DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–803 and A–834–803]

Titanium Sponge From the Russian Federation and Republic of Kazakstan: Postponement of Preliminary Results of Antidumping Duty Administrative Reviews

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

ACTION: Extension of time limits for preliminary results of antidumping duty administrative reviews.

SUMMARY: The Department of Commerce is extending by 60 days the time limit of the preliminary results of the antidumping duty administrative review of the antidumping finding on titanium sponge from the Russian Federation (A–821–803) and the Republic of Kazakstan (A–834–803), covering the period August 1, 1996, through July 31, 1997, since it is not practicable to complete these reviews within the time limits mandated by the Tariff Act of 1930, as amended (19 U.S.C. 1675 (a)(3)(A)).

EFFECTIVE DATE: April 16, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Wendy Frankel, Antidumping Duty and Countervailing Duty Enforcement, Office Four, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–3936 and 482–5849, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's regulations are to the current regulations as codified at 19 CFR 351 (1998).

Background

On September 25, 1997 (62 FR 50292), the Department of Commerce (the Department) initiated administrative reviews of the antidumping findings on titanium sponge from the Russian Federation and the Republic of Kazakstan, covering the period August 1, 1996, through July 31, 1997. In our notice of initiation, we stated our intention to issue the final results of these reviews no later than August 31, 1998. On February 10, 1998, the Department determined that due to the complexity of the legal and methodological issues presented by these reviews, it was not practicable to complete these reviews within the time limits mandated by the Act. *See* Memorandum to Richard Moreland Concerning the Extension of Case Deadlines, dated February 5, 1998. Accordingly, the Department postponed the preliminary determinations by 60 days.

Postponement of Preliminary and Final Results of Review

Section 751(a)(3)(A) of the Act requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) allows the Department to extend this time period to a maximum of 365 days and 180 days, respectively.

On February 10, 1998, when the Department first postponed the preliminary determinations of these cases, we evaluated the complexity of the legal and methodological issues presented by these reviews and conservatively estimated that a 60 day postponement would be sufficient to allow for a complete analysis prior to issuing the preliminary determinations. However, after further development of the issues presented in these reviews, we now realize that our initial estimate of the time needed to complete the preliminary analysis in each case was insufficient. Therefore, we determine that it is not practicable to complete these reviews within the current time frame because of the complexity of the legal and methodological issues in these reviews and are postponing the preliminary determinations of these cases by an additional 60 days. *See* Memorandum to Maria Harris Tildon Concerning the Extension of Case Deadlines dated April 6, 1998.

Due to the 60 day extension, the deadline for issuing the preliminary results of these reviews is now no later than September 1, 1998. The deadline for issuing the final results of these reviews will be no later than 120 days from the publication of the preliminary results.

These extensions are in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675 (a)(3)(A)).

Dated: April 7, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary, for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Certain Welded Carbon Steel Pipe and Tube and Welded Carbon Steel Line Pipe From Turkey; Final Results and Partial Rescission of Countervailing Duty Administrative Reviews

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

ACTION: Notice of final results of countervailing duty administrative reviews.

SUMMARY: On December 9, 1997, the Department of Commerce published in the **Federal Register** its preliminary results of administrative reviews of the countervailing duty orders on certain welded carbon steel pipe and tube and welded carbon steel line pipe from Turkey for the period January 1, 1996 through December 31, 1996 (62 FR 64808). The Department has now completed these administrative reviews in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Reviews* section of this notice. We will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Final Results of Reviews* section of this notice.

EFFECTIVE DATE: April 16, 1998.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Maria MacKay, 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) 482–3692 or (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 CFR 355.22(a), these reviews cover only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, the review of the order on certain welded carbon steel pipe and tube (pipe and tube) covers

Borusan Birlesik Boru Fabrikalari A.S. and Borusan Ihracat Ithalat ve Dagitim A.S. (Borusan Group). The review of the order on welded carbon steel line pipe (line pipe) covers Mannesmann-Sumerbank Boru Endustrisi T.A.S. (Mannesmann). These reviews cover the period January 1, 1996 through December 31, 1996, and 21 programs.

The Department also received a timely request from Wheatland Tube Company and the Maverick Tube Corporation (the petitioners) to conduct reviews of Erciyas Boru Sanayii ve Ticaret A.S. (Erbosan), Yucel Boru ve Profil Endustrisi A.S. (Yucel Boru), Bant Boru Sanayii ve Ticaret A.S. (Bant Boru), Erkboru Profil San ve Tic A.S. (Erkboru). These companies did not export pipe and tube or line pipe to the United States during the period of review. Therefore, in the preliminary results notice, we rescinded the reviews with respect to these companies.

Since the publication of the preliminary results on December 9, 1997 (62 FR 64808), the following events have occurred. We invited interested parties to comment on the preliminary results. On January 8, 1997, a case brief was submitted by the Government of the Republic of Turkey (GRT), Mannesmann, which exported line pipe, and the Borusan Group, which exported pipe and tube to the United States during the review period (the respondents). On January 15, 1998, a rebuttal brief was submitted by the petitioners.

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 these administrative reviews in accordance with section 751(a) of the Act. Because these administrative reviews were initiated on April 24, 1997, 19 CFR Part 355 is applicable.

Scope of the Reviews

Imports covered by these reviews are shipments from Turkey of two classes or kinds of merchandise: (1) Certain welded carbon steel pipe and tube, having an outside diameter of 0.375 inch or more, but not more than 16 inches, of any wall thickness. These products, commonly referred to in the industry as standard pipe and tube or structural tubing, are produced to various American Society for Testing and Materials (ASTM) specifications, most notably A–53, A–120, A–135, A–500, or A–501; and (2) Certain welded carbon steel line pipe with an outside diameter of 0.375 inch or more, but not more than 16 inches, and with a wall thickness of not less than 0.065 inch. These products are produced to various American Petroleum Institute (API) specifications for line pipe, most notably API–L or API–LX. These products are classifiable under the *Harmonized Tariff Schedule of the United States* (HTSUS) as item numbers 7306.30.10 and 7306.30.50. The HTSUS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Programs

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

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. *Pre-shipment Export Credit.* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties. However, a review of the record has led us to modify the calculations. In the preliminary results, we inadvertently did not calculate the benefit on two loans for the Borusan Group. We also amended our calculations of the benefit from all loans of the Borusan Group to conform with the term of the commercial loans obtained by the company. Accordingly, the net subsidies for this program have changed from the preliminary results and are as follows:

Manufacturer/exporter of pipe and tube	Rate (percent)
Borusan Group	0.22
Mannesmann	0.29

2. *Freight Program*. In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below (see comments 3 and 4, Adjustment of the Freight Program Denominator), has led us to modify our calculations for this program from the preliminary results. Accordingly, the net subsidies for this program have changed and are as follows:

Manufacturer/exporter of pipe and tube	Rate (percent)
Borusan Group	2.43
Mannesmann	3.28

3. *Foreign Exchange Loan Assistance.* In the preliminary results, we found that this program conferred countervailable subsidies on pipe and tube. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter of pipe and tube	Rate (percent)
Borusan Group	0.43

4. *Incentive Premium on Domestically Obtained Goods.* In the preliminary results, we found that this program conferred countervailable subsidies on pipe and tube. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter of pipe and tube	Rate (percent)
Borusan Group	0.01

5. *Investment Allowance.* In the preliminary results, we found that this program conferred countervailable subsidies on pipe and tube. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter of pipe and tube	Rate (percent)
Borusan Group	0.02

B. New Program Determined to Confer Subsidies

Deduction from Taxable Income for Export Revenues. In the preliminary results, we found that the Deduction from Taxable Income for Export Revenues conferred countervailable benefits on the subject merchandise. We did not receive any comments on this program from the interested parties.

Accordingly, the net subsidies for this program remain unchanged from the preliminary results and are as follows:

Manufacturer/exporter of pipe and tube	Rate (percent)
Borusan Group	<0.005
Mannesmann	0.16

II. Programs Found To Be Not Used

In the preliminary results, we found that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs:

1. Resource Utilization Support.
2. State Aid for Exports Program.
3. Advance Refunds of Tax Savings.
4. Export Credit Through the Foreign Trade Corporate Companies Rediscount Credit Facility (Eximbank).
5. Past Performance Related Foreign Currency Export Loans (Eximbank).
6. Export Credit Insurance (Eximbank).
7. Subsidized Turkish Lira Credit Facilities.
8. Subsidized Credit for Proportion of Fixed Expenditures.
9. Fund Based Credit.
10. Export Incentive Certificate Customs Duty & Other Tax Exemptions.
11. Resource Utilization Support Premium (RUSP).
12. Regional Subsidies.

(a) Additional Refunds of VAT (VAT + 10%).

(b) Postponement of VAT on Imported Goods.

(c) Land Allocation (GIP).

(d) Taxes, Fees (Duties), Charge Exemption (GIP).

We did not receive any comments on these programs from the interested parties, and our review of the record has not led us to change our findings from the preliminary results.

Analysis of Comments

Comment 1: Measurement of Countervailable Benefit: Earned Versus Receipt Basis

The respondents argue that the Department's preliminary finding that exporters could not ''predict at the time of export what the benefit would be'' under the Freight Program was in error and is contrary to the Department's long-standing practice. The respondents state that the Department's practice is to measure benefits on the date of export in cases where the benefit is earned on a shipment-by-shipment basis, and the exporter knows the amount of the benefit at the time of export. Thus, because the exporters earned the benefit on a shipment-by-shipment basis upon exportation, and knew the precise U.S. dollar amount of the benefit at the time of exportation, the benefit should be measured on an ''earned basis.''

The respondents also cite, but do not discuss, several cases to demonstrate the Department's practice of measuring benefits on the date of export in cases where the benefit is earned on a shipment-by-shipment basis, and the exporter knows the amount of the benefit at the time of export. Therefore, since the Freight Program encompasses these facts, they argue that, in order to apply this rule consistently, the Department must calculate the benefits under the Freight Program on an ''as earned'' basis, or explain the reason for the methodological change.

In addition, the respondents claim that in *Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Preliminary Results of Countervailing Duty Administrative Reviews*, 62 FR 16782, 16787 (April 8, 1997) and *Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Final Results of Countervailing Duty Administrative Reviews*, 62 FR 43984 (August 18, 1997) (*Pipe and Tube and Line Pipe 1995*), the Department countervailed benefits provided under the Export Performance Credit program, which are similar to those provided under the Freight Program, on the date the merchandise was exported. The respondents state that the Export Performance Credit program provided credits to exporters based on a percentage of the f.o.b. value of their exports, and the Freight Program provided rebates to exporters in the amount of $50 per ton for merchandise exported on Turkish vessels, and $30 per ton for non-Turkish vessels. They argue that the exporters did not know, at the time of export, the exact rate of exchange that would be used to convert the dollar amount to Turkish Lira (TL) under either of the programs and, therefore, the exporters did not know the ''precise'' amount of the benefit in TL that they would receive at a later date.

The respondents also claim that, in designing the Freight Program, the GRT was well aware that Turkish companies invoice their export shipments in U.S. dollars. Because both the benefit and the sales value were expressed in U.S. dollars, they claim that a benefit denominated in U.S. dollars would directly affect the price Turkish companies charged their customers. By contrast, a benefit denominated in TL that would be given at an unspecified later date would, in a hyperinflationary economy, have been of unknown value at the time of export and would have had little or no effect on the price or volume of goods exported. Therefore, they argue that a benefit amount expressed in U.S. dollars clearly provided the exporters with a far more certain knowledge of the true ''value'' of the benefit, because U.S. dollars hold their value, than if the benefit had originally been expressed in TL because of high inflation in Turkey.

The petitioners argue that, on the date of export, the exporters knew only the U.S. dollar-denominated amount that would be used to calculate the TL benefit at some uncertain future date, and that the participants were not assured that they would ultimately receive the equivalent of the U.S. dollar-denominated amount in TL. Instead, the conversion of the benefit into a TL amount was accomplished using an exchange rate that was not contemporaneous with either the date of export or the date of payment. Between the exchange rate date and the date of payment, the real benefit eroded from hyperinflation. As a result, the amount the exporters received was not the TL equivalent of the dollar-denominated benefit. The petitioners further argue that, in fact, the Borusan Group and Mannesmann did not ultimately receive a benefit of $30/$50 per ton. At the time of payment, the lira-denominated benefit was worth no more than $17.10/$28.50, respectively.

The petitioners also claim that none of the cases cited by the respondents argues for a different result from that in the preliminary determination or the Department's decision in *Pipe and Tube and Line Pipe 1995.* The petitioners point to the *Final Affirmative Countervailing Duty Determinations; Certain Welded Carbon Steel Pipe and Tube Products from Turkey*, 51 FR 1268, 1273 (January 10, 1986) *(Final Affirmative 1986)* (wherein the Department enunciated its general rule for assessing benefits on an ''as earned'' basis where the benefit rebates a fixed proportion of the value of the shipment and is known to the exporter), noting that the rationale for countervailing amounts received applies when the recipient could not anticipate precisely how much would be received and hence could not make business decisions based upon benefits received at a future date. Thus, they argue that the Department's position in the *Final Affirmative 1986* is consistent with its treatment of the Freight Program in this review because the exporters did not know and could not have known precisely the amount of the benefit at the time of export.

Moreover, all the other cases cited by the respondents, the petitioners argue, did not deal with hyperinflationary economies. *See Certain Iron-Metal Castings from India (Indian Castings*), 60 FR 44843 (August 29, 1995); *Cotton Shop Towels from Pakistan (Shop Towels*), 61 FR 50273, 50275 (September 25, 1996), (rebates earned on a shipment-by-shipment basis upon export with no diminution of value due to hyperinflation). *See also, Carbon Steel Butt-Weld Pipe Fittings from Thailand (Butt-Weld Pipe Fittings*), 55 FR 1695 (January 18, 1990) (benefits under the Tax Certificates for Exports program assessed on ''as earned'' because the benefits were payable on a fixed percentage of the f.o.b. value of export); *Certain Carbon Steel Products from Brazil*, 49 FR 17988 (April 26, 1984). However, the petitioners argue that in a hyperinflationary economy, a delay in receiving payment can render the amount of the eventual benefit uncertain, unless it is tied to a stable currency.

Department's Position: As we have already stated in *Pipe and Tube and Line Pipe 1995*, it is the Department's long-standing practice to countervail an export subsidy on the date of export on an ''earned basis'' rather than on the date the benefit is received where it is provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis, and the exact amount of the countervailable subsidy is known at the time of export. Contrary to the respondents' assertions, we have not departed from our practice. In *Pipe and Tube and Line Pipe 1995* at 16785, and in these preliminary results, we stated that although the benefit under the Freight Program is calculated based on export tonnage and not as a percent of the f.o.b. value, it is possible that the value of a benefit determined by tonnage could be known at the time of export and, thus, the countervailable benefit could be earned upon exportation. However, as we previously determined in *Pipe and Tube and Line Pipe 1995*, and as the facts in these reviews establish, with regard to the Freight Program, the exporter did not know the amount of the benefit at the time of export. The benefits under the Freight Program were stated in U.S. dollars per ton at the time of export, and were converted to TLs when they were paid at a later date. Because the GRT did not commit to use the exchange rate prevailing on the day the payment was made, as in the Export Performance Credit Program, the exporter could not have known the value of the benefit at the time of export, neither in U.S. dollars nor in TLs. In fact, the GRT announced in February 1995, two months after the shipments took place, that it would convert the dollar amount of the freight benefits using the exchange rate that was in effect on the last day in December 1994. Thus, the exporter ultimately received in 1996 an amount in TLs that did not correspond to the U.S. dollar value of the benefit granted by the government in 1994 at the time of shipment; under the circumstances, it is also obvious that, at the time of shipment, the exporter was in no position to predict what the amount of the final payment would be. *See Pipe and Tube and Line Pipe 1995* at 43991. Indeed, the respondents concede that ''[h]ad the benefit been denominated in TL, the value of the ultimate benefit received, as measured in constant TL, would not have been known at the time of export due to the high inflation in Turkey at the time.'' Case *Brief* p. 7–8.

Contrary to the respondents' argument that the Freight Program is indistinguishable from the Export Performance Credit Program, we found that the programs are distinguishable. Under the Export Performance Credit Program, the value of the benefit was tied to the U.S. dollar. Exporters would receive a percentage of the U.S. dollar value of their exports in TLs based on the foreign exchange rate prevailing at the time of payment. Thus, although at the time of receipt the exporters received more TL than they would have been paid upon exportation, because the benefit was tied to the U.S. dollar, the value of the TL amount remained the same in U.S. dollar terms. However, under the Freight Program, the GRT converted the U.S. dollar value in TL using an exchange rate that did not reflect the full U.S. dollar value of the benefit at the time of payment. Therefore, we have determined that in the case of the Export Performance Program, the value of the benefit was known at the time of export, and therefore can be calculated on an ''as earned'' basis, but in the case of the Freight Program, the value of the benefit was not known at the point of export because the exporters did not know the exchange rate that the GRT would use to convert the U.S. dollar benefit into TLs. As such, for the Freight Program, the calculation must be based on an ''as received'' basis.

As petitioners point out, the cases cited accord with the Department's measurement of the benefits for the Freight Program. In *Shop Towels* and in *Indian Castings*, export rebates were earned on a shipment-by-shipment basis, and the exact amount of the rebate was known at the time of export because the rebate was set as a percentage of the f.o.b. value of the exported merchandise. *See also, Butt-Weld Pipe Fittings; Certain Textile Mill Products and Apparel from Colombia; Certain Textile Mill Products from Thailand; Certain Carbon Steel Products from Brazil.* Further, in *Paint Filters and Strainers from Brazil*, 52 FR 19184 (May 21, 1987) (*Paint Filters*), the Department did not countervail the benefit from the IPI export credit premium program because we found that the program was terminated prior to the initiation of that case, and companies could no longer receive benefits after the date of termination. We did make a statement in *Paint Filters* that, the Department had consistently calculated the benefit under the IPI export credit premium program in prior cases based on the date the premium was earned. However, as noted in *Certain Carbon Steel Products from Brazil*, the IPI export credit premium was based on the f.o.b. value of the exported merchandise, and the amount of the benefit was known at the time of export.

Comment 2: Policy Considerations for Measurement of Benefits

The respondents argue that policy considerations dictate that the Freight Program should be countervailed based on the date the benefit was earned because benefits should be countervailed when they will have the greatest potential effect on a company's export volumes or pricing to the United States. Since, they argue, the countervailing duty law is intended to offset export subsidies, it makes no sense to now countervail benefits under the Freight Program, which was terminated at the end of 1994, because there were no longer any incentives for companies to export during the period of review.

In proffering this policy argument, the respondents claim that, because the benefits under the Freight Program were intended to offset freight charges incurred on export shipments, the benefit should only be countervailable on the date of export because the freight charges were payable immediately after the goods were exported. In support, the respondents point to section 351.514(b) of the *Countervailing Duties: Notice of Proposed Rulemaking*, 62 FR 8818 (February 26, 1997) (Department's proposed regulations), which deals with freight charges. The respondents argue that under this proposed regulation, the Department will consider the benefit to have been received as of the date on which the firm pays or, in the absence of payment, was due to pay the

transport or freight charges. Therefore, because section 351.514(b) countervails freight benefits when they are actually incurred, they argue that the Freight Program benefits should be countervailed on the date the freight charges were incurred, and not when the reimbursements for these charges were later received.

The petitioners counter that it is incorrect for the respondents to suggest that there is any support for their position in section 351.514(b) of the Department's proposed regulations. Section 351.514 corresponds to paragraph (c) of the Illustrative List of Export Subsidies (Illustrative List), annexed to the Agreement on Subsidies and Countervailing Measures and deals with preferential internal transport and freight charges on export shipments. The petitioners argue that neither subsection (c) of the Illustrative List nor section 351.514 can apply to the Freight Program, because the Turkish Freight Program does not involve the provision of internal transport at preferential rates. Rather, petitioners claim that the Freight Program provides a bounty, which may lower the exporter's costs, but the actual freight charge payable is not altered. They claim that where the benefit consists of providing freight at preferential rates, the exporter reaps the benefit at the time of shipment. Therefore, it makes sense to assess duties on the basis of shipment when there is a simultaneous discount in a fixed amount. However, it is another matter to provide a bounty of an indeterminate amount at some later time, particularly in a hyperinflationary economy.

Department's Position: We disagree with the respondents' argument that, as a matter of policy, the Department should countervail benefits under the Freight Program on the date of export because benefits should be countervailed when they have the greatest potential to affect the exporters' volume and pricing decisions. The countervailing duty law does not examine when benefits will have the greatest potential effect on exports to the United States. Pursuant to section 771(5)(C), ''the administering authority is not required to consider the effect of the subsidy in determining whether a subsidy exists * * *.'' Moreover, under the Act, a benefit that is contingent upon export is an export subsidy and, thus, countervailable. *See* section 771(5A)(B). Therefore, in accordance with section 771(5A)(B), we found the Freight Program to be a countervailable export subsidy because the benefit is contingent upon export performance, regardless of whether we measure the benefit on an earned or received basis.

Moreover, we disagree with the respondents' argument that once a program is terminated, benefits received thereafter should not, as a matter of policy, be countervailed because the effect of such benefits on the exporters' decision to export has passed. Under the logic of the respondents' argument, the Department would never be able to countervail export subsidies unless the benefit from such subsidies could be measured at the time of shipment. Clearly this proposal conflicts with the statute and our long-standing practice. Our standard methodology is to countervail subsidies at the time the subsidy affects the cash flow of the company. *See, e.g., Ferrochrome from South Africa; Final Results of Countervailing Duty Administrative Review,* 56 FR 33254, 33255 (July 19, 1991). Generally, that can only be determined when the subsidy is paid or received by the company. The only exception to this general proposition has been when export subsidies are paid as a percentage of the f.o.b. value of the exported merchandise. *See* the Department's Position on *Comment 1.* Only in these situations does the company know with precision at all times what the benefit from the subsidy is. Only under these circumstances is the Department able to determine the subsidy rate on an ''as earned'' basis.

Because the respondents received benefits during the period of review, we have properly included these benefit amounts in our subsidy calculations. The fact that the program was terminated prior to the period of review is not material. It is the Department's practice to countervail residual benefits from a terminated program. *See, e.g., Live Swine from Canada; Notice of Preliminary Results of Countervailing Duty Administrative Reviews; Initiation and Preliminary Results of Changed Circumstances Review and Intent to Revoke Order in Part, 61 FR 26879, 26889 (May 29, 1996) and Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews,* 61 FR 52408 (October 7, 1996); *Pipe and Tube and Line Pipe 1995* at 43991. Furthermore, we note that, in the instant case, because the benefits were provided in cash and bonds with a two-year maturity, benefits will continue to accrue beyond this period of review.

Finally, the respondents also argue that the Department should countervail the benefits under the Freight Program on the date the freight charges for exportation were payable and not when the reimbursements for these charges were received. In support of their argument, the respondents cite to section 351.514 of the Department's proposed regulations. First, we note that the proposed regulations have not yet been finalized, and, thus, are not controlling in these reviews. However, even in citing to those proposed regulations, the respondents have erred in their interpretation. Section 351.514(b) of the Department's proposed regulations corresponds to paragraph (c) of the Illustrative List, and deals with preferential internal transport and freight charges on goods destined for export. Paragraph (a)(1) restates the general principle that a benefit exists to the extent that a firm pays less for the internal transport of goods destined for export than it would for the transport of goods destined for domestic consumption. Therefore, the financial contribution is provided when the payment for the freight charges occurs. Consequently, we would countervail the benefit at the time of payment of the reduced freight charges. As stated in the proposed regulations, ''the Secretary normally will consider the benefit as having been received by the firm on the date the firm paid, or in the absence of payment, was due to pay, the charges.''

The Freight Program, on the other hand, does not involve the provision of transport services at preferential rates. Rather, according to the enabling legislation, the Freight Program was a freight bonus, i.e., a benefit contingent upon export. *See, Questionnaire Response,* Volume II—Exhibit 9, dated June 30, 1997. Therefore, we continue to countervail this benefit at the time the financial contribution affects the cash flow of the company, which is when the company receives the payment of the subsidy to which it is entitled as a result of prior exportations.

Comment 3: Adjustment of Sales Values for Foreign Exchange Difference (Kur Farki)

The respondents argue that the Department's decision to adjust the sales value by the amount of the foreign exchange difference (kur farki account) reduced the export sales amount in the denominator, which led to an erroneous increase of the countervailable benefit for each company under review.

The respondents state that the Department specifically requested that the respondents provide total sales as booked and recorded in their accounting records, which included the sales revenue account plus the sum of the values in the kur farki account. This accounting practice is consistent with the standardized Turkish accounting principles. They state that the Department's explanation for deducting

the foreign exchange difference from the sales value is based on a fundamental misunderstanding of what the kur farki account actually represents. They argue that it does not represent an inflation adjustment, but actual revenue earned on export sales. They claim that the Department incorrectly assumes that the benefits initially denominated in dollars are received precisely on the date of export and are converted to TL on that date, whereas the income from the sale is converted at a later date and is therefore ''inflation adjusted.'' Specifically, they claim that the kur farki account reflects the difference between the estimated TL amount recorded on the invoice date, when the sale is booked, and the TL amount actually received upon receipt of payment from the customer. Depending on the date that the payment is received, the exchange difference can increase or decrease the invoice value. Therefore, the total amount in the kur farki account and the sale revenues account represents total actual income received from export sales transactions.

Finally, the respondents argue that if the Department insists on reducing the total export value by the foreign exchange difference, then it must compute and deduct from the numerator (the countervailable benefit) the foreign exchange difference included in the benefit calculated from the date of exportation generating the benefit until the date the benefit was converted to TL. The respondents conclude that such an adjustment would more than offset the adjustment to the denominator.

The petitioners counter that the issue is not whether the foreign exchange difference amounts are actual revenue; the issue is how to treat an adjustment that is made solely to reflect differences in the relative value of currencies over time in a highly inflationary economy. The initial invoice price represents the true price in terms of the currency as it was valued on the date of the invoice, while the foreign exchange difference represents the true price in terms of the currency as it was valued on a different date. Both prices are ''actual'' prices but are expressed in currencies having different values. Thus, they argue that the Department would not wish to use dollar-denominated benefits in the numerator and lira-denominated benefits in the denominator, it also cannot allow the differing values of the TL over time to distort the results of its calculations.

Department's Position: The same arguments were discussed in the prior review. Although there was further explanation of the accounting system in this review, basically, the facts are the same and our position remains unchanged. *See Pipe and Tube and Line Pipe 1995.* We do not agree with the respondents that the amounts in their kur farki account are actual sales revenue. When the exporter makes a sale, the invoice amount in TL is recorded in the company's sales ledger. Payment of the invoice is subsequently received in U.S. dollars which are converted into TL based on the exchange rate prevailing on that date. Any difference between the invoice amount in TL and the actual payment in TL is recorded in the kur farki account. Therefore, we conclude that the adjustment recorded in the kur farki account is income derived from fluctuations of the relative value of the dollar versus the TL, rather than additional sales revenue, as respondents claim.

Such foreign exchange difference becomes particularly significant in Turkey's highly inflationary economy. As such, it is inappropriate to include it in the denominator. We understand that the amounts in the kur farki account are included in the companies' total revenue figures, in accordance with Turkey's generally accepted principles. However, although the amounts recorded in the kur farki account may be included in the companies' income statement as part of the total revenue figure for tax purposes, this does not detract from our finding. See Price Waterhouse, Doing Business in Turkey, Chapter 11 (1992) (lack of clearly defined commercial accounting principles and the predominance of tax law mean that Turkish law should be treated with extreme caution, and international accounting standards are preferred). Therefore, it is proper for the Department to exclude the amounts in the kur farki account from the sales figures (denominators).

We also disagree with the respondents' argument that the Department must compute and deduct from the numerator the foreign exchange difference included in the benefit calculated from the date of export until the benefit was converted to TL. As discussed in the Department's Position on *Comment 1*, the countervailable benefit under the Freight Program is the actual amount of TL measured at the time of receipt. Therefore, benefits from this program in the numerator reflect the TL received at that time. For these reasons, the Department's position remains unchanged from the preliminary results.

Comment 4: Adjustments of the Freight Program Denominator

The respondents contend that the Department made a clerical error in calculating the denominator used to determine benefits received by the Borusan Group under the Freight Program. The respondents also argue that, if the Department continues to incorrectly adjust the sales values by the foreign exchange difference, then the Department must correct a clerical error it made in calculating the ''adjusted'' value of Mannesmann's total exports of the subject merchandise to the United States. The respondents state that Mannesmann reported a negative foreign exchange difference in connection with export sales of the subject merchandise to the United States, and because the value is negative, they argue that the Department should have added the negative foreign exchange difference to the original sales value rather than subtracting it.

The petitioners claim that the ''error'' in calculating Mannesmann's denominator could not have been ministerial unless the Department was clearly informed previously that a negative amount in the ''kur farki'' account was intended to reflect the fact that Mannesmann received payment from the customer prior to the date that the invoice was issued. The sole source cited by Mannesmann for this alleged factual information is a letter submitted to the Department on November 20, 1997, one month after the deadline for submissions of factual information. Therefore, the petitioners argue that because Mannesmann's factual information is untimely, the Department should not consider it in its final results.

Department's Position: We agree with the respondents that a clerical error was made in calculating the benefit to the Borusan Group from the Freight Program. In calculating the ''adjusted'' denominator, the Department did make a typographical error. We have now corrected the error and calculated a benefit of 2.43 percent ad valorem for the Borusan Group.

We also agree with the respondents that we incorrectly calculated the denominator for total exports of the subject merchandise to the United States for Mannesmann. In instances where the foreign exchange difference was a positive amount it was deducted, therefore, in instances where the foreign exchange difference is denoted as a negative amount, which was the case for Mannesmann, the amount should be added back to the total sales figure. *See Pipe and Tube and Line Pipe 1995.* We

disagree with the petitioners that the respondents' comment is an untimely submission of factual information. The calculations were based on information that was requested by the Department. We have now corrected the calculation and obtained a net countervailable subsidy under the Freight Program of 3.28 percent ad valorem for Mannesmann.

Final Results of Reviews

In accordance with 19 CFR 355.22(c)(4)(ii), we calculated an individual subsidy rate for each producer/exporter subject to these administrative reviews. For the period January 1, 1996 through December 31, 1996, we determine the net subsidy to be as follows:

Manufacturer/exporter of pipe and tube	Rate (percent)
Borusan Group	3.10
Mannesmann	3.73

We will instruct the U.S. Customs Service (''Customs'') to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments of each class or kind of merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these reviews.

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 § 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 355.22(a). 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); *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 these reviews will be unchanged by the results of these reviews.

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. 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 Certain Welded Carbon Steel Pipe and Tube Products from Turkey; Final Results of Countervailing Duty Administrative Reviews,* 53 FR 9791. 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, 1996 through December 31, 1996, 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.

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 CFR 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.

These administrative reviews are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: April 8, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–10168 Filed 4–15–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040998C]

Endangered Species; Permits

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

ACTION: Receipt of applications for scientific research permits (1140, 1141, and 1143). Issuance of scientific research permits (1067, 1069, 1081, 1093, 1112, and 1123) and modifications to scientific research permits (1025, 1027, 1039, and 1044).

SUMMARY: Notice is hereby given that the following applicants have applied in due form for permits that would authorize takes of an endangered or threatened species for scientific research purposes: Environmental Conservation Division, Northwest Fisheries Science Center , NMFS at Seattle, WA (NWFSC) (1140); Public utility District No. 2 of Grant County at Ephrata, WA (PUDGC)(1141); and the Washington State Department of Natural Resources at Olympia, WA (DNR) (1143).

Notice is also given that NMFS has issued scientific research permits that authorize takes of ESA-listed species for the purpose of scientific research and/or enhancement, subject to certain conditions set forth therein, to: NMFS, Southwest Fisheries Science Center (SWFSC) (1112); the National Fish and Wildlife Forensics Lab (NFWFL) (1123); California Department of Fish and Game, Sacramento, CA (CDFG) (1067); Rellim Redwood Co. (1069); Redwood National and State Parks, Orick, CA (RNSP) (1081); and Dr. Walter Duffy, California Cooperative Fishery Research Unit, Humboldt State University, Arcata, CA (CCFRU) (1093).

Notice is further given that NMFS issued an amendment to a permit to the U.S. Fish and Wildlife Service (FWS) (1027) and modifications to permits to: Natural Resources Management Corp., Eureka, CA (NRMC) (1039); and NMFS, SWFSC (1044).

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before May 18, 1998.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permits 1140, 1141, and 1143: Protected Resources Division, F/NWO3, NMFS, 525 NE Oregon Street, Suite 500,