exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–7530 Filed 3–30–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–423–809]

Final Affirmative Countervailing Duty Determination; Stainless Steel Plate in Coils from Belgium

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

EFFECTIVE DATE: March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Zak Smith, Stephanie Hoffman, James Breeden, or Melani Miller, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0189, 482–4198, 482–1174, or 482–0116, respectively.

Final Determination

The Department of Commerce 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, by Armco, Inc., Lukens Inc., Butler Armco Independent Union, Zanesville Armco Independent Organization, and the United Steelworkers of America, AFL-CIO/CLC (''the petitioners'').

Case History

Since the publication of the preliminary determination in the **Federal Register** on September 4, 1998 (63 FR 47239) (''*Preliminary Determination*''), the following events have occurred:

We conducted verification in Belgium of the questionnaire responses from the Government of Flanders (''GOF''), the Government of Belgium (''GOB''), SIDMAR N.V. (''Sidmar''), and ALZ N.V. (''ALZ'') from November 9 through November 20, 1998. We postponed the final determination of this investigation until March 19, 1999 (*see Countervailing Duty Investigations of Stainless Steel Plate in Coils From Belgium, Italy, the Republic of Korea, and the Republic of South Africa; Notice of Extension of Time Limit for Final Determinations,* 64 FR 2195 (January 13, 1999)). The petitioners and ALZ filed case briefs on February 10, the GOB filed a case brief on February 11, and we received rebuttal briefs from the petitioners and ALZ on February 18, 1999.

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 of Commerce's (''the Department's'') regulations are to the regulations codified at 19 CFR part 351 (April 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 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 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. *See* section 701(a)(2) of the Act. 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)).

Period of Investigation

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

Subsidies Valuation Information

Responding Producers

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. Furthermore, Sidmar owns either directly or indirectly 100 percent of ALZ's voting shares and is the overall majority shareholder of ALZ.

Benchmarks for Long-term Loans and Discount Rates

ALZ and Sidmar reported that they obtained long-term commercial loans contemporaneously with the receipt of certain government loans or grants. Where appropriate, we have used these company-specific interest rates as the long-term loan benchmark interest rate or discount rate (*see* Comments 5 and 6, below). For those years in which ALZ or Sidmar did not receive commercial loans, we are using national average rates for long-term, fixed-rate debt. In the *Preliminary Determination,* we used rates reported by the GOF as the national average rates. However, as explained in the *Interested Party Comments* section below, we determine that those rates are inappropriate benchmarks and have changed our national average benchmarks for this final determination. For further discussion on benchmarks and discount rates, *see* Comment 4 in the *Interested Party Comments* section below.

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, 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 (''CIT'') ruled against this allocation methodology. In accordance with the CIT'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 CIT on June 4, 1996. *See* British Steel plc v. United States, 929 F. Supp. 426, 439 (CIT 1996) (''British Steel II''). In recent countervailing duty investigations, it has been our practice to follow the CIT's decision in British Steel II, and to calculated a company-specific allocation period for all countervailable non-recurring subsidies. Thus, for purposes of this investigation we have determined the allocation period for non-recurring subsidies using company-specific AUL data because it was reasonable and practicable to do so.

As in the Preliminary Determination, we determine that the AUL for ALZ is 15 years. In a change from the Preliminary Determination however, we have allocated non-tied subsidies received by Sidmar over Sidmar's AUL, 19 years.

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 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* in the program descriptions, below.

I. Programs Determined To Be Countervailable

A. Regional Subsidies under the Economic Expansion Law of 1970

The 1970 Law offers various incentives to enterprises located within designated disadvantaged regions. 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 is included in a lump sum amount from the GOB as part of the funds needed to finance the overall operation of the GOF. The GOF retains full authority over the distribution of funds within its budget.

ALZ received several types of assistance under the 1970 Law (the initiation and Preliminary Determination notices 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 provided after the GOF assumed control of the subsidy programs. Therefore, we are treating the GOF as the authority providing these subsidies. 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.

The GOF framework of economic expansion consists of the 1970 Law (for medium and large-sized businesses located in a disadvantaged region), the Act of August 4, 1978 (''1978 Act,'' for small businesses and one-man companies), and the 1993 Economic Expansion Decree (''1993 Decree,'' for medium and large-sized businesses not eligible for assistance under the 1970 Law). The 1993 Decree replaced the Economic Expansion Law of 1959 (''1959 Law'') which was repealed in 1991. These laws offer various subsidies designed to promote expansion, employment, investment, research and development, and conformance with environmental standards (Vlaams Reglement betreffende de Milieuvergunning, ''VLAREM''). Because the 1970 Law is part of a framework of economic expansion, the question arises whether particular assistance provided under the various laws should be considered one program for specificity purposes.

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 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 § 355.44(n) of the Department's *1989 Proposed Regulations (*Proposed Rules, Department of Commerce, International Trade Administration, Countervailing Duties, 54 FR 23366, 23380 (May 31, 1989))).

ALZ has argued for the same treatment in this case. However, as noted above, the 1959 Law was repealed in 1991 and replaced with the Flemish 1993 Decree. Therefore, the question is whether subsidies provided under the current economic expansion laws—the 1978 Act, the 1993 Decree and the 1970 Law—should be considered as one program for specificity purposes. We examined each subsidy received by ALZ and Albufin under the context of all three laws and determine that environmental grants and environmental real estate tax exemptions provided pursuant to these laws are integrally linked. For further discussion, see Comment 17 in the *Interested Party Comments* and the Memorandum to Richard Moreland, ''Specificity of Assistance Provided Pursuant to the Economic Expansion Laws,'' dated March 19, 1999 (''Economic Expansion Memorandum''). Moreover, we determine that these programs are not specific and, therefore, not countervailable. For further discussion, *see* Comments 18 and 20 in the *Interested Party Comments* section.

The other subsidies received by Albufin under the 1970 Law (*i.e.*, the 1993 Expansion Grant, the *Real Estate Tax Exemption* for Albufin's expansion investment, and Accelerated Depreciation) are either not available to large companies under the 1993 Decree or the 1978 Act, or, in the case of the 1993 Expansion Grant, the 1993 Decree was not in effect at the time the subsidy was approved. Therefore, we determine that these subsidies provided under the 1970 Law cannot be integrally linked with the 1993 Decree or the 1978 Act. For further discussion, *see* Comment 17 in the *Interested Party Comments* section and the Economic Expansion Memorandum.

1. 1993 Expansion Grant

The GOF gave Albufin 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. Expansion grants are only available to large firms under the 1970 Law, and as noted above, benefits under the 1970 Law are available only to firms in certain regions of Flanders. On this basis, we determine that this program is specific under section 771(5A)(D)(iv) of the Act. Therefore, the 1993 Expansion Grant received by Albufin is countervailable within the meaning of section 771(5) of the Act.

We further 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 0.50 percent of ALZ's 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's financial statements for 1996 and 1997 show entries for ''investment subsidies'' and ''interest subsidies.'' According to ALZ, the majority of these figures are captured under the heading 1994 Environmental Grants (addressed below). 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 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. 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 determine that the program is specific under section 771(5A)(D)(iv) of the Act.

Furthermore, because cash grants of this nature were also available to companies under the 1959 Law, we determine that only the difference in the assistance level between the two laws constitutes a countervailable benefit (*see* Certain Steel, 58 FR 37273, 37275). To derive the benefit, we calculated the difference in the benefit level 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 determine the countervailable subsidy to be 0.02 percent ad valorem.

3. Accelerated Depreciation

Article 15 of the 1970 Law allows certain companies to declare twice the standard depreciation for assets acquired using 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 determine that the program is specific under section 771(5A)(D)(iv) of the Act. Therefore, we 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 determine the countervailable subsidy to be 0.50 percent *ad valorem*.

4. Expansion Real Estate Tax Exemption

Pursuant to Article 16 of the 1970 Law, assets acquired using benefits received under 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. Albufin utilized this tax exemption for an expansion project.

The expansion real estate tax exemption received by Albufin 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. As noted above, only the 1970 Law provides tax exemptions for expansion investments to large enterprises. Because the 1970 Law only provides subsidies to companies located in certain regions, we determine that this expansion real estate tax exemption is specific under section 771(5A)(D)(iv) of the Act. Therefore, we determine that the expansion real estate tax exemption received by Albufin 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 determine the countervailable subsidy to be 0.09 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)

In 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 Maatschappig voor de Herstructurering van de Nationale Sectoren (''NMNS''), the government agency purchasing the shares, acquired common shares and preference shares through this plan.

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 common 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. In addition, we have performed our own analysis of ALZ's financial health at the time of the stock purchase. This analysis indicates that the company was equityworthy.

Pursuant to the Department's equity methodology, a finding of equityworthiness means that the Department need not inquire further regarding the commercial soundness of a government's purchase of common shares. Hence, we determine that the GOB's 1985 purchase of common shares was consistent with the usual investment practice of private investors in Belgium.

With respect to ALZ's preference shares, we have applied 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, 582 (CIT 1996) (''*Geneva Steel*'') and analyzed the characteristics and the subscription price of the preference stock purchased by the GOB. Although the record evidence is mixed, on balance, we have determined that the terms at which the GOB ultimately purchased the preference shares was consistent with the usual investment practice of private investors in Belgium (*see* memorandum from Team to Richard Moreland, ''ALZ Preference Shares,'' public version, dated March 19, 1999).

In 1987, the GOB sold ALZ's common shares purchased under the Royal Decree No. 245 to Kempense Investeringsvennootschap (''KIV''), a company controlled by Sidmar. Based on the relevant record evidence concerning this transaction, we have concluded that the GOB did not behave as a private investor when selling its shares because it accepted a lower price than it otherwise could have obtained for the shares. Specifically, the GOB agreed to sell its shares of ALZ common stock at the value assigned by a statutory auditor. However, the valuation methodology used by the auditor failed to reflect the market value of the stock. This is evident because in a relatively contemporaneous transaction a private seller of ALZ's shares obtained a much higher value. Also, circumstances surrounding the GOB's sale of shares to KIV indicate that the GOB may have been willing to accept less than the fair value of its shares in order to ensure that the shares were purchased by a Belgian company.

We have determined that the GOB's sale of ALZ's common shares to Sidmar 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 Royal Decree No. 245 are available only to the steel sector. On this basis, we determine that the program is specific under section 771(5A)(D) of the Act.

To calculate the benefits, we took the difference between market value for ALZ's common stock and the price paid by Sidmar for the stock. We then applied the Department's standard grant methodology and divided the benefit attributable to the POI by Sidmar's total consolidated sales during the POI. On this basis, we determine the countervailable subsidy to be 0.09 percent *ad valorem*.

In addition, we determined in our *Preliminary Determination* that Sidmar received a countervailable benefit via the creation of a joint venture between Sidmar and the GOB. In this transaction, the GOB contributed its ALZ preference shares in exchange for shares in the joint venture. However, the Department verified that this transaction was structured in such a way that the government maintained ownership of ALZ's preference shares. Moreover, it was established at verification that Sidmar does not control the company. Thus, Sidmar neither controls the ALZ preference shares contributed to this company nor can profit from the shares. Accordingly, contrary to our *Preliminary Determination*, we determine that Sidmar did not ''acquire'' the preference shares originally purchased by the GOB. Therefore, no countervailable benefit was conferred upon Sidmar through the creation of the joint venture by Sidmar and the GOB.

C. Societe Nationale de Credite a l'Industrie (''SNCI'') Loans

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 loans outstanding (58 FR 37273, 37280–37281). We compared the steel industry's share of outstanding loans to the share of outstanding loans 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 outstanding in years prior to 1987. However, we did not find disproportionality in 1987 and 1988 as the steel industry's share of benefits dropped significantly.

In the *Preliminary Determination*, we followed the same analysis employed in *Certain Steel* and examined data on outstanding SNCI investment loans in 1989 and 1990, and preliminarily determined that the steel industry did not receive a disproportionate share of benefits in those years. Therefore, for loans approved between 1987 and 1990, we preliminarily determined that SNCI investment loans were non-specific and, therefore, not countervailable.

In a change from the analysis used in *Certain Steel* and the *Preliminary Determination*, we have focused our analysis on the steel industry's share of loans approved in a given year rather than that industry's share of loans outstanding in a given year. We believe the former provides a better indication of whether loans are limited to specific industries. Loans outstanding can be affected by other factors besides the approval process which are not relevant to a specificity determination, such as the terms of loans. Therefore, for the final determination, we are modifying our analysis to examine the percentage of loans approved for the basic metals industry in each year. On this basis, we determine that the steel industry did not receive a disproportionate share of SNCI loans for the years 1987 through 1990. *See* Memorandum to Richard Moreland, ''Specificity of SNCI Loans,'' dated March 19, 1999 (''*SNCI Memorandum*'').

Since the *Preliminary Determination*, the petitioners provided information indicating that the steel industry's share of SNCI loans was not completely captured in the data used by the Department because it did not include loans provided to the steel industry through ''coordination centers.'' SNCI classifies loans to coordination centers as loans to the ''banking and finance, insurance, business services, and renting'' sector. Therefore, the petitioners argue that the data should be adjusted to account for all loans provided to the steel industry.

The data we are using for our final determination (loans approved) also do not include loans provided to the metals industry through coordination centers. However, we observed that in the one instance where loans through coordination centers are accounted for in the statistics reflecting loans outstanding, the increase in the metals industry's share was not significant. *See* Comment 12 in the *Interested Party Comments* section. Therefore, although we do not have information on loans approved through coordination centers, based upon the information on the record, we determine that their effect would not alter our specificity determination for the years 1987 through 1990. *See SNCI Memorandum*.

For the period 1991–1995, the GOB did not provide any industry usage information for SNCI loans. We requested this information from the GOB in both the original and supplemental questionnaires as well as in the verification outline. The GOB did provide information for 1996 and 1997, however, these figures could not be verified. Because the GOB failed to provide verifiable information with respect to the loans provided since 1991, the Department must use facts available in determining whether these loans are specific. *See* section 776(a) of the Act. Moreover, the GOB did not provide an adequate explanation as to why it was unable to supply the requested information. GOB officials simply stated that they did not have access to the necessary information. Therefore, we determine that the GOB did not act to the best of its ability and, pursuant to section 776(b) of the Act, are applying adverse inferences to determine that SNCI loans provided after 1991 are specific under section 771(5A)(D)(iii) of the Act. For further discussion, *see* Comment 12 in the *Interested Party Comments* section.

To calculate the subsidy conferred by these loans, we used our long-term fixed-rate loan methodology. Because the interest rates on ALZ's loans were periodically revised, we examined the fixed segment which included the POI. We measured the cost savings to ALZ in each year of this segment. We then took the present value of each of these amounts as of the time the interest rate was revised. Finally, using the benchmark as a discount rate, we allocated the subsidy over the period of the segment. We then divided the benefit attributable to the POI by ALZ's total 1997 sales. On this basis, we determine the countervailable subsidy to be 0.04 percent *ad valorem*.

D. 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. Moreover, 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 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 determine that the Belfin loans to the steel industry are specific under section 771(5A) of the Act.

To measure the benefit on these loans, we used our long-term fixed-rate loan methodology. We divided the subsidy allocated to the POI by ALZ's total 1997 sales. On this basis, we determine the countervailable subsidy to be 0.00 percent *ad valorem*.

E. 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 at the issued price over a ten-year period.

We have used the hierarchical criteria discussed in the ''Classification of Hybrid Financial Instruments Issue'' section of the *GIA* to examine these shares and find that they constitute debt instruments because they have a fixed repayment period.

We 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. Moreover, because benefits under the ''Herstelwet 1984'' law are limited to firms in certain regions of the country, we determine that this program is specific under section 771(5A)(D)(iv) of the Act.

To measure the benefit of this loan, we used our long-term fixed-rate loan methodology. We divided the subsidy allocated to the POI by ALZ's total 1997 sales. On this basis, we determine the countervailable subsidy to be 0.00 percent *ad valorem*.

Albufin

Albufin was established as an ''improper'' reconversion company in 1989, also under the reconversion program ''Herstelwet 1984.'' It received its initial capital 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 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 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 benefits under the ''Herstelwet 1984'' law are limited to firms in certain regions of the country, we determine that this program is specific under section 771(5A)(D)(iv) of the Act.

During 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 them by ALZ's total sales during the POI. On this basis, we determine the countervailable subsidy to be 0.05 percent *ad valorem*.

F. Subsidies Provided to Sidmar that are Attributable to ALZ

As discussed in the ''*Responding Producers*'' 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 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 beneficiaires* (''PBs'') for the OCPCs.

Consistent with *Certain Steel* and the attendant litigation, we determine that the GOB's initial assumption of interest costs was specific under section 771(5A) of the Act. Furthermore, we 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 an adjusted market value of Sidmar's common stock, we 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. *See Amended Final Affirmative Countervailing Duty Determinations; Certain Carbon Steel Products From Belgium*, 62 FR 37880 (July 15, 1997).

We 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 determine that the program is specific under section 771(5A)(D)(i) 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 consolidated sales during the POI. On this basis, we determine the countervailable subsidy to be 0.56 percent *ad valorem*.

2. SidInvest

The right to establish ''Invests'' was limited to the five national industries, including the steel industry. 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'') (a government financing agency). 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.

SidInvest made periodic repayments of the CRAs it had drawn from SNI. However, in 1987, the GOB moved to accelerate the repayment of the CRAs. The government agency NMNS and SidInvest discussed two options including (i) paying back the CRAs at a rate of three percent per year and (ii) repaying immediately the discounted value calculated as if the full amount were due 32 years later. In early 1988, under the first option, 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 the government by SidInvest in exchange for SidInvest stock. In a second agreement, through a series of transactions the Sidmar group then repurchased the SidInvest shares obtained by NMNS.

Consistent with *Certain Steel*, we determine that the CRAs were interest-free loans with no fixed repayment. However, the various agreements that took place on July 29, 1988, changed the CRAs. First, it was agreed that repayment would be achieved over 32 years. Second, the GOB swapped that repayment obligation for shares in SidInvest and sold those shares back to various members of the Sidmar group. The benefit to Sidmar in these transactions was that it was able to purchase the GOB's shares at too low a price. This occurred because: (i) The GOB agreed to accept in payment the net present value of the amount due in 32 years and (ii) it calculated the net present value using a non-commercial interest rate. The combination of these two elements of the July 29, 1988, agreements meant that the GOB forgave a considerable portion of the amount it had loaned thru the CRAs.

We determine that this debt cancellation provides a countervailable subsidy within the meaning of section 771(5) of the Act. It is a financial contribution within the meaning of section 771(5)(D)(i) of the Act. Moreover, because the right to establish ''Invests'' (and, consequently, any forgiveness of loans given to the Invests) was limited to the five national sectors, we view this debt cancellation as being limited to a specific group of industries. On this basis, we determine that the benefit is specific under section 771(5A)(D) of the Act.

To measure the benefit arising from the events of July 29, 1988, we have deducted from SidInvest's outstanding indebtedness the cash received by the GOB. We have treated the remainder as a grant and allocated the benefit over Sidmar's AUL. We divided the total benefit attributable to the POI by Sidmar's consolidated total sales during the POI. On this basis, we determine the countervailable subsidy to be 0.47 percent ad valorem.

The analysis here differs from that followed in Certain Steel. In Certain Steel, we considered the events of July 29, 1988, to constitute two separate events, the creation of a zero-interest, 32-year loan and the use of a non-commercial interest rate to calculate the benefit. Although useful as an analytical tool, the approach in Certain Steel was flawed because it created a loan that was basically repaid the same day. Under our standard loan methodology this countervailable loan would cease to be countervailable the same day it was forgiven. To avoid such an anomaly, we have revised our analytical approach, as described above, to capture the full benefit to Sidmar of this transaction.

II. Programs Determined To Be Not Countervailable

A. 1994 Environmental Grants

Pursuant to the 1970 Law, ALZ received several grants for environmental investments undertaken to conform its operations with VLAREM. As noted above, we determine that environmental grants available under the 1970 Law are integrally linked with those available under the 1993 Decree and the 1978 Act. Because the combination of these laws makes this assistance available to everyone in Flanders, we determine that these grants are not de jure specific. *See,* also, Comment 17 in the *Interest Party Comments* section.

We also examined usage data provided by the GOF for the years 1995–1997 and further determine that these grants are not de facto specific. Therefore, the 1994 environmental grants are not countervailable. *See also* Economic Expansion Memorandum.

The GOF requested green light treatment for environmental grants. Because these grants are not specific, the green light issue is moot.

B. Environmental Real Estate Tax Exemption

We preliminarily determined that ALZ did not benefit from this program. However, at verification we learned that real estate taxes are paid separately from taxes on revenue and that ALZ did benefit from these environmental tax exemptions. Accordingly, for purposes of our final determination, we have analyzed the countervailability of the environmental real estate tax exemptions received by ALZ.

As noted above, we determine that environmental real estate tax exemptions available under the 1970 Law are integrally linked with those available under the 1993 Decree and the 1978 Act. Because the environmental tax exemptions under the 1970 Law, the 1978 Act, and the 1993 Decree are generally available, these environmental tax exemptions are not de jure specific. Moreover, following the same analysis employed for the 1994 Environmental Grants, we determine that these environmental tax exemptions are also not de facto specific under section 771(5A)(D)(iii) of the Act. Therefore, the environmental real estate tax exemptions received by ALZ are not countervailable. *See* Comments 17 and 20 in the *Interested Party Comments* section and Economic Expansion Memorandum.

III. Programs Determined To Be Not Used

Based upon the information provided in the responses, we determine that neither Sidmar nor ALZ applied for or received attributable 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'')

B. Government of Flanders Programs

1. Regional subsidies under the 1970 Law
   a. Corporate Income Tax Exemption
   b. Capital Registration Tax Exemption
   c. Government Loan Guarantees
2. Special Depreciation Allowance
3. Preferential Short-Term Export Credit
4. Interest Rate Rebates

C. 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

Interested Party Comments

Comment 1: Sidmar's Sales Denominator. The petitioners argue that Sidmar's sales denominator should be adjusted to exclude production that occurred outside of Belgium because the subsidies provided to Sidmar were not intended to benefit non-Belgian production. In support of their argument, the petitioners cite 19 CFR 351.525(7) of the Department's new regulations, which states that if a firm has production facilities in two or more countries, the Department will attribute these subsidies to products produced by the firm within the country of the government that granted the subsidy. (*See* Countervailing Duties; Final Rule, 63 FR 65348, 65417 (November 25, 1998) (''Final CVD Regulations'')).

Department Position: We have used Sidmar's sales denominator exclusive of all non-Belgian production for purposes of attributing the subsidies provided to Sidmar. We believe that it is reasonable to presume that the government of a country normally provides subsidies for the general purpose of promoting the economic health of that country. *See* GIA at 37231. Sidmar has not offered any information rebutting this presumption.

Comment 2: Sidmar Sales Denominator—Transportation Expenses. The petitioners argue that the Department should calculate subsidy benefits to ALZ and Sidmar on an f.o.b. basis rather than on the basis of the companies' accounting and financial statements. The petitioners note that the Final CVD Regulations are clear that sales values should be determined on an f.o.b. basis. While ALZ appears to have provided an f.o.b. based sales figure at verification, the petitioners contend that Sidmar calculated its sales figure on a c.i.f. basis. According to the petitioners, Sidmar's calculation of the total sales figure for the Sidmar Group's Belgian-located companies is based on the companies' revenues, which are reported on a c.i.f. basis. Accordingly, the petitioners argue that transportation costs should be subtracted from this calculation in order to derive the appropriate f.o.b. sales value.

ALZ argues that the Department verified that there is no method for calculating a consolidated f.o.b. figure for the Sidmar Group, a holding company consisting of Sidmar NV and other steel related companies. ALZ notes that Sidmar rarely sells on an f.o.b. basis because its main markets are in Europe, with the result that its products do not go through a port. Furthermore, the Department verified that the type of information Sidmar receives in order to calculate the consolidated financial statements does not provide any figures on transportation costs.

The respondent further argues that using Sidmar NV's cost information to adjust the Sidmar Group's consolidated figures, as recommended by petitioners, serves to overestimate the transportation costs contained in the consolidated revenue figure. ALZ notes that the companies included in the consolidated group are involved in a wide variety of activities, some of which do not incur any transportation expenses. Accordingly, it is not reasonable to assume that all of these companies would incur transportation costs at the same level as Sidmar NV. Consequently, according to ALZ, the petitioners' calculation derives an ex-factory amount as opposed to an f.o.b. amount. Moreover, the petitioners' calculation understates even the ex-factory amount by deducting transportation expenses from companies that incur none.

Department Position: In cases where the company's sales are not recorded on an f.o.b. basis, the Department adjusts the sales value to conform with the Department's longstanding practice of calculating an f.o.b.-based ad valorem subsidy rate, which is consistent with the assessment of the countervailing duties. Accordingly, we have adjusted certain sales figures of Sidmar's Belgian-located companies by the ratio of Sidmar NV's transportation expenses to its total sales. However, we have not adjusted the sales figures of companies that are not involved in production or manufacturing because these companies incur little to no transportation expenses. We believe this to be the most accurate estimate of the f.o.b. value of Sidmar's sales.

Comment 3: Sidmar Sales Denominator—Other Income. The petitioners argue that the Sidmar Group sales figure includes additional income that is inappropriately reported. The petitioners note that Sidmar officials calculated the total sales figure for the Group's Belgian-located companies by adding accounts 70 (''Turnover'') and 74 (''Other Operating Income: Miscellaneous'') for each company. The petitioners argue that account 74 includes various forms of revenue that were derived from sources that bear no relation to Sidmar's operations. Accordingly, these sources of revenue could not have benefitted from the subsidies under investigation. Therefore, account 74 should be removed from Sidmar's sales figure.

ALZ counters that it is necessary to include ''Other Operating Income'' in order to consolidate the revenues of the Sidmar Group's Belgian companies. The respondent explains that it totaled the revenues of the Sidmar Group companies located in Belgium and reduced this amount by each company's intra-group acquisitions. However, the cost accounts used to calculate intra-group transactions do not correspond exactly to accounts 70 and 74. The respondent notes that while cost accounts beginning with the number 60, in which Sidmar subsidiaries record purchases, correspond mostly to 70 accounts, some of the items included therein correspond to items recorded in the 74 account. Cost accounts beginning with the number 61 reflect other costs corresponding to account 74. Consequently, reducing the 70 revenue account by the 60 account serves to understate revenue because some of the items recorded in the 60 accounts correspond to revenues recorded in the 74 accounts. Therefore, in order to achieve complete correspondence between revenues and expenditures, the respondent totaled accounts 70 and 74 and deducted from that combined total the intra-group acquisitions reflected in accounts 60 and 61. ALZ notes that this was the most accurate calculation of the Sidmar Group's Belgian sales given the accounting records of each company.

Department's Position: We verified that the entries recorded in Sidmar's account 74 include non-operational income. We did not request nor collect additional information as to revenue recorded in account 74 by the Sidmar Group's Belgian subsidiaries and there is no indication that all of the Sidmar Group companies record their revenue using the same accounting standard. As noted by respondents, simply deducting the 60 account from the 70 account results in an understatement of Sidmar's operating income. Thus, for purposes of our final determination, we have retained in Sidmar's sales denominator the revenue from account 74 because this is the most accurate information on the record.

Comment 4: Loan Benchmarks and Discount Rates. Both the petitioners and ALZ argue that the national average, long-term benchmark interest rates used in the Preliminary Determination are inappropriate because they are rates for all outstanding government loans, not commercial loans extended in a particular year. The petitioners suggest that the Department should use the SNCI rates collected at verification plus a 15 point spread for the years 1982 to 1997.

ALZ states that because prime rates are set each day, the Department should use the prime rate provided by Kredietbank and Generale Bank for the specific day that a loan was approved or an interest rate was revised. Because these rates are provided for the specific day and length of the loan, they are the best approximations of a commercially available interest rate. Short of using these rates, ALZ argues that the Department should calculate an annual average interest rate from the prime rates collected at verification. Prior to 1991, when prime rates are not available, ALZ argues that the Department should approximate a prime rate from the SNCI rate as was done in Certain Steel.

Department's Position: We agree that the rates used in the Preliminary Determination are inappropriate benchmarks because they represent rates for total government debt outstanding. Therefore, we are changing our benchmark rates for the final determination to reflect long-term national averages for commercial debt taken out in each year. For years in which there was no company-specific benchmark and in which a prime rate is available (*i.e.,* 1991–1993 and 1995–1997), we have used the prime rate plus a 15 point spread as our benchmark. This methodology comports with information collected at verification (*see* Appendix I of the Memorandum to Susan Kuhbach, ''Verification Report for a Private Commercial Bank,'' dated January 25, 1999). However, we are not using the prime rate for the specific day that the interest rate on the subsidized loan was revised because the Department's practice is to use an annual average interest rate during the year in which the loan was received. *See* Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod From Italy 63 FR 40474 (July 29, 1998) (''Wire Rod from Italy'').

For the period prior to 1991, when Belgium did not publish a prime rate, we are using the national average interest rate calculated in the Certain Steel investigation and used in the recently published administrative review of that case. Consistent with both of those proceedings, we are using Kredietbank rates for the years 1982 to 1990, which were supplied in the Certain Steel investigation, and adding a margin of 15 points to these rates. *See* Certain Steel, 37288–37289 and Cut-to-Length Carbon Steel Plate From Belgium; Final Results of Countervailing Duty Administrative Review, 64 FR 12982, 12987 (March 16, 1999).

We did not approximate a prime rate for the years prior to 1991 as ALZ suggested. Although we did construct a prime rate in Certain Steel, we only did so to calculate a margin for uncreditworthiness, not to calculate the benchmark rate. As stated above, for benchmark rates prior to 1991, we used the Kredietbank rates from Certain Steel plus a spread.

Comment 5: ALZ Company-Specific Benchmarks. The petitioners argue that company-specific benchmark rates used by the Department in the Preliminary Determination for ALZ in 1989 and 1993 are not appropriate benchmarks because they are based on a loan which is not a true commercial loan. The petitioners maintain that the loan originally taken out in 1989 by ALZ, and revised in 1993, should not be used because it was linked to a project which also received SNCI financing two years earlier. According to the petitioners, because both the private bank loan and the SNCI loan were taken out to finance the same project, they are part of a consortium loan and the participation of SNCI may have affected the terms of the private bank loan. Moreover, the petitioners argue that the interest rate revision on this loan used to determine the 1993 benchmark rate for ALZ was not applicable until 1994 and, therefore, should not be used as a benchmark for 1993. Instead of using these aforementioned company-specific rates, the Department should use the SNCI rates collected from Kredietbank for the years 1982 to 1997.

It is ALZ's position that its 1989 loan is a commercial loan and the fact that an SNCI loan was taken out two years earlier to finance the same project should have no bearing. In addition, the relevant date in determining benchmarks is the date on which the rate is established. Therefore, the interest rate revision in 1993 is applicable to 1993.

Department's Position: It is the Department's policy to use a company-specific benchmark rate to determine the benefit conferred by a government loan program. *See, e.g.,* Certain Iron-Metal Castings from India; Final Results and Partial Rescission of Countervailing Duty Administrative Review, 63 FR 64050, 64057 (November 18, 1998). Therefore, where available, we have used ALZ's loans as benchmarks. We disagree with the petitioners that ALZ's 1989 loan was not a commercial loan merely because the loan was used to finance a project which received SNCI financing years earlier. When the loan contract was reviewed at verification, there was nothing in the document to indicate that the loan was not a commercial loan or was in any way connected with the SNCI loan. Therefore, consistent with the Department's practice, we are using ALZ's 1989 loan as a company-specific benchmark.

With regard to the 1993 interest rate revision, we agree with the petitioners that while the interest rate revision occurred in 1993 it did not go into effect until 1994. Given that this was an interest rate revision to an ongoing loan, and the revision would not apply until the next year, we are treating this revised rate as a 1994 benchmark. Therefore, we are including this interest rate in our calculation of the company-specific benchmark for 1994.

Comment 6: Sidmar Company-Specific Benchmarks. The petitioners argue that the company-specific benchmark rate used by the Department in the Preliminary Determination for Sidmar in 1988 is not an appropriate benchmark because Sidmar's loan does not represent comparable commercial financing in terms of structure and maturity. Specifically, the petitioners maintain that one of Sidmar's loans was not a fixed-rate loan. The petitioners also state that the maturities of two of Sidmar's loans used as benchmarks are not comparable to the maturity of the subsidized loan. Therefore, the petitioners state that the Department should reject Sidmar's 1988 company-specific rate.

With respect to Sidmar's 1988 loans, ALZ contends that the national average interest rate for five-year loans is not more comparable to the subsidized loan than Sidmar's company-specific rate. Therefore, the Department should continue to use Sidmar's loans for 1988.

Department's Position: As noted in the comment above, it is the Department's policy to use a company-specific benchmark rate in determining the benefit conferred by a government loan program. Therefore, where available, we used Sidmar loans as benchmarks. However, we agree with the petitioners that one of Sidmar's loans taken out in 1988 is not a long-term, fixed-rate loan. Therefore, it does not provide an appropriate benchmark for our purposes and we are excluding that loan from our benchmark calculation. Consequently, we are using a recalculated company-specific benchmark rate for Sidmar in 1988. We agree with the respondents that Sidmar's company-specific rate calculated from its other 1988 loans is a more appropriate benchmark than a national average benchmark. The maturity of Sidmar's loans and the maturity of the national average interest rate (five-years) do not differ enough to warrant deviating from the Department's preference for using company-specific benchmarks when available.

Comment 7: Government Equity Infusions In Sidmar. The petitioners allege that the GOB equity infusion into Sidmar in 1984 was made on terms inconsistent with the usual investment practice of private investors and, therefore, constitute countervailable studies. The petitioners base their argument on the GOB's decision to invest in these companies without evaluating information typically examined by private investors. In support of their position, the petitioners refer to § 351.507(a)(4)(ii) of the Final CVD Regulations, which state that the government investor must provide ''the information and analysis completed prior to the infusion and * * * absent the existence or provision of an objective analysis, containing information examined by potential private investors considering an equity investment, the Secretary will normally consider that the equity infusion provides a countervailable benefit.'' The petitioners argue that the information on the record demonstrates that the GOB failed to meet this standard when it invested in Sidmar.

Specifically, the petitioners note that the GOB made substantial equity investments in Sidmar pursuant to the Claes and Gandois plans. The petitioners assert that information on the record establishes that the objective of these programs was to restructure and revitalize the Belgian steel industry. Thus, the objective and circumstances surrounding the investments render it contrary to the behavior of a normal private investor. Moreover, the Department previously found the Gandois Plan to provide countervailable benefits to steel companies because it was ''commissioned and adopted by the GOB * * * specifically to assist the Belgian Steel industry.'' *See* Certain Steel at 37277. The petitioners argue that consistent with the GOB's primary objective of restructuring the Belgian steel industry regardless of the commercial soundness of its investments, the GOB failed to conduct objective analyses containing information typically examined by private investors.

ALZ counters that the petitioners' attempt to include a new allegation regarding the GOB's purchase of Sidmar's common and preference shares in 1984 should be rejected. Pursuant to § 351.301(d)(4)(i)(A) of the Department's regulations, the time limit for making new allegations is 40 days before the scheduled date of the preliminary determination. Moreover, ALZ notes that in Certain Steel, the Department refused to examine the common share transaction and determined that no countervailable subsidy arose from the preferred share transactions.

Department Position: With respect to the Sidmar share transactions, our regulations (at § 351.301(d)(4)(i)(A)) are clear regarding the time limit for making new allegations. The petitioners first made this allegation in their case brief. Thus, for purposes of our final determination, we have not conducted an investigation of the Sidmar share transactions because the petitioners did not meet this regulatory deadline.

Comment 8: GOB Decision to Invest in ALZ. With respect to the ALZ's common and preference shares purchased in 1985, the petitioners contend that the GOB's share valuation methodology and objectives were inconsistent with the actions of a reasonable private investor. The petitioners argue that by valuing ALZ's shares based on the replacement value of its assets, the GOB failed to consider factors that would provide a commercial rationale for the investment, such as financial performance. Furthermore, the petitioners allege that the GOB was not commercially motivated when it purchased ALZ's common stock in order to obtain a blocking share of the company's equity. The petitioners assert that the GOB's objective to block decisions made by ALZ's major stockholders is inconsistent with the usual investment practice of private investors.

ALZ argues that the petitioners ignore the evidence on the record regarding the valuation studies conducted in preparation for ALZ's share subscription. Citing the minutes of ALZ's General Shareholders' meeting, at which it was determined to issue the shares and permit the GOB to subscribe them, the respondent notes that return on investment was considered in determining the value of the shares issued, contrary to petitioners' contention.

In addition, ALZ objects to the petitioners' allegation that the GOB's purchase of ALZ's common stock in order to gain a blocking share of the company's equity is inconsistent with the Department's private investor standard. ALZ argues that private investors frequently purchase equity in a company specifically in order to obtain a blocking share and, thus, gain a measure of control.

Department Position: The objective of the Department's private investor standard is to determine if a particular investment reflects a rational assessment of whether a reasonable return on the investment would be generated in a reasonable period of time. *See* GIA 58 FR 37217, 37249. As noted by respondents, return on investment was analyzed by the statutory auditor in determining the value of the preference shares. Thus, the GOB's share valuation methodology was consistent with our private investor standard.

Furthermore, the petitioners indicate that methodologies which focus on earnings and financial performance are typically used by private investors for purposes of valuing private companies. However, this represents only one of the valuation approaches available to private investors. The replacement value methodology used to estimate the value of the preference shares is a common approach for valuing privately held companies and, therefore, consistent with the actions of a private investor.

Finally, we agree with the respondent that the GOB's purchase of ALZ common shares for purposes of obtaining a blocking share is not inconsistent with the actions of a private investor. As verified by the Department, the GOB obtained a blocking share in order to protect its investment in ALZ. Thus, we determine that the GOB's purchase of ALZ common shares was consistent with the usual practice of a private investor.

Comment 9: The Formation of Sidfin International. ALZ argues that neither it nor Sidmar received a countervailable benefit through the formation of the joint venture, Sidfin International, because Sidmar did not acquire ALZ's preference shares. ALZ notes that the Department verified that the joint venture was neither controlled by Sidmar nor was Sidmar able to benefit from the returns associated with ALZ's preferred shares. Thus, regardless of the valuation of the shares performed in 1993 at the time of Sidfin creation, Sidmar received no benefit from this transaction.

ALZ further argues that the valuation of ALZ's preference shares in this transaction was consistent with a reasonable private investor standard. ALZ notes that the parties involved in this transaction, including the private company Sidmar, valued their assets according to the same standards. The valuation of the assets contributed was also reviewed by a statutory auditor. In addition, the respondent contends that the Department has previously accepted the use of net present value as a reasonable valuation approach for a private investor. *See* Certain Steel, 37278.

The petitioners argue that Sidmar's audited financial statements clearly indicate that Sidfin International is controlled only by Sidmar. The admission by Sidmar in a public document provides unbiased documentary evidence that, while Sidmar owned only half of Sidfin International's shares, it effectively controlled all of the company. The petitioners rely on statements made during verification as further indication that Sidmar controlled Sidfin.

Furthermore, the petitioners contend that contrary to respondent's claim, private investors do not employ the valuation methodology used in this transaction. In support of its argument, ALZ refers to Accounting Principles Board Opinion 16 which explains that the NPV is used in the context of business combinations to assign a value to debt instruments. Conversely, marketable securities such as ALZ's preference shares should be valued at the current net realizable value of the shares. In the case of ALZ's preference shares, the current net realizable value was the market value of the shares at the time of the transaction. Thus, for purposes of measuring the benefit conferred by the 1993 capitalization of Sidfin International, the petitioners argue that the Department should use the market value of ALZ's preference shares in 1993 as the benchmark share price rather than the 1985 subscription price.

Department's Position: As noted above, we have determined that the 1993 capitalization of Sidfin International did not involve a sale of shares or any other potentially countervailable event. Consequently, the valuation methodologies used in this transaction are irrelevant.

Comment 10: GOB Sale of Common Share—Consistency With Actions of a Private Investor. ALZ argues that the GOB's 1987 sale of ALZ's common stock to KIV/Sidmar was consistent with the actions of a reasonable private investor. ALZ contends that the 1987 transactions reflect pre-existing contractual relationships among ALZ's shareholders which limited the potential buyers of the GOB's shares and, thus, affected the GOB's sale of its shares. According to ALZ, these contractual relationships created constraints on the GOB's freedom to transfer the shares but such constraints were common private investor practices among the entities involved in this transaction.

ALZ explains that, as required by the rights of preemption agreed to in 1980 by the GOB, KIV and Klockner Stahl, the GOB was obligated to offer its shares of ALZ first to KIV and then to Klockner Stahl before it could sell the shares to an outside party. Thus, the GOB structured the sale such that it sold the shares to KIV. Subsequently, Sidmar gained control of these shares when it acquired KIV. ALZ argues that the structure of this transaction enabled the GOB to sell freely without violating Klockner Stahl's preemption rights.

The petitioners counter that the respondent's argument ignores the fact that the GOB structured the 1987 transaction to account for noncommercial concerns regarding the nationality of potential buyers. The petitioners argue that a private investor would not share the GOB's concern regarding the nationality of a potential investor. Rather, private investors would seek to obtain the highest return for their investment. As a result, the GOB neglected a potentially higher purchase price offered by Klockner Stahl due to its concern regarding the nationality of the investor and, instead, accepted the discounted price paid by Sidmar. Thus, the sale of ALZ's common shares by the GOB to Sidmar was not consistent with actions of a reasonable private investor.

Department Position: Although the preemption agreements affected the transferability of ALZ's shares, the GOB elected not to pursue a potentially higher offer by Klockner Stahl and, instead, accepted the discounted offer by Sidmar. Moreover, record evidence indicates that the GOB and Sidmar structured the 1987 sale of ALZ common shares to account for noncommercial concerns regarding the nationality of potential buyers. Accordingly, we have determined that the GOB did not act as a reasonable private investor.

Comment 11: GOB Sale of Common Shares. ALZ argues that, consistent with the actions of a private investor, the GOB negotiated a purchase price for ALZ common shares in ALZ with KIV/ Sidmar. After evaluating the offer and gaining an understanding with Sidmar regarding the protection of the GOB's interests in the preferred shares which it retained, the GOB determined that the price offered for its shares was reasonable. Moreover, a statutory auditor valued the same number of shares held by KIV in ALZ at the same price.

In addition, the respondent maintains that the ALZ stock Sidmar purchased later in 1987, which the Department used as a benchmark in its preliminary determination, is not comparable. ALZ argues that this sale was not constrained by the preemption agreements of 1980. Thus, it is logical that a private investor would require a higher price for its shares under these circumstances. The respondent also notes that it is reasonable to assume that Sidmar was willing to pay a higher price for the shares because it was consolidating its holdings in ALZ at the time.

The petitioners assert that the purchase price was significantly below the market-determined prices paid at the time of, and prior to, the transaction in question. According to the petitioners, the arguments offered by the respondent are unsubstantiated and, furthermore, conflict with the evidence on the record.

The petitioners further argue that the share purchase used as the benchmark in the Preliminary Determination reflects the market value of ALZ stock because it was negotiated between private companies unrelated to each other. Given the disparity between the price at which the GOB sold the shares to Sidmar, the Department should consider the share price received by the GOB to be below the market-determined share price.

Department Position: We agree with the petitioners that, while the GOB agreed to sell its shares of ALZ's common stock at the same value assigned by a statutory auditor to KIV's shares of ALZ stock, the valuation methodology used by the auditor failed to reflect the market value of the stock. Pursuant to the Department's equity methodology, we have compared the price at which the GOB sold its shares of ALZ common stock against a contemporaneous market transaction for purposes of measuring the countervailable benefit.

With respect to the market benchmark used in our Preliminary Determination, the relevant record evidence indicates that the preemption agreements did affect the transferability of ALZ's shares. However, these agreements did not meaningfully restrict the ability of the GOB to sell to Klockner Stahl and, thereby, to obtain the market price of the shares. Consequently, the market transaction involving ALZ's common shares absent these contractual constraints represents a comparable benchmark. Thus, we have continued to use this transaction as our market benchmark in our final determination.

Comment 12: SNCI Loans. As noted above in the *SNCI Loan* section, the petitioners argue that the Department erred in its Preliminary Determination when it found SNCI loans provided between 1987 and 1990 to be non-specific, because the usage data did not include all loans provided to the steel industry.

The petitioners further argue that, with respect to SNCI loans approved after 1990, the respondents have failed to provide any breakdown of benefits by industrial sector between 1991 and 1995, and have failed to document how they derived the percentages reported for 1996 and 1997. Given the respondents' failure to provide the information necessary to conduct a specificity analysis, the Department should apply adverse facts available and countervail all SNCI loans provided to ALZ between 1990 and 1997.

ALZ argues that in Certain Steel, the Department found that SNCI loans not expressly given under a government plan were not specific in 1987 and 1988, and in its Preliminary Determination, the Department extended this finding to include 1989 and 1990. Moreover, ALZ notes that an SNCI official explained at verification that SNCI treated investment loans to the steel industry in the same manner as loans to any other industry and that the steel industry could not have been given a disproportionate share of SNCI loans. Therefore, ALZ contends that the Department should determine that SNCI loans are not specific to the steel industry.

ALZ further argues that the lack of information on loans through coordination centers should not lead to a determination that loans to the steel industry are specific because any industry can have a coordination center. Therefore, the respondent reasons that if loans to the steel industry are underreported because of coordination centers, likewise the loans to all industries are also underreported.

Moreover, ALZ maintains that the use of adverse facts available is not appropriate in this case. It argues that U.S. law requires that for adverse inferences to be applied in this case, the Department must find that a respondent has ''failed to cooperate by not acting to the best of its ability to comply with a request for information'' from the Department. *See* section 776(b) of the Act. ALZ states that the GOB attempted to accommodate the Department's request for information and verification, but the requested information is not available because SNCI no longer aggregates the loan usage data in the format requested. ALZ argues that the respondents have acted to the best of their ability, and the Department should not view any deficiencies in the information they have provided as a cause for applying adverse inferences in this case.

Department's Position: We agree with the petitioners that loans provided to the steel industry through coordination centers should be included in the specificity analysis. However, the petitioners' argument overstates the effect of loans through coordination centers on the percentage of loans to the steel industry. The 1990 SNCI annual report provides specific information on this issue and indicates that when coordination center loans to the steel industry are included in the calculation for 1990, the steel industry's share of SNCI loans increases by 2.3 percent. Instead of employing the petitioners' suggestion to include all coordination center loans to industrial sectors and adding 10 percentage points to the calculation of loans provided to the steel industry, we are accounting for coordination centers by using the information specific to the steel industry.

In addition, we modified our final analysis to include the percentage of loans approved in each year, as well as the percentage of loans outstanding. When both statistics are taken into account, the percentage of SNCI loans directed toward the steel industry greatly decreases. Therefore, for the years in which ALZ received SNCI loans and for which we have the relevant information (*i.e.*, 1987 through 1990), we do not find SNCI loans to be specific to the steel industry. (*See*, also, SNCI Memorandum.)

In response to ALZ's argument that, based upon comments at verification, the steel industry did not receive a disproportionate share of SNCI loans, we have already determined that SNCI investment loans provided in the years 1987–1990 are not specific. However, as noted above in the *SNCI Loans* section, the Department repeatedly requested information on the breakdown of loans in the years 1991–1997. The GOB did not provide any information for the years 1991–1995 and was unable to provide verifiable figures for 1996 and 1997. Therefore, the comments made at verification are completely unsubstantiated with respect to these years. Moreover, the GOB never explained why it could not provide the required data. While SNCI may not aggregate the information in the manner requested by the Department, the GOB never indicated why the usage information could not be collected through other sources. As a result, we determine that the GOB did not act to the best of its ability with respect to providing the requested information and, pursuant to section 776(b) of the Act, we are applying adverse inferences in those years and determine that SNCI investment loans are *de facto* specific for the years 1991–1997.

Comment 13: Fictive Withholding Tax. The petitioners argue that the Department's calculation methodology for SNCI loans should include benefits from the Fictive Withholding Tax (''FWT''). The FWT permitted lending institutions to deduct a certain percentage of the taxes due on interest income from loans to coordination centers and to pass those savings on to the coordination centers. As a result, the petitioners argue, the GOB provides a financial contribution to the borrower through the lender.

ALZ states that the FWT was available for loans provided to coordination centers through any lending institution, not just SNCI. Therefore, the benefits from FWT are not specific. In addition, the FWT was abolished in 1991 and the ALZ group did not benefit from it after 1995. Therefore, the program was terminated prior to the POI. Lastly, ALZ argues that the FWT had no effect on interest rates paid by ALZ, Alfin and Albufin from SNCI. The Department verified that the coordination centers did not pass on the savings to the ultimate borrowers, but instead retained those savings. Thus, ALZ, Alfin, and Albufin did not benefit from the FWT during the time it was in effect and the Department should use the interest rates actually paid by the ultimate borrowers.

The petitioners counter that ALZ's attempt to distinguish between the rates paid by Al-Center (ALZ's coordination center) and the rates paid by ALZ, Alfin and Albufin admits to the preferentiality of the loan terms, in particular through the FWT.

Department's Position: The FWT only applied to loans taken out by coordination centers such as Al-Center. Al-Center took out SNCI loans under investigation in the years 1987, 1989 and 1990. Because we have already determined that SNCI loans provided in those years are not specific, this issue is moot.

Comment 14: GOB Control of SNCI. ALZ argues that SNCI acts like any other commercial entity and partial government ownership does not change this fact. ALZ cites to Certain Granite Products from Italy, (Final Negative Countervailing Duty Determination: Certain Granite Products from Italy, 53 FR 27197, 27202 (July 19, 1988)) where it is stated that the Department's practice has been to find that ''long-term lending * * * in which (a government) has direct or indirect ownership, that involves no government program'' does not confer countervailable subsidies. Moreover, ALZ cites to the final concurrence memorandum in Certain Steel in which the Department found that ''fifty percent government ownership does not necessarily lead to the conclusion that SNCI operates in other than a commercial fashion.'' Further, ALZ contends that SNCI was purchased by ASLK prior to the approval of ALZ's 1997 loan from SNCI. Therefore, SNCI was not ''government-controlled'' or ''government-owned'' and this loan is not countervailable.

The petitioners state that because ASLK itself was partially owned by the GOB, the sale of SNCI to ASLK did not eliminate the GOB control and, to the extent it was provided on preferential terms, the 1997 loan is countervailable. Moreover, the fact that SNCI was not acting as a ''commercial lender'' is apparent from the interest rates charged on ALZ's investment loans. The preferential terms associated with ALZ's SNCI loans prove that SNCI provided ALZ with a countervailable benefit.

Department's Position: We agree that fifty percent GOB ownership of SNCI does not, in and of itself render SNCI loans countervailable. However, the fact that SNCI was providing loans at rates lower than those otherwise available does indicate that SNCI was not acting as a commercial entity. We have examined the record evidence and determined that SNCI loans provided between 1991 and 1997 contain all the elements of a countervailable subsidy (*i.e.,* specificity, financial contribution, and benefit).

We agree with the petitioners that although ASLK purchased 99 percent of SNCI in 1995, ASLK continued to remain under GOB control through the fall of 1997. Because ALZ's loan was approved in early 1997, SNCI cannot be considered beyond the control of the government at that time and the purchase of SNCI by ASLK does not diminish the potential countervailability of the loan.

Benefits Received Pursuant to the 1970 Law

Comment 15: Interest Rebate. The petitioners argue that the Department should countervail the interest rate subsidy found at verification even though the relevant loan is no longer outstanding. The petitioners base this argument on the Department's practice to treat interest rate rebates as a grant if the company does not know if the government will provide the rebate when the firm agrees to the terms of the loan. Consequently, because the government approval for this interest rebate occurred after the loan was approved, the Department should treat the interest subsidy as a non-recurring grant.

ALZ argues that it did not report this interest subsidy because it was for a loan which is no longer outstanding. Moreover, ALZ points out that the Department made a specific decision to treat interest subsidies under the 1970 Law as interest rebates and not grants in Certain Steel. ALZ argues that in that case, the Department did so because, although the government approval occurred after the loan was granted, this approval was merely a ''rubber stamp'' and companies were reasonably certain that their application would be approved at the time they withdrew the loan. In addition, they knew the precise amount of the rebate they would receive and the length of time that it would remain in effect.

Department's Position: In the concurrence memorandum for Certain Steel, the Department stated that ''although applicants for the interest rebate did not receive approval of their applications until about 60 days after receipt of the loan in question, they were, nonetheless, reasonably certain that their application would be approved. In addition, they knew the precise amount of the rebate they would receive and the length of time that it would remain in effect. Therefore, we (view) these rebates as interest reductions rather than grants.'' Based upon our analysis of the interest rebates in question in Certain Steel, we agree with the respondent. Because the loan in question was no longer outstanding during the POI, we find that ALZ did not benefit from the interest rebate at issue during the POI.

Comment 16: Applicability of Integral Linkage Analysis. The petitioners argue that in Certain Steel, the Department stated that it would not conduct an integral linkage analysis of the 1970 Law due to the fact that the law was specific in that it provided benefits only to firms in certain regions. The petitioners state that no evidence has been placed on the record to support a different conclusion in this proceeding. Therefore, the Department should determine that the subsidies provided pursuant to the 1970 Law are provided to a specific enterprise or industry or group of enterprises or industries.

ALZ argues that the Department found in Certain Steel that the 1959 Law complemented the 1970 Law and, hence, the two should be considered together when determining benefit levels. The same situation now exists with respect to the 1993 Decree and the 1970 Law, in ALZ's view. Therefore, ALZ argues, nothing changed with the replacement of the 1959 Law by the 1993 Decree—except the level of benefits.

Department's Position: In Certain Steel, we were examining a situation where firms qualifying for benefits under the 1970 Law would also qualify for benefits which were ''generally available'' under the 1959 Law. In situations where a firm can qualify for the same benefit (or virtually the same benefit) under two laws, the issue is not one of integral linkage, but one of ''tiered benefits.'' Hence, as the Department stated in Certain Steel, ''* * * the question of linkage does not apply here.'' Instead, we stated, ''we have determined to countervail benefits under the 1970 Law only to the extent that they exceed benefits available under the 1959 Law. This approach is in accordance with our treatment of programs with tiered levels of benefits in Granite from Italy.'' (*See* Certain Steel at 37289)

In this proceeding, the 1959 Law was replaced by the 1993 Decree. To apply the same analysis would require the Department to determine that the 1993 Decree is generally available (*i.e.*, neither *de jure* nor *de facto* specific). ALZ did not receive any benefits under the 1993 Decree and the record evidence does not allow the Department to fully analyze the specificity of the 1993 Decree. The data that is on the record includes subsidies provided under both the 1993 Decree and the 1970 Law and does not distinguish between the monies provided under each law. Moreover, the 1993 Decree states that benefits under it are provided for investments ''which do not fall under'' the 1970 Law. This implies that investments eligible to receive assistance under the 1970 Law would not receive assistance under the 1993 Decree. Therefore, the tiered benefits analysis is not applicable in this case.

Therefore, in order to view subsidies provided under more than one law as constituting a single program, the Department must determine that those subsidies are integrally linked. In response to the petitioners' argument that benefits under the 1970 Law will always be regionally specific, we acknowledge that the 1970 Law provides benefits only to specific regions. However, the regional specificity aspect may be removed when the 1970 Law is combined with the 1993 Decree and the 1978 Act. *See, also,* the Department's Position in Comment 18.

Comment 17: Integral Linkage. The petitioners argue that the 1993 Decree should not affect the countervailability of subsidies received pursuant to the 1970 Law. Although the 1993 Decree replaced the 1959 Law, it did so because a 1991 EC Directive stated that the 1959 Law had to be revised and benefit levels reduced to be consistent with European regulations. The petitioners argue that by itself, this fact suggests that the benefits under the 1993 Decree are more limited than those available under the 1959 Law. The petitioners state that the 1993 Decree is distinctly different from both the 1970 Law and the 1959 Law, which was found noncountervailable in the 1983 Belgian Steel case. Therefore, the Department should not treat the 1993 Decree in the same manner that it treated the 1959 Law in Certain Steel.

The petitioners argue that the eligibility criteria and the benefits provided under the 1993 Decree are different from those under the 1970 Law or the 1959 Law. Therefore, the benefits received by ALZ pursuant to the 1970 Law after the 1959 Law was repealed should be countervailed in their entirety. However, the petitioners do not disagree with the Department's conclusion in Certain Steel and the Preliminary Determination that 1970 Law benefits are not specific when assessed against the type and level of benefits available under the 1959 Law.

ALZ and the GOB state that the Laws of 1959, 1970, the 1978 Act and the 1993 Decree are all part of the same GOF comprehensive program of economic expansion and should be considered together in determining benefits. Moreover, the record evidence makes clear that the 1993 Decree replaced the 1959 Law and the only part that the 1991 EC directive required to change and, therefore, the only point that differs between the two laws is the level of benefits. The GOB further argues that it is common knowledge in Belgium that the GOF intended the 1993 Decree to replace the 1959 Law and that the benefits available under the 1993 Decree are the same ones that were available under the 1959 Law. The record evidence dictates that the Department must consider the economic expansion laws as a whole when analyzing any benefits received under the 1970 Law. Therefore, consistent with the Department's treatment of the 1959 Law in Belgian Steel and Certain Steel and with the facts of this case, the Department should only countervail benefits under the 1970 Law to the extent they exceed those available under the 1993 Decree.

Department's Position: In Belgian Steel, the Department found the 1959 Law to be not specific. In Certain Steel, we countervailed benefits provided under the 1970 Law only to the extent they exceeded those available under the 1959 Law. The 1959 Law was replaced with the 1993 Decree and the record evidence suggests that the 1959 Law, the 1970 Law, and the 1993 Decree all have similar types of benefits. In addition, the 1978 Act provides the same types of benefits to small companies. Moreover, the level and type of environmental assistance provided under all laws is identical.

Section 355.43(b)(6) of the Department's 1989 Proposed Regulations requires that in determining whether two programs are integrally linked, the Secretary will examine factors such as ''the administration of the programs, evidence of a government policy to treat industries equally, the purposes of the programs, and the manner of funding the programs.'' The evidence on the record of this proceeding suggests that, since their inceptions, the 1970 Law, the 1978 Act, and the 1993 Decree are related to each other and complement each other in the types of subsidies offered and the goals they seek to achieve. The 1970 Law targets development zones, while the 1978 Act and the 1993 Decree offer assistance to companies that cannot receive assistance under the 1970 Law. The Department confirmed at verification that from the time the GOF assumed authority for economic expansion, all laws, including the 1993 Decree, have promoted similar objectives and have been administered by the same authority. Moreover, all applicants go through the same approval process, use the same application form for assistance (the application form for the 1978 Act is less detailed than the one for the 1970 Law and the 1993 Decree), and receive their funding from the same source.

Consistent with Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews (61 FR 52408, 52415 (October 7, 1996)) which stated that an integral linkage analysis should be performed on a ''program by program'' basis, the Department considered particular types of assistance under the 1993 Decree, the 1970 Law, and the 1978 Act separately to determine whether such programs under each law (*i.e.*, expansion grants, environmental grants, etc.) are integrally linked for specificity purposes. Given this analysis, when looking at the subsidies received by ALZ and Albufin, we determine that the environmental grants available under the 1993 Decree, the 1970 Law, and the 1978 Act are integrally linked. Likewise, the environmental real estate tax exemptions available under all three laws are also integrally linked. Consequently, for purposes of this investigation, we consider environmental grants available under all three laws to constitute a single program. Likewise, we consider environmental real estate tax exemptions available under all three laws to constitute a single program. For further information on integral linkage, *see* Economic Expansion Memorandum.

Comment 18: Specificity of Environmental Grants. ALZ argues that the 1994 Environmental Grants are not countervailable because the evidence on the record shows that they are not de jure or de facto specific when examined in the context of the 1970 Law, the 1978 Act, and the 1993 Decree.

Department's Position: As noted in Comment 17 above, we determine that the environmental grants available under the 1970 Law are integrally linked with those available under the 1993 Decree and the 1978 Act. Since environmental grants under all of these laws are generally available, these grants are not de jure specific. Moreover, after analyzing the usage data for the environmental grants bestowed under the 1993 Decree and the 1970 Law, we observed that these environmental grants are provided to 35 distinct industry groupings and that the steel industry did not receive a disproportionate share of benefits. Therefore, we determine that the environmental grants are also not de facto specific. For further discussion, *see* Economic Expansion Memorandum.

Comment 19: Green Light Treatment for Environmental Grants. We received several comments from interested parties on green light issues. ALZ and the GOB argued that the environmental grants qualified for green light treatment under section 771(5B)(D) of the Act. The petitioners disputed this assertion and argued that all of the criteria for green light treatment had not been met. Specifically, the petitioners argued that the assertion that there was no manufacturing cost savings had not been sufficiently documented.

Department's Position: Although the Department conducted some green light analysis in the Preliminary Determination, we did not make a green light determination because more information was needed. Because in the final determination we determine that the environmental grants are not specific, the Department need not determine whether this subsidy meets all the criteria for green light treatment.

Comment 20: Real Estate Tax Exemptions. ALZ argues that the environmental real estate tax exemption is not specific and, therefore, does not provide a countervailable subsidy. In support of its argument, ALZ notes that the Department verified that ALZ's real estate tax exemptions were tied to the environmental projects approved for assistance under the 1970 Law. Moreover, the Department verified that the 1993 Decree, the 1970 Law, and the 1978 Law allow the same real estate tax exemption for ecological adaptions. Thus, the environmental real estate tax exemption is neither de jure nor de facto specific because any company in Flanders that made ecological adaptions can qualify for the real estate tax exemption.

Should the Department determine that the real estate tax exemption is countervailable, ALZ argues that the alleged subsidy rate should be calculated only on those investments eligible for the exemption. ALZ explains that it initially calculated the tax exemption for all investments approved to receive this exemption because it does not track the amount of taxes not paid. However, certain investments were not eligible for the exemption during the POI because they had not been completed by 1996. Thus, the calculations were corrected and resubmitted. ALZ contends that the Department should use the corrected figures for purposes of calculating the alleged benefit.

The petitioners comment that ALZ failed to address the expansion real estate tax exemptions received by Albufin in conjunction with the 1993 Expansion Grant. The Department preliminarily determined that the 1993 Expansion Grant conferred a countervailable benefit upon Albufin. Accordingly, the Department should continue to countervail the real estate tax exemptions benefits provided to Albufin for purposes of its final determination.

Department Position: As stated above, we've determined that the environmental real estate tax exemptions received by ALZ are not specific and, therefore, not countervailable. *See, also,* Economic Expansion Memorandum at 10.

With respect to the expansion real estate tax exemption received by Albufin, we affirm our preliminary determination that this subsidy is regionally specific because only the 1970 Law provides expansion real estate tax exemptions to large-sized enterprises. Therefore, firms must be situated in a development zone to receive this real estate tax exemption. Since the expansion real estate tax exemption received by Albufin is specific, we are continuing to countervail it.

Comment 21: Accelerated Depreciation Methodology. ALZ and the GOB argue that accelerated depreciation should be treated as a tax deferral rather than a tax exemption. In support of its argument, ALZ refers to the Department's 1997 proposed rules, in which the Department recognized that its existing methodology ''focused on the tax savings, but has not acknowledged the later tax increases.'' *See* Countervailing Duties, 62 FR 8818, 8835 (February 26, 1997). Furthermore, ALZ contends that the treatment of accelerated depreciation as a tax deferral rather than a tax exemption is a basic accounting principle. *See* A.N. Mosich and E. John Larsen, Intermediate Accounting, (6th ed. 1987), 617. ALZ further argues that the U.S. tax law and U.S. courts have also recognized that accelerated depreciation in a tax deferral rather than a tax exemption. In order to calculate the benefit, ALZ suggests treating the deferred taxes as an interest-free contingent loan. This methodology allows the Department the opportunity to address changes in the tax laws or a company's financial position.

The petitioners argue that the Department should reject ALZ's argument because it contradicts the agency's longstanding approach to measuring benefits from accelerated depreciation. The petitioners refer to the Final CVD Regulations, in which the Department reaffirmed its practice of treating accelerated depreciation as a tax exemption without regard for any later tax increases that may be incurred. *See* Final CVD Regulations, 65376. According to the Department, the speculation inherent in giving a company credit for a contingent tax liability that it may never incur supports the continued treatment of accelerated depreciation benefits as tax exemptions. *See* Extruded Rubber Thread from Malaysia, 57 FR 38472 (August 25, 1992).

The petitioners also contend that ALZ has offered no evidence that compels the Department to modify its current methodology. Rather, the petitioners note that the respondent relies primarily on authorities such as accounting texts and the U.S. tax law, none of which are concerned with the implications of accelerated depreciation benefits in the context of the countervailing duty law.

Therefore, the Department should continue to use its current methodology for purposes of its final determination.

Department Position: It is our practice to treat the tax savings from accelerated depreciation as a tax exemption rather than a tax deferral because we cannot be certain that the benefits of an accelerated depreciation program will be offset by higher taxes in the future. *See* Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Germany, 58 FR 37315, 37324–25, (July 9, 1993). Such factors as changes in tax provisions and government tax policies, the provision of additional future tax benefits, or the possibility that the recipient company is in a tax loss position in the future might prevent higher taxes from materializing. Therefore, for purposes of our final determination, we have continued to countervail the tax savings received from accelerated depreciation.

Comment 22: Accelerated Depreciation—Albufin. ALZ contends that even if the Department continues to treat accelerated depreciation as a tax exemption rather than a tax deferral, Albufin did not benefit from this program after 1997. The respondent notes that in fiscal year 1997 Albufin decided not to participate in this program. Therefore, there is no benefit from accelerated depreciation after the POI. Consequently, no benefit from accelerated depreciation is applicable to any entries potentially subject to countervailing duties.

The petitioners contend that the respondent's argument conflicts with Department practice. Citing 19 CFR 351.509(b), the petitioners assert that Albufin received a benefit in 1997 in conjunction with taxes paid for the 1996 tax year when it filed its tax return in 1997. According to the petitioners, the fact that Albufin did not apply for accelerated depreciation with respect to taxes incurred in 1997 and payable in 1998 has no bearing on the POI.

Department Position: We agree with petitioners. Pursuant to § 355.48(b)(4) of the 1989 Proposed Regulations, the Secretary normally will consider the benefit as having been received on the date on which the recipient firm would otherwise have had to pay the taxes associated with the exemption or remission. Normally, this date will be the date on which the firm filed its tax return. Therefore, for purposes of our final results, we have countervailed the benefit Albufin received in conjunction with taxes paid in 1997 for the 1996 fiscal year.

Comment 23: Treatment of Public Investment in Alfin. ALZ argues that the Department's classification of the NIM's investment in Alfin as a loan was inappropriate and that the Department should instead treat it as a noncountervailable equity investment. In the first instance, ALZ argues that, under the Department's hybrid financial instrument methodology, NIM's investment should be treated as equity because each criterion of the Department's analysis of hybrid financial instruments indicates that the investment was equity and not debt.

With respect to the first criterion (Expiration/Maturity Date/Repayment Obligation), ALZ states that NIM's shares in Alfin are properly characterized as equity because they do not have an expiration/maturity date nor is there a repayment obligation on the part of the ''debtor.'' Specifically, ALZ argues that, unlike a loan which has a specific expiration date, the shares in question never expire, rather they are being purchased by ALZ (a private shareholder) and not being repaid by Alfin (the supposed ''debtor''). According to respondent, because ALZ's purchase does not eliminate the shares, a repayment is not indicated. ALZ also argues that, while its requirement to purchase the shares is legally enforceable in court, it differs from the requirement to repay a debt because no legal action can be taken against the ''debtor,'' Alfin.

ALZ argues that because NIM's dividends are paid from profit, must be specifically declared by the board, and are conditional rather than guaranteed, NIM's shares are properly characterized as equity rather than debt under the second criterion (Guaranteed Interest or Dividends). As for the third criterion (Ownership Rights), ALZ argues that NIM does have ownership rights, as evidenced by NIM's appointment of half of the Board of Directors and by the fact that the shares carry a dividend and, thus, NIM has a claim on the profits of the firm. As for the last criterion (Seniority), ALZ states that NIM's shares do not have a liquidation priority over other shares and, thus, creditors would come before NIM in the event of a liquidation which indicates that the shares are properly characterized as equity.

ALZ also argues that, when applying the hybrid financial instrument methodology, the Department should review all the relevant characteristics of a financial instrument rather than apply a strict hierarchy. ALZ notes that while the Department has stated that it will end its analysis when a characteristic is clearly indicative of debt or equity, its practice has been to review all of the relevant characteristics in making a determination. ALZ cites to the GIA (at 37254) where the Department made a determination in the Final Affirmative Countervailing Duty Determinations: Certain Steel Products From France, 58 FR 37304 (July 9, 1993) on more than one criteria. In further support of its argument, ALZ cites to the CIT's decision in Inland Steel, 967 F. Supp. at 1273, in which the CIT discussed characteristics outside of the Department's stated hierarchy. ALZ also cites to the preamble of the final regulations in which the Department stated that it would be premature to codify the treatment of its hierarchy. Thus, ALZ contends that the Department does not have a practice of adhering to a strict hierarchy or of examining only the above four criteria and, thus, the Department should consider all relevant characteristics and determine that, when viewed in their entirety, Alfin's shares must be classified as equity.

Finally, ALZ argues that NIM's investment was consistent with that of a reasonable private investor and, thus, does not provide a countervailable subsidy. ALZ contends that it is the Department's practice to compare the price paid by the private investor with that paid by the government. If this practice is followed, ALZ notes, the Department will find that the terms of shares subscribed to by NIM were better than the terms of those purchased by the private investor. Thus, because NIM paid the same price paid by the private investor the transaction did not provide a countervailable subsidy.

The petitioners argue that the Department's treatment of NIM's investment as debt instead of equity was appropriate and consistent with Department practice. Specifically, petitioners note that the Department states in the GIA that ''once a characteristic is clearly indicative of debt or equity, we will stop our analysis and categorize the hybrid as debt or equity.'' Thus, according to petitioners, to the extent that NIM's investment had a repayment obligation it should be classified as debt. The petitioners argue that the Department verified that ALZ is required to repay the principal over the course of ten years and, thus, NIM's shares contain a repayment obligation and are more appropriately categorized as debt.

The petitioners also disagree with ALZ's contention that because ALZ (the private shareholder) is buying the shares from NIM instead of Alfin (the ''debtor'') it is not a debt instrument. The petitioners state that the Department's hierarchy does not require that repayment be made by the debtor because the key fact is that the shares have a repayment obligation.

Finally, the petitioners argue that if the Department does categorize NIM's investment in Alfin as equity instead of debt, the Department should find the investment inconsistent with the practice of private investors and not use ALZ's subscription in Alfin as a benchmark. On the latter point, petitioners argue that in fact NIM did not purchase its shares on the same terms as ALZ, but paid a significant premium. In the petitioners' view this demonstrates that NIM's involvement was on noncommercial terms. According to petitioners, because NIM involved itself in a noncommercial manner it impacted the reasonableness of the investment and, thus, altered ALZ's evaluation of the commercial reasonableness of the project. Thus, the petitioners argue that the share price paid by ALZ is distorted and unacceptable as a commercial benchmark.

Further, the petitioners argue that NIM's investment was inconsistent with the practice of private investors, for two additional reasons. First, NIM failed to evaluate the commercial reasonableness of its investment prior to making its decision. Second, the shares purchased by NIM offered an unreasonably low rate of return. Based on these factors, petitioners argue that NIM's investment was inconsistent with the practice of private investors and, thus, countervailable.

Department's Position: We are continuing to categorize NIM's investment in Alfin as debt. As stated in the GIA (at 37254), ''even if the instrument has no pre-set repayment date, but a repayment obligation exists when the instrument is provided, the instrument has characteristics more in line with loans then equity.'' NIM's investment in Alfin was in accordance with the Economic Recovery Law of July 31, 1984 (Herstelwet 1984). Under the law, the contract amongst the parties must contain an undertaking by the private shareholders that they will repurchase the shares representing the public contribution at the issuing price. Furthermore, ''the repurchase must be effected at the rate of one-tenth per year, from the fourth to the thirteenth calendar year following that in which the shares were issued.'' Additionally, we found at verification that ALZ, in accordance with the contract, has been repurchasing the shares. Thus, a repayment obligation clearly existed with a pre-set repayment date. Based on the above, we find that the instrument has characteristics more in line with a loan than equity.

With respect to ALZ's argument that the Department must look at all relevant information in making such a determination, we note that our practice is to consider, in order, the four criteria for determining the nature of hybrid financial instruments and stop our analysis when one characteristic is clearly indicative of debt or equity. In this case, ALZ's repayment obligation is clearly indicative of debt under the first criterion and, thus, it is not necessary to address the other criteria. Even if other evidence reflects equity rather than debt, we have found that a repayment obligation bears such significance and outweighs other evidence that the instrument should be properly categorized as debt. In Geneva Steel, the CIT held that this hierarchical method of classifying hybrid instruments is based on a permissible construction of the Act and is in accord with Congressional intent. *See* Geneva Steel at 578–79. Thus, in reviewing all relevant information on the record, we continue to find that this financial instrument is properly classified as debt.

Because we are affirming our preliminary determination that this financial instrument is properly treated as a loan, it is not necessary to address the other issues raised by ALZ and petitioners with respect to the commercial reasonableness of NIM's investment.

Comment 24: Attribution of Sidmar and Sidmar Group Subsidies to ALZ. ALZ argues that while a company may exercise considerable control over its consolidated subsidiaries, if there is an insufficient identity of interests between the parent and its subsidiary, the Department has not allocated untied subsidies to the subsidiary. *See* Wire Rod from Italy (in which we stated, ''if there is an insufficient identity of interest among the corporate group, the Department will consider these facts and determine whether it is appropriate to attribute subsidies to the consolidated group holdings''). Respondent argues that such a situation exists here in that Sidmar and ALZ have an insufficient identity of purpose. ALZ notes that Sidmar has considerable interests in other businesses, is a producer of carbon steel, and does not produce stainless steel. Further, ALZ notes that both companies use different distribution systems for their products. ALZ also points out that Sidmar's ownership interest in ALZ was insignificant when the the alleged subsides were provided.

ALZ notes that if the Department finds a countervailable subsidy provided to a company within the Sidmar Group, the Department must base any attribution analysis on the relationship between ALZ and the company in question, not between Sidmar and ALZ. Specifically, ALZ argues that because SidInvest and ALZ have never had any direct ownership interest in one another, the Department's practice with respect to parent companies does not apply to this situation. While ALZ admits that the two companies may be affiliated, it notes that the Department's practice has been to consider subsidies to affiliated parties only when both parties are involved in the production or distribution of the subject merchandise or if there is a specific pass-through of subsidies. ALZ argues that neither of these two situations exists with respect to SidInvest and ALZ and, moreover, there is no convergence of interests between the two companies, as SidInvest's list of investments does not indicate significant involvement in steel production or distribution.

ALZ makes a similar argument with respect to the relationship between it and Sidfin. Specifically, ALZ notes that while Sidfin does have an ownership interest in ALZ, the interest is not controlling and, thus, no cross-ownership is indicated. Also, ALZ argues that it did not receive any financing nor waive any obligation out of the government's transaction with Sidfin and, thus, no benefit can be attributed to ALZ. Finally, ALZ argues that Sidmar's 1985 debt-to-equity conversion should not be attributed to ALZ because the assumption of the loans was tied to Sidmar's carbon steel activities.

The petitioners argue that while Sidmar and ALZ may produce different products and use different distribution systems, these facts have no bearing on the question of whether subsidies provided to Sidmar should be attributed to ALZ. The petitioners note that the Department has a basic rule for determining whether subsidies should be attributed amongst companies when cross-ownership exists. Specifically, the petitioners cite to the Department's Final CVD Regulations which state that subsidies should be attributed when ''the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same ways it can use its own assets (or subsidy benefits).'' See Final CVD Regulations, § 351.525(b)(6)(vi). The petitioners note that since 1987 Sidmar has, either directly or indirectly, controlled ALZ. Prior to 1987, according to the petitioners, both Sidmar and ALZ were under common ownership of either the GOB or Arbed. Based on the above, the petitioners argue that this overlapping ownership is sufficient to attribute subsidies received by Sidmar to ALZ.

On a specific level, the petitioners argue that SidInvest's relationship with ALZ is sufficient to allocate subsidies received by SidInvest to ALZ. They base this argument on the fact that Sidmar has a common ownership interest in both SidInvest and ALZ, thereby establishing a degree of cross-ownership that supports attribution of subsidies received by SidInvest to ALZ. The petitioners argue that while SidInvest is not the parent of ALZ and SidInvest has no ownership or control over ALZ, such facts have no bearing on the Department's attribution of subsidies because SidInvest is a non-producing financial subsidiary of Sidmar. Given this status, petitioners argue that SidInvest is more properly treated as a holding or parent company and, thus, any benefits it receives are attributable to ALZ. Petitioners point to *Wire Rod from Italy,* in which the Department attributed equity infusions received by different companies, all of whom were owned by a government holding company, in support of their argument.

With respect to subsidies received by Sidfin, the petitioners argue that the record establishes that Sidfin is a non-producing holding company controlled by the GOB and that the GOB also controls a significant portion of ALZ. Thus, the petitioners contend that because Sidfin is a non-producing holding company, subsidies related to Sidfin are attributable to ALZ's sales. Furthermore, the petitioners argue that Sidfin's degree of ownership in ALZ is adequate to establish cross-ownership and, thus, subsidies should be attributed between these companies.

With respect to ALZ's argument Sidmar's 1985 debt-to-equity conversion should not be attributed to ALZ because the benefit was tied to Sidmar's carbon steel activities, the petitioners argue that the subsidy was provided in conjunction with the government's restructuring plans for the entire steel sector, not just carbon steel. Secondly, the petitioners note that the Department treated the subsidy as a debt-to-equity conversion in the *Preliminary Determination* and, therefore, it is an untied subsidy.

Department's Position: As in the *Preliminary Determination,* we are attributing the benefits from non-recurring untied subsidies received by Sidmar, including subsidies related to SidInvest to the consolidated operations of the Sidmar Group which includes ALZ. This is consistent with the Department's practice that attributes untied subsidies to the company's total domestically-produced sales. *See GIA* at 37267.

With respect to the subsidies received by Sidmar, when the parent company of a consolidated group receives untied subsidies, such as equity infusions, these domestic subsidies are normally attributed to the consolidated group. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review,* 62 FR 53306, 53311 (October 14, 1997). In this case, we have attributed untied subsidies received by Sidmar to the consolidated sales of that company, including the sales of ALZ. We disagree with ALZ that there is an insufficient identity of interest between ALZ and Sidmar to do this. Sidmar currently owns 100 percent of ALZ's voting shares. Also, Sidmar apparently saw that its business interests would be advanced by making ALZ part of the Sidmar Group because it moved from a minority ownership position to a 100 percent ownership interest over time.

With respect to subsidies received by SidInvest, consistent with *Certain Steel,* we are treating the subsidies received as untied benefits to the Sidmar Group. Thus, because ALZ is a member of the Sidmar Group, benefits are properly attributed to ALZ. Specifically, in *Certain Steel,* we stated, ''. . . any subsidies provided to SidInvest are not tied to SidInvest or to the specific activities in which it invested. Instead, any benefits flow to the Sidmar Group as a whole.'' *See Certain Steel* at 37282.

Finally, as we have not found any benefits resulting from the Sidfin transactions, it is not necessary to discuss their attribution.

Comment 25: SidInvest Transactions. ALZ argues that, in the *Preliminary Determination,* the Department overstated the amount of benefit provided to ALZ through the SidInvest transactions. ALZ notes that the Department's practice is to find that the benefit from a loan lasts for the life of the loan. Thus, according to ALZ, the Department inappropriately allocated benefits from the creation of the 32 year loan to the POI. Specifically, ALZ argues that since 1988 the loan has been off SidInvest's books and, thus, under the Department's practice there can be no benefit from this loan since 1988.

ALZ also argues that the Department should make the following calculation changes. First, it argues that when conducting the expense test, the Department should use the consolidated sales of the Sidmar Group because any benefit found to have been provided from the SidInvest transaction is attributable to the entire group. Lastly, ALZ argues that the Department did not take into account a payment by SidInvest, and the payment should be deducted from the difference between the net present value of the balance of the outstanding loan and the shares received by the government in return for the loan.

The petitioners state that the Department should affirm its treatment of the SidInvest transactions in the *Preliminary Determination.* However, petitioners argue that if the Department finds that the benefit from the 32 year loan ceased in 1988, the Department should treat the transaction as a debt-to-equity conversion. According to petitioners, the agreement between the GOB and SidInvest indicates that the government's contribution to SidInvest was made up of the balance of debt instruments that comprised the 32 year loan. Furthermore, petitioners argue that the debt-to-equity conversion was made on terms inconsistent with the practice of private investors because there is no evidence that the GOB based its decision on any studies that provided an objective assessment of the investment and because the GOB sold its shares to Sidmar at a price below their commercial value.

Department's Position: We are continuing to find a benefit arising from these transactions. However, as discussed above, we have revisited our analytical approach. We believe the revised approach more accurately reflects the benefit to Sidmar from the transactions that occurred on July 29, 1988. In particular, we are no longer treating the first step in this transaction as the creation of a 32-year loan. Instead, we now consider that the series of transactions effectively canceled the debt owed to the GOB by SidInvest, and we have treated the amount of debt forgiveness as a grant.

We agree with ALZ that the benefits incurred from the SidInvest transactions are attributable to the entire group and, thus, when determining whether the benefit should be expensed in the year of receipt, we have used the consolidated sales of the Sidmar Group. However, upon conducting the expense test we have not found that the subsidy is expensed in the year of receipt, rather the benefit is being allocated over Sidmar's AUL.

With respect to the payment made by SidInvest to the government, we agree that the payment should be taken into account and have done so for purposes of this final determination. However, while ALZ has argued that the payment should be deducted from the difference between the net present value of the balance of the outstanding loan and the shares received by the government in return for the loan as it was in 1988, we have instead deducted the payment prior to the creation of the loan. The transactions in question occurred on the same day. On that day SidInvest made various cash payments to the government. We view the cash payments made on that day as reductions in the total amount of money owed to the government by SidInvest. If we were to deduct the payment after taking the net present value, the benefit conferred to SidInvest by the transactions would be understated.

Comment 26: Assumption of Sidmar's Debt. ALZ and the GOB argue that the Department should not have initiated an investigation of this program because the Department determined in *Certain Steel* that it did not provide a countervailable subsidy and the petitioners have not provided any new information that would change that determination. ALZ argues that the reliance on a redetermination that was later vacated as new information is inappropriate because any decision that was vacated should be treated as if it never existed. Thus, ALZ argues that no new information was ever presented in this case that would justify the Department's departure from its normal practice to not reconsider a determination unless new information is presented. ALZ further argues that, in investigating this program, the Department has deviated from the Act and the WTO Agreement on Subsidies and Countervailing Measures because both require a petition to include sufficient evidence of a subsidy. When the Department receives a petition that does not meet this requirement, ALZ argues that the Department should not initiate an investigation and, thus, in this case the Department must terminate its investigation immediately.

ALZ also argues that the GOB's receipt of the PBs was consistent with a reasonable private investor standard because the value of the shares received by the government was consistent with the GOB's financial contribution. Specifically, ALZ cites to the different terms of the shares and notes that all of the terms are consistent with commercial considerations and, thus, consistent with *Aimcor,* we should not find a countervailable subsidy from the issuance of the PBs.

The petitioners argue that the Department properly initiated an investigation of this program because the petition contained sufficient evidence of a subsidy. The petitioners note that in their petition they cited to the *Amended Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Products from Belgium,* 62 FR 37880 (July 15, 1997), in which the Department concluded that the debt to equity conversion was inconsistent with commercial considerations. The petitioners disagree with ALZ's contention that this determination should not be relevant because of the order of vacatur. Rather, the petitioners note that the Department has already rejected ALZ's argument on this point when it was raised following the initiation.

The petitioners also argue that ALZ's argument is not consistent with *Aimcor,* because in the *Aimcor* decision the CIT noted that even if a company is equityworthy, it does not necessarily follow that a purchase of stock from such a company is consistent with commercial considerations. The petitioners then note that in this case the issue before the Department is not whether the terms were consistent with commercial considerations, but whether the investment price paid by the GOB was more than the value of the shares received by the GOB.

Department's Position: ALZ is incorrect in stating that the petitioners did not provide sufficient evidence of a subsidy. In fact, the petitioners cited to our amended final determination, in which we found that Sidmar received a countervailable subsidy from this program. The fact that the decision affirming our remand was vacated does not nullify the factual record and development of agency practice resulting from the proceeding. *See* Memorandum to Richard Moreland, ''Initiation of Certain Programs Alleged to benefit ALZ,'' dated June 18, 1998. The petitioners are also correct in noting that the issue at question is not whether the terms of the PBs were consistent with the reasonable private investor standard, but rather if the price paid for the PBs was consistent with the price a reasonable private investor would pay. In this case, the record indicates that the share transactions were on terms inconsistent with the usual practice of a private investor because the government paid more for the shares than a reasonable private investor would pay. Thus, a countervailable subsidy was provided to Sidmar.

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examining relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce, Room B–099.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we have calculated an individual subsidy rate for ALZ, the sole manufacturer of the subject merchandise. Because ALZ is the only respondent in this case, ALZ's rate will also serve as the ''all others'' rate. We determine that the total estimated net countervailable subsidy rate is 1.82 percent *ad valorem* for ALZ.

In accordance with our preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of stainless steel plate in coils from Belgium which were entered or withdrawn from warehouse for consumption on or after September 4, 1998, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after January 2, 1999, but to continue the suspension of liquidation of entries made between September 4, 1998 and January 1, 1999. We will reinstate suspension of liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related 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 for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to Administrative Protective Order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 19, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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