifically named. Pursuant to 19 CFR § 355.22(g), 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); see also, *Floral Trade Council v. United States*, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR § 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR § 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 are 20.33 percent *ad valorem* for Allied Steel Wire and 9.76 percent *ad valorem* for all other non-reviewed companies, which are the rates calculated in the most recently completed administrative proceeding. See *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 60 FR 54841 (October 26, 1995). 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, 1995 through

December 31, 1995, 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

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. 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 seven 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 seven 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 § 355.38.

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 § 355.38, 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 in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: March 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 033197H]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.