

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-423-809]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Stainless Steel Plate in Coils From Belgium

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

EFFECTIVE DATE: September 4, 1998.

FOR FURTHER INFORMATION CONTACT: Zak Smith, Stephanie Hoffman, or James Breeden, Office I, AD/CVD Enforcement, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-0189, (202) 482-4198, or (202) 482-1174, respectively.

Preliminary Determination

The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers and exporters of stainless steel plate in coils from Belgium. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section of this notice.

Petitioners

The petition in this investigation was filed on March 31, 1998. The petitioners are Allegheny Ludlum Corp., Armco, Inc., Lukens Inc., and, United Steelworkers of America, AFL-CIO/CLC ("the petitioners").

Case History

Since the publication of the notice of initiation in the **Federal Register** (see Notice of Initiation of Countervailing Duty Investigations: Stainless Steel Plate in Coils from Belgium, Italy, the Republic of Korea, and the Republic of South Africa, 63 FR 23272 (April 28, 1998)), the following events have occurred. On April 30, 1998, we issued countervailing duty questionnaires to the Government of Belgium ("GOB"), the Government of Flanders ("GOF"), the European Commission ("EC"), and the producers/exporters of the subject merchandise. The GOB identified ALZ N.V. ("ALZ") as the sole producer/exporter of subject merchandise from Belgium.

On May 18, 1998, ALZ, filed a submission stating that the petition was inadequate in its allegations of certain programs. This allegation was repeated in several submissions. The petitioners

responded with several submissions challenging these arguments. Following a review of the respondent's and petitioners' submissions, we determined not to continue investigating the Funding for Early Retirement program alleged in the petition. (See Memorandum to Richard Moreland, "Initiation of Certain Programs Alleged to Benefit ALZ," June 18, 1998.)

On June 8, 1998, we postponed the preliminary determination of this investigation until August 28, 1998 (see Notice of Postponement of Time Limit for Countervailing Duty Investigations: Stainless Steel Plate in Coils From Belgium, Italy, the Republic of Korea and the Republic of South Africa, 63 FR 31201 (June 8, 1998)).

We received responses to our initial questionnaires from the GOB, the GOF, the EC, and ALZ on June 19, 1998. On July 14, 1998, we issued supplemental questionnaires to the GOB, GOF and ALZ. We received responses to these supplemental questionnaires on August 3, 1998.

Scope of Investigation

For purposes of this investigation, the product covered is stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings:

7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15,

7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

The 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 effective January 1, 1995 ("the Act"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to the current regulations as codified at 19 CFR Part 351 and published in the **Federal Register** on May 19, 1997 (62 FR 27295).

Injury Test

Because Belgium is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission ("ITC") is required to determine whether imports of the subject merchandise from Belgium materially injure, or threaten material injury to, a U.S. industry. On May 28, 1998, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Belgium of the subject merchandise (see 63 FR 29251 (May 28, 1998)).

Alignment With Final Antidumping Duty Determination

On May 27, 1998, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigations. See Initiation of Antidumping Duty Investigations: Stainless Steel Plate in Coils From Belgium, Canada, Italy, Republic of South Africa, South Korea and Taiwan, 63 FR 20580 (April 27, 1998). In accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping investigations of stainless steel plate in coils.

Period of Investigation

The period for which we are measuring subsidies ("the POI") is calendar year 1997.

Company History

The GOB identified one producer of the subject merchandise that exported to

the United States during the POI, ALZ. There are also two subsidiaries of ALZ which are involved in the production of the subject merchandise, ALBUFIN N.V. ("Albufin") and AL-FIN N.V. ("Alfin"), and we have included any subsidies to these companies in the subsidy rate for ALZ. In 1987, the GOB sold its ownership interest in ALZ to SIDMAR N.V. ("Sidmar"). Normally, we would apply our privatization methodology under the circumstances presented. However, because the subsidies provided to ALZ prior to 1987 were extremely small, the amount of that could be considered as repayment would be insignificant. *See, e.g.,* Industrial Phosphoric Acid from Israel; Final Results of Countervailing Duty Administrative Review, 61 FR 53351 (October 11, 1996), *see also* Industrial Phosphoric Acid from Israel; Preliminary Results of Countervailing Duty Administrative Review, 61 FR 28845 (June 6, 1996). Therefore, we did not apply our privatization methodology to the 1987 transaction.

Subsidies Valuation Information

Allocation Period

In the past, the Department has relied upon information from the U.S. Internal Revenue Service on the industry-specific average useful life of assets in determining the allocation period for non-recurring subsidies (*see* the General Issues Appendix ("GIA") to the Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria, 58 FR 37217, at 37225 (July 9, 1993)). 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 for non-recurring subsidies based on the average useful life ("AUL") of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *See British Steel plc v. United States*, 929 F. Supp. 426, 439 (CIT 1996) ("British Steel II"). Thus, we intend to determine the allocation period for non-recurring subsidies using company-specific AUL data where reasonable and practicable. *See, e.g.,* Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Countervailing Duty Administrative Review, 62 FR 16551 (April 7, 1997).

In this investigation, the Department has followed the Court's decision in *British Steel I*, and examined information submitted by the

respondent as to its average useful life of assets. Based on the information submitted by ALZ on the average useful life of its non-renewable physical assets, we preliminarily determine that the AUL for ALZ is 15 years. Furthermore, for those subsidies received by Sidmar, which may be, in part, attributable to ALZ, we intend to seek information prior to the final determination regarding Sidmar's AUL. If necessary, for those years in which Sidmar was not consolidated with ALZ, we intend to use Sidmar's AUL for purposes of determining the allocation period for non-recurring subsidies received by Sidmar. For those years in which ALZ was consolidated with Sidmar, we intend to use a company-specific AUL, based on Sidmar's consolidated information, for purposes of determining the allocation period for non-recurring subsidies granted to Sidmar.

Equity Methodology

Consistent with the Department's methodology, the first question in analyzing an equity infusion is whether, at the time of infusion, there was a market price for newly-issued equity (*see* GIA, 58 FR 37239). The Department will find an equity investment to be inconsistent with the usual practice of a private investor if the market-determined price for equity purchased from the firm is less than the price paid by the government for the same form of equity purchased directly from the firm. In this investigation, for those years in which market prices do not exist, the Department has conducted an equityworthiness analysis of the firm as described in the GIA, 58 FR at 37239. *See* "1985 Debt to Equity Conversion and Purchase of ALZ Shares" section, below.

Benchmarks for Long-Term Loans and Discount Rates

ALZ reported that it obtained long-term commercial loans contemporaneously with the receipt of certain government loans or grants. Therefore, when available, we have used these company-specific interest rates as the long-term loan benchmark interest rate or discount rate. For those years in which ALZ did not receive commercial loans, we used the national average rates for long-term, fixed-rate debt as reported by the GOF.

Green Light

The GOF requested green light treatment for certain benefits provided pursuant to the Economic Expansion Law of 1970 ("1970 Law"). Among other things, the 1970 Law offers incentives to

promote the establishment of new enterprises or the expansion of existing ones which contribute directly to the creation of new activities and new employment within designated development zones.

While the 1970 Law is currently administered by the GOF, the GOB originally oversaw the implementation of 1970 Law benefits to disadvantaged regions throughout Belgium. Pursuant to the overall devolution of power from the GOB to the regional governments since the early 1980s, the authority to administer the 1970 Law has been transferred to the regional governments. With respect to Flanders, many of the 1970 Law subsidy programs have been implemented and administered by the GOF since the late 1980s and the "execution modalities" have been amended by several Flemish decrees. Currently, funding for programs under the 1970 Law at issue in this investigation is included in a lump sum amount from the GOB as part of the funds needed to finance the overall operation of the GOF. This understanding of the authority and funding of the 1970 Law relates only to the benefits examined in this investigation and is based upon record evidence of this case. We will seek more clarification on the administration and funding of the 1970 Law.

ALZ received several types of assistance under the 1970 Law (the initiation notice identified these subsidies as: 1993 Expansion Grant, 1994 Environmental Grants, Investment and Interest Subsidies, Accelerated Depreciation, and Real Estate Tax Exemption). Most of this assistance was granted after the GOF assumed control of the subsidy programs. Therefore, for purposes of this preliminary determination, we are treating the GOF as the granting government for these bestowals. However, ALZ received one grant in 1983 (identified in the initiation notice as Investment and Interest Subsidies). Because this grant was received prior to the GOF takeover of 1970 Law authority, we consider this one grant as having been bestowed by the GOB.

As mentioned above, the GOF requested green light treatment for certain benefits provided pursuant to the 1970 Law. They requested such treatment under both sections 771(5B)(C) (disadvantaged regions) and 771(5B)(D) (environmental adaptations) of the Act. In order for an otherwise countervailable benefit to be accorded green light status, it must meet each of the requirements set forth in sections 771(5B)(C) or (D) of the Act (*see also* Statement of Administrative Action,

H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870, 266 (1994)).

Aid to Disadvantaged Regions

At this time, the record lacks certain fundamental information necessary to evaluate this program for potential regional green light treatment. Section 771(5B)(C) of the Act permits green light status for only those subsidies provided pursuant to a general framework of regional development, which means that the regional subsidy programs are part of an internally consistent and generally applicable regional development program. See also section 771(5B)(E)(iii)(I) of the Act. Moreover, sections 771(5B)(C)(i) (II) and (III) of the Act require that each region be considered disadvantaged on the basis of neutral and objective criteria, including a measurement of economic development. In response to questions regarding the process by which regions are classified as disadvantaged, the GOF stated that the EC establishes the regions as disadvantaged and that neither the GOB nor the GOF are involved in this process. The information on the record to date does not provide a full understanding of the EC process and how it relates to the framework of GOF regional assistance. Moreover, it appears that the GOF distinguishes its own regions (similar to the EC's regions) and provides this information in an application to the EC. The GOF did not provide any information regarding its own system of identifying disadvantaged regions. Consequently, there is an absence of record evidence relating to whether the subsidies are provided pursuant to a "general framework of regional development which is internally consistent and generally applicable."

Therefore, we preliminarily determine that subsidies provided pursuant to the 1970 Law for the reduction of regional disparities are countervailable.

Aid for Environmental Adaptations

Section 771(5B)(D)(i) of the Act stipulates that subsidies provided to promote the adaptation of existing facilities to new environmental requirements that are imposed by statute or by regulation shall not be countervailable, assuming other statutory requirements are met. In this investigation, we are evaluating only the grants received by ALZ under the 1970 Law for ecological investments (identified in the initiation notice as 1994 Environmental Grants).

Section 771(5B)(D)(i) of the Act requires that the adaptation must be made to satisfy specific environmental requirements and those environmental

requirements must " * * * result in greater constraints and financial burdens on the recipient of the subsidy * * *" In addition, a subsidy must: (I) be a one-time nonrecurring measure, (II) be limited to 20% of the cost of adaptation, (III) not cover the cost of replacing and operating the subsidized investment, and (IV) be directly linked and proportionate to the recipient's planned reduction of nuisances and pollution, and must not cover any manufacturing cost savings that may be achieved. Based upon the information currently on the record, we preliminarily determine the following.

ALZ has shown that a financial burden was incurred because, by law, it was required to pay a large majority of the costs of the environmental adaptations necessary to conform to environmental regulations; non-compliance with these regulations would result in fines. Moreover, because these subsidies are one-time, non-recurring grants which are limited to 15 percent *de jure*, and 12 percent *de facto* (due to GOF budgetary constraints) of the adaptation costs, we preliminarily determine that ecological grants provided under the 1970 Law fulfill requirements (I) and (II). With respect to requirements (III) and (IV), ALZ has shown that the calculation of assistance is based solely on the costs of the environmental adaptation, and does not include any costs of expansion.

Moreover, the assistance cannot cover plant expansion or result in manufacturing cost savings. In this regard, there is a provision in the 1970 Law which states that if an investment is associated with an increase in the capacity of the plant, the eligible costs shall be proportionate to the initial capacity of the plant. Stated differently, the amount of aid granted for an ecological investment can only apply to an existing facility and may not be used to build or adapt an expanded facility.

Notwithstanding the analysis outlined above, certain questions have arisen which are not fully addressed by the information currently on the record. For example, section 771(5B)(D)(i) stipulates that subsidies provided to promote the adaptation of existing facilities to new environmental requirements that are imposed by statute or by regulation shall not be countervailable (emphasis added). There is a question as to whether certain projects were performed by ALZ to adapt to a published law or regulation.

Moreover, section 771(5B)(D)(i)(V) of the Act states that the subsidy must be "available to all persons that can adopt the new equipment or production processes." The 1970 Law provides

environmental grants only to enterprises located in a development region. Shortly before this preliminary determination, we discovered that two Flemish acts may supplement the 1970 Law: the 1993 Economic Expansion Decree ("1993 Decree") and the Act of August 4, 1978 ("1978 Act"). There is a copy of the 1993 Decree on the record and it appears that the 1993 Decree provides the same assistance for ecological investments to any medium- and large-sized enterprises in Flanders not eligible for assistance under the 1970 Law. However, the 1978 Act is not on the record and there is no record evidence to suggest that the same provisions for ecological adaptations are provided to small-sized enterprises under the 1978 Act.

Because of these outstanding questions, we preliminarily determine that more information is needed to complete our analysis. After we collect additional information and conduct verification, we will prepare an analysis memorandum addressing the green light status of this program during this period, and provide all parties an opportunity to comment on our analysis.

I. Programs Preliminarily Determined To Be Countervailable

A. Regional Subsidies Under the Economic Expansion Law of 1970

As stated above, the 1970 Law offers incentives to enterprises located within designated disadvantaged regions. This law provides benefits specifically to firms in certain development zones of Flanders. Therefore, we preliminarily determine that benefits provided under this law are specific under section 771(5A)(D)(i) of the Act.

In the Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium, 58 FR 37273 (July 9, 1993) ("Certain Steel"), we determined that assistance provided under the 1970 Law complemented that provided under the 1959 Economic Expansion Law ("1959 Law"), because it generally increased the amount of assistance for companies located in certain development zones. Subsidies provided pursuant to the 1959 Law were found not countervailable in the Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Belgium, September 7, 1982 (47 FR 39305) ("Belgian Steel") because they were not specific. Therefore, in Certain Steel, we countervailed benefits under the 1970 Law only to the extent they exceeded benefits available under the 1959 Law (see Certain Steel at 37275 and 37289

and section 355.44(n) of the 1989 Proposed Regulations).

ALZ has argued for the same treatment in this case. However, the verification report of the GOB in Certain Steel states that the 1959 Law was repealed effective August 1, 1991. Therefore, for benefits received by ALZ after 1991, it is not appropriate to take into account the benefits that might have been provided under the 1959 Law. The GOB stated that the 1959 Law was replaced with the Flemish 1993 Decree. However, we need more information on the 1993 Decree to determine whether benefits available under it are non-specific and whether such benefits should affect the level of countervailable benefits provided under the 1970 Law.

1. 1993 Expansion Grant

The GOF gave Albufin, a subsidiary of ALZ, a cash grant in 1994 to construct an annealing and pickling line. The grant is a financial contribution as described in section 771(5)(D)(i) of the Act which provides a benefit to the recipient in the amount of the grant. Furthermore, as mentioned above, benefits under the 1970 Law are available only to firms in certain regions of Flanders. On this basis, we preliminarily determine that the program is specific under section 771(5A)(D)(i) of the Act. Therefore, we preliminarily determine that the 1993 Expansion Grant received by Albufin is countervailable within the meaning of section 771(5) of the Act.

We further preliminarily determine that this grant is non-recurring because the company could not expect to receive it on an ongoing basis. Because the benefit to Albufin was below 0.5 percent of sales in the year of receipt, we expensed the grant in that year. Thus, Albufin received no benefit during the POI.

2. Investment and Interest Subsidies

The petitioners alleged that ALZ financial statements for 1996 and 1997 show entries for "investment subsidies" and "interest subsidies." According to ALZ, the majority of these figures are comprised of the environmental grants described above. However, as mentioned above, in 1983, ALZ received one cash grant from the GOB under the old system of assistance. At that time, the 1959 Law was still in effect.

We preliminarily determine that this grant received by ALZ is countervailable within the meaning of section 771(5) of the Act. The 1983 grant is a financial contribution as described in section 771(5)(D)(i) of the Act which provides a benefit to the recipient in the amount of

the grant. Because the countervailable portion of the assistance was received from the GOB pursuant to the 1970 Law and, as mentioned above, benefits under the 1970 Law were available only to firms in certain regions of the country, we preliminarily determine that the program is specific under section 771(5A)(D)(i) of the Act.

Therefore, because cash grants of this nature were also available to companies under the 1959 Law, we preliminarily determine that only the difference in the assistance level between the two laws constitutes a countervailable benefit (see also Certain Steel, 58 FR 37273, 37275). To derive the benefit, we calculated the difference in the level of benefit between what was actually granted pursuant to the 1970 Law and what could have been received pursuant to the 1959 Law.

We further determine that this grant is non-recurring because it was not provided on an ongoing basis. In calculating the benefit, we applied the Department's standard grant methodology. We divided the benefit attributable to the POI by ALZ's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy to be 0.02 percent *ad valorem*.

3. Accelerated Depreciation

Article 15 of the 1970 Law allows companies to declare twice the standard depreciation for assets acquired through funds provided by the grants bestowed under the law. The tax benefit is a financial contribution as described in section 771(5)(D)(ii) of the Act which provides a benefit to the recipient in the amount of the tax savings. Because only enterprises situated in certain development zones are eligible to apply for accelerated depreciation, we preliminarily determine that the program is specific under section 771(5A)(D)(i) of the Act. Therefore, we preliminarily determine that this tax benefit received by ALZ is countervailable within the meaning of section 771(5) of the Act.

Albufin, an ALZ subsidiary, received tax savings under this program during the POI. In calculating the benefit, we treated the tax savings as a recurring benefit and divided it by ALZ's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy to be 0.49 percent *ad valorem*.

4. Real Estate Tax Exemption

Pursuant to Article 16, assets acquired through investments financed in part by the 1970 Law may be exempted from real estate taxes for up to five years,

depending on the extent to which objectives of the 1970 Law are achieved. The tax benefit is a financial contribution as described in section 771(5)(D)(ii) of the Act which provides a benefit to the recipient in the amount of the tax savings. Because only enterprises situated in certain development zones are eligible to apply for a real estate tax exemption, we preliminarily determine that the program is specific under section 771(5A)(D)(i) of the Act. Therefore, we preliminarily determine that this tax benefit received by ALZ is countervailable within the meaning of section 771(5) of the Act.

Albufin received tax savings under this program during the POI. In calculating the benefit, we treated the tax savings as a recurring benefit and divided it by ALZ's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy to be 0.04 percent *ad valorem*.

B. 1985 ALZ Share Subscriptions and Subsequent Transactions (Identified in the Initiation Notice as 1985 Debt to Equity Conversion and Purchase of ALZ Shares)

On September 26, 1985, the GOB made three share subscriptions in ALZ pursuant to the Royal Decree No. 245 of December 31, 1983. This Royal Decree allowed the GOB to make preference share subscriptions in the steel industry as long as the subscriptions did not exceed one-half of the social capital of the company. The Nationale Maatschappij voor de Herstructureren van de Nationale Sectoren ("NMNS"), the government agency purchasing the shares, acquired ordinary shares and preference shares through this transaction.

In analyzing whether these share purchases conferred a benefit on ALZ, we must determine whether the GOB investment was inconsistent with the usual investment practice of private investors in Belgium. Neither ALZ's ordinary nor preference shares were publicly traded. Therefore, we have analyzed the circumstances of the transaction.

According to ALZ, the price at which the GOB purchased shares in ALZ was determined by two separate studies as discussed in ALZ's shareholders' meeting of September 26, 1985. These studies were performed by an independent accounting firm and a group of experts selected by ALZ. ALZ also submitted documentation from the European Commission notifying the GOB that ALZ's capital increase met the Commission's private investor standard. In addition, we have performed an

independent analysis of ALZ's financial health at the time of the stock purchase. This analysis indicates that the company was equityworthy.

Consistent with the standard established in *Aimcor v. the United States*, 871 F. Supp. 447, 454 (CIT 1994) and *Geneva Steel et al. v. United States*, 914 F. Supp. 563, at 582, (CIT 1996), a finding of equityworthiness means that the Department need not inquire further regarding the commercial soundness of a government's purchases of ordinary shares. Hence, we preliminarily determine that the GOB's 1985 purchase of ordinary shares was consistent with the usual investment practice of private investors in Belgium.

With respect to ALZ's preference shares, we have analyzed the characteristics of the shares and the price paid per share, and have concluded that the government's 1985 investment in these preferred shares was consistent with the usual investment practice of private investors in Belgium (see memorandum from Team to Richard Moreland, "Concurrence Memorandum; Summary of Issues," public version, dated August 28, 1998 ("Concurrence Memorandum")).

However, in 1987, the GOB sold ALZ's ordinary shares purchased under the Royal Decree No. 245 to Kempense Investeringsvennootschap ("KIV"), a company controlled by Sidmar. The price received by the GOB was lower than the price Sidmar paid a private company for its ordinary shares in ALZ, in a relatively contemporaneous transaction.

Furthermore, in 1993, Sidmar acquired the preference shares originally purchased under the Royal Decree No. 245 from the GOB in return for an ownership interest in a Sidmar controlled company. Based on our analysis, the GOB sold these preference shares at a price below the market value for ALZ stock (the exact terms of this transaction are proprietary in nature and are discussed in the Concurrence Memorandum).

We preliminarily determine that the GOB's sales of ALZ's ordinary and preferred shares to Sidmar constitute countervailable subsidies within the meaning of section 771(5) of the Act. These programs provide a financial contribution, as described in section 771(5)(D)(i) of the Act. As discussed above, benefits under Royal Decree No. 245 are available only to the steel sector. On this basis, we preliminarily determine that the programs are specific under section 771(5A)(D) of the Act.

To calculate the benefits, we took the difference between market values for

ALZ's ordinary and preferred shares and the price paid by Sidmar for the stock in question. We then applied the Department's standard grant methodology and divided the benefit attributable to the POI by Sidmar's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidies to be 0.05 and 0.12 percent *ad valorem*, respectively.

C. Belgian Industrial Finance Company ("Belfin") Loans

Belfin was established by Royal Decree on June 29, 1981, as a mixed corporation with 50 percent GOB participation and 50 percent private industry participation. In Certain Steel, we determined that Belfin's objective is to finance investments needed for the restructuring and development of various sectors of industry, commerce, and state services. Belfin borrows money in Belgium and on international markets, with the benefit of government guarantees, in order to obtain the funds needed to make loans to Belgian companies. The government's guarantee makes it possible for Belfin to borrow at favorable interest rates and to pass the savings along when it lends the funds to Belgian companies. Belfin loans to Belgian companies are not guaranteed by the GOB. However, these loans carry a one percent commission which is used to maintain a guarantee fund to support the GOB's guarantee of Belfin's borrowing. ALZ received Belfin loans which were outstanding during the POI.

We preliminarily determine that this program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. These loans provide a financial contribution, as described in section 771(5)(D)(i) of the Act, with the benefit equal to the difference between the benchmark rate and the rate ALZ pays on these loans. Although the objective of Belfin loans is to assist the restructuring and development of various sectors, steel companies are the predominant recipients of Belfin loans. Therefore, we preliminarily determine that the Belfin loans to the steel industry are specific under section 771(5A) of the Act.

To calculate the subsidy conferred by these loans we used our long-term fixed-rate loan methodology. We measured the interest savings to ALZ in each year the loans were outstanding. We then took the present value of each of these amounts as of the time the loan was received. Finally, using the benchmark as a discount rate, we allocated the subsidy over the life of the loan. We then divided the benefit attributable to the POI by ALZ's total 1997 sales. On this basis, we preliminarily determine

the countervailable subsidy to be 0.01 percent *ad valorem*.

D. Industrial Reconversion Zones

Alfin

Alfin was established as a "proper" reconversion company in 1985 under the reconversion program "Herstelwet 1984." It was financed by a government agency, Nationale Investeringsmaatschappij ("NIM") and ALZ. In exchange for its investment, NIM received preferred non-voting shares and a two percent annual return on its investment. ALZ is obligated to repurchase all of the shares purchased by NIM over a ten year period at the issued price.

We used the hierarchical criteria discussed in the "Classification of Hybrid Financial Instruments Issue" section of the GIA to examine these shares and preliminarily find that they constitute debt instruments because they have a fixed repayment period. We preliminarily determine that this program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act. Because the "Herstelwet 1984" law provides benefits specifically to firms in certain regions of the country, we preliminarily determine that it is specific under section 771(5A) of the Act.

To measure the benefit on this loan, we used our long-term fixed-rate loan methodology and measured the cost savings conferred by the loan in each year the loan was outstanding, as described above. We divided the subsidy allocated to the POI by ALZ's total 1997 sales. On this basis, we preliminarily determine the countervailable subsidy to be 0.20 percent *ad valorem*.

Albufin

Albufin was established as an "improper" reconversion company in 1989, also under the reconversion program "Herstelwet 1984." It received capital with partial financing from the government (NIM), the Sidmar Group (FININDUS), a private company (Klockner Stahl) and ALZ. Because Klockner Stahl was a private company at the time of Albufin's establishment, and it invested on the same terms as the government, we preliminarily determine that there is no countervailable benefit resulting from the establishment of the company. However, as an "improper" reconversion company, Albufin benefits from a tax exemption on dividend payments and is exempt from the capital registration tax. We

preliminarily determine that these tax benefits received by Albufin are countervailable subsidies within the meaning of section 771(5) of the Act. The tax benefits are a financial contribution as described in section 771(5)(D)(ii) of the Act which provide a benefit to the recipient in the amount of the tax savings. Because the "Herstelwet 1984" law provides benefits specifically to firms in certain regions of the country, we preliminarily determine that it is specific under section 771(5A) of the Act.

In the POI, Albufin did not receive tax savings under the capital registration tax but did benefit from the exemption on dividend payments. To measure the benefit from this tax exemption, we treated the tax savings as a recurring benefit and divided it by ALZ's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy to be 0.05 percent *ad valorem*.

E. Subsidies Provided to Sidmar That Are Attributable to ALZ

As discussed in the "Company History" section above, Sidmar owns either directly or indirectly 100 percent of ALZ's voting shares and is the overall majority shareholder of ALZ. In Certain Steel and in the Department's redetermination on remand of Certain Steel, we found that Sidmar received several countervailable benefits that were attributable to the entire Sidmar group. Because ALZ is a fully consolidated subsidiary of Sidmar, any untied subsidies provided to Sidmar are attributable to ALZ (see Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review, 63 FR 18367 (April 15, 1998) ("UK Lead and Bismuth")). Thus, we preliminarily determine that the following two programs provide countervailable benefits to ALZ via its parent company, Sidmar.

1. Assumption of Sidmar's Debt

Between 1979 and 1983, the GOB assumed the interest costs associated with medium- and long-term loans for certain steel producers, including Sidmar. In exchange for the GOB's assumption of financing costs, Sidmar agreed to the conditional issuance of convertible profit sharing bonds ("OCPCs") to the GOB. In 1985, Sidmar and the GOB agreed to substitute parts beneficiaries ("PBS") for the OCPCs.

Consistent with Certain Steel and the attendant litigation, we preliminarily determine that the GOB's initial assumption of interest costs was specific

under section 771(5A) of the Act. Furthermore, we preliminarily determine that the OCPCs are properly classifiable as debt and that the conversion of OCPCs to PBS constituted a debt to equity conversion. Comparing the price paid for the PBS to the market value of Sidmar's common stock, we preliminarily determine that the debt to equity conversion provided a benefit to Sidmar as the share transactions were on terms inconsistent with the usual practice of a private investor.

We preliminarily determine that this program constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. This program provides a financial contribution, as described in section 771(5)(D)(i) of the Act. As discussed above, benefits under this program were available only to certain steel producers. On this basis, we preliminarily determine that the program is specific under section 771(5A)(D) of the Act.

To measure the benefit from the debt to equity conversion, we calculated the premium paid by the government as the difference between the price paid by the government for the PBS and the adjusted market price of the common shares. We then applied the Department's standard grant methodology and divided the benefit attributable to the POI by Sidmar's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy to be 0.31 percent *ad valorem*.

2. SidInvest

The right to establish "Invests" was limited to the five national industries. SIDINVEST N.V. ("SidInvest") was incorporated on August 31, 1982, as a holding company jointly owned by Sidmar and the Societe Nationale d'Investissement, S.A. ("SNI"). SidInvest was given drawing rights on SNI to finance specific projects. The drawing rights took the form of conditional refundable advances ("CRAs"), which were interest-free, but repayable to SNI based on a company's profitability. In 1987, the GOB moved to accelerate the repayment of the CRAs and thus, in 1988, SidInvest agreed to pay back the outstanding balance on the CRAs at a rate of 3 percent per year. Later in July 1988, an agreement was reached for NMNS to become a shareholder in SidInvest by contributing the CRAs owed to it by SidInvest in exchange for SidInvest stock. Through a series of transactions the Sidmar group then repurchased the SidInvest shares obtained by NMNS.

Consistent with Certain Steel, we preliminarily determine that the CRAs

were interest-free loans. On July 29, 1988, a fixed repayment schedule over 32 years was established for these interest-free loans. Thus, the first benefit arising from the July 1988, transactions was the creation of a 32-year interest-free loan.

The second benefit arose from the GOB's subsequent exchange of the loan for shares in SidInvest and the selling of those shares back to various members of the Sidmar group. Because SidInvest paid less than the net present value in 1988 of the amount due in 32 years for the repurchase of its loan, we are treating the difference between what SidInvest should have been willing to pay and what NMNS received as a benefit.

We preliminarily determine that both transactions provided a countervailable subsidy within the meaning of section 771(5) of the Act. Both provide a financial contribution, as described in section 771(5)(D)(i) of the Act. Moreover, because the right to establish "Invests" was limited to the five national sectors, we view these programs as being limited to a specific group of industries. On this basis, we preliminarily determine that the programs are specific under section 771(5A)(D) of the Act.

To measure the benefit from the interest-free loan, we allocated the benefit over the life of the loan using our standard long-term loan methodology. To calculate the benefit from the selling of the loan, we applied the Department's standard grant methodology. We divided the benefits attributable to the POI by Sidmar's consolidated total sales during the POI. On this basis, we preliminarily determine the countervailable subsidies to be 0.25 and 0.05 percent *ad valorem*, respectively.

II. Programs Preliminarily Determined To Be Not Countervailable

A. Societe Nationale de Credite a l'Industrie ("SNCI") Loans (Loans Approved Between 1987 and 1990)

The SNCI was a public credit institution, which, through medium- and long-term financing, encouraged the development and growth of industrial and commercial enterprises in Belgium. SNCI was organized as a limited liability company and, until 1997, was 50-percent owned by the Belgian government. ALZ received investment loans from SNCI which were outstanding during the POI. All SNCI loans received by ALZ and outstanding during the POI were approved and disbursed after 1986.

In Certain Steel, we examined whether investment loans from SNCI were specific by analyzing whether the steel industry received a disproportionate share of benefits (58 FR 37273, 37280-37281). We compared the steel industry's share of benefits to the share of benefits provided to all other users of the program. Although SNCI made loans to many sectors of the Belgian economy, we determined that the steel industry had received a disproportionately large share of investment loans granted between 1975 and 1986. However, we did not find disproportionality or specificity in 1987 and 1988 as the steel industry's share of benefits dropped significantly. No new information has been presented in this investigation to change our Certain Steel determination.

In the present case, we examined data on the distribution of SNCI investment loans after 1988 to determine whether they were specific under section 771(5A)(D)(iii) of the Act. The GOB provided information on the sectoral distribution of loans under the program for the years 1989 and 1990. This information indicates that the steel industry did not receive a disproportionate share of benefits in those years. Therefore, for loans approved between 1989 and 1990, we preliminarily determine that SNCI investment loans were non-specific, and therefore, not countervailable. Moreover, ALZ stated that it received one loan from SNCI after the institution was completely privatized. Because the loan was approved and disbursed after SNCI's privatization, we preliminarily determine that this loan is not countervailable under section 771(5B) of the Act.

We do not have specific industry usage information for SNCI loans for years after 1990 and before SNCI was privatized. We requested this information from the GOB in both the original and supplemental questionnaires. While the GOB provided SNCI's annual reports for all relevant years, after 1990 these reports ceased to provide specific information on sectoral distribution of loans. However, there are general descriptions of changes in SNCI lending patterns. These descriptions provide no indication that the steel industry received a disproportionate share of investment loans from SNCI during this period. Therefore, we need more information to determine whether SNCI loans approved after 1990 were specific under section 771(5A)(D)(iii) of the Act. However, after we collect additional information and conduct verification, we will prepare an analysis memorandum addressing the specificity

of this program during the period under investigation, and provide all parties an opportunity to comment on our analysis.

III. Programs for Which We Need More Information

- A. Societe Nationale de Credite a l'Industrie ("SNCI") Loans (loans approved after 1990)
See "SNCI Loans" section, above.
- B. 1994 Environmental Grants under the 1970 Law
See "Green Light" section, above.

IV. Programs Preliminarily Determined To Be Not Used

Based upon the information provided in the responses, we determine that the company under investigation did not apply for or receive benefits under the following programs during the POI.

A. Government of Belgium Programs

1. Subsidies Provided to Sidmar that are Potentially Attributable to ALZ
 - a. Water Purification Grants
2. Societe Nationale pour la Reconstruction des Secteurs Nationaux ("SNSN")
3. Regional subsidies under the Economic Expansion Law of 1970 ("1970 Law")
 - a. Corporate Income Tax Exemption
 - b. Capital Registration Tax Exemption
 - c. Government Loan Guarantees
4. Special Depreciation Allowance
5. Preferential Short-Term Export Credit
6. Interest Rate Rebates

B. Programs of the European Commission

1. ECSC Article 54 Loans and Interest Rebates
2. ECSC Article 56 Conversion Loans, Interest Rebates and Redeployment Aid
3. European Social Fund Grants
4. European Regional Development Fund Grants
5. Resider II Program

Verification

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

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for ALZ, the sole manufacturer of the subject merchandise. We preliminarily determine that the total estimated net countervailable subsidy rate is 1.59 percent *ad valorem*. Because we only investigated one producer/exporter, ALZ's rate will also serve as the "all

others" rate. Therefore, the "all others" rate is 1.59 percent *ad valorem*.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of plate in coils from Belgium, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amount of 1.59 percent *ad valorem*. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the

nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 55 days from the date of publication of the preliminary determination. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

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

Dated: August 28, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-823]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Stainless Steel Plate in Coils From Italy

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

EFFECTIVE DATE: September 4, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai or Craig W. Matney, Office of AD/CVD Enforcement, Group 1, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-4087 or 482-1778, respectively.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of stainless steel plate in coils from Italy. For information on the estimated countervailing duty rates, please see the

Suspension of Liquidation section of this notice.

Petitioners

The petition in this investigation was filed by Allegheny Ludlum Corporation, Armco, Inc., J&L Specialty Steels, Inc., Lukens Inc., AFL-CIO/CLC (USWA), Butler Armco Independent Union and Zanesville Armco Independent Organization (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (see *Notice of Initiation of Countervailing Duty Investigation: Certain Stainless Steel Plate in Coils from Belgium, Italy, the Republic of Korea, and the Republic of South Africa*, 63 FR 23272 (April 28, 1998) (*Initiation Notice*)), the following events have occurred. On April 30, 1998, we issued countervailing duty questionnaires to the Government of Italy (GOI), the European Commission (EC), and the producers/exporters of the subject merchandise. On June 1, 1998, we postponed the preliminary determination of this investigation until August 28, 1998 (see *Notice of Postponement of Time Limit for Countervailing Duty Investigations: Stainless Steel Plate in Coils from Belgium, Italy, the Republic of Korea, and the Republic of South Africa*, 63 FR 31201 (June 8, 1998)).

We received responses to our initial questionnaires from the GOI, the EC, and Acciai Speciali Terni S.p.A. (AST) (the sole producer/exporter of subject merchandise during the POI to the United States) between June 19 and June 26, 1998. On July 15 and 16, 1998, we issued supplemental questionnaires to the GOI, the EC and AST. We received responses to these supplemental questionnaires between July 29 and August 3, 1998.

The 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). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR Part 351 and published in the **Federal Register** on May 19, 1997 (62 FR 27295).

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or

more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this investigation are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Injury Test

Because Italy is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a U.S. industry. On May 28, 1998, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Italy of the subject merchandise (see *Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, Korea, South Africa, and Taiwan*, 63 FR 29251).

Alignment With Final Antidumping Determination

On May 27, 1998, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final