European Union and Regional Affairs, Room 3036, U.S. Department of Commerce, Washington, DC 20230; telephone: 202/482–2178.

Authority: Act of February 14, 1903, c. 552, as amended, 15 U.S.C. 1501 et seq, 32 Stat. 825; Reorganization Plan No. 3 of 1979, 19 U.S.C. 2171 Note, 93 Stat. 1381.

Dated: July 23, 1998.

Patrick A. Mulloy,

Assistant Secretary, Market Access and Compliance, International Trade Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–821]

Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod From Italy

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

EFFECTIVE DATE: July 29, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Lockard or Eric B. Greynolds, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

Final Determination

The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain stainless steel wire rod from Italy: Cogne Acciai Speciali S.r.l., Acciaierie Valbruna S.r.l., and Acciaierie di Bolzano S.p.A. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

Case History

Since the publication of our preliminary determination in this investigation on January 7, 1998 (63 FR 809), the following events have occurred:

On January 21, 1998, and March 4, 1998, we issued supplemental questionnaires to the Commission of the European Union (EU), Government of Italy (GOI), Cogne Acciai Speciali S.r.l. (CAS), and Acciaierie Valbruna S.r.l. (Valbruna) and Acciaierie di Bolzano S.p.A. (Bolzano), (collectively referred to as Valbruna/Bolzano). We received responses to these supplemental questionnaires between February 9, 1998, and March 27, 1998. Respondents submitted additional information on April 9, 1998.

On March 5, 1998, the final determinations in the antidumping and countervailing duty investigations were postponed until July 20, 1998 (63 FR 10831). We conducted verification of the countervailing duty questionnaire responses from April 15 through May 13, 1998. On May 7, 1998, we terminated the suspension of liquidation of all entries of the subject merchandise entered or withdrawn from warehouse for consumption on or after that date. Petitioners and Respondents filed case briefs on June 11, 1998, and rebuttal briefs on June 16, 1998.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR 351 and published in the **Federal Register** on May 19, 1997 (62 FR 27295).

Petitioners

The petition in this investigation was filed by AL Tech Specialty Steel Corp.; Carpenter Technology Corp.; Republic Engineered Steels; Talley Metals Technology, Inc.; and, United Steelworkers of America, AFL-CIO/CLC (the Petitioners).

Scope of Investigation

For purposes of this investigation, certain stainless steel wire rod (SSWR or subject merchandise) comprises products that are hot-rolled or hot-rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot-rolling or hot-rolling, annealing, and/or pickling and/or descaling, and are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar.

The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches in diameter. Two stainless steel grades SF20T and K–M35FL are excluded from the scope of the investigation. The percentages of chemical makeup for the excluded grades are as follows:

SF20T

Carbon	0.05 max
Manganese	2.00 max
Phosphorous	0.05 max
Sulfur	0.15 max
Silicon	1.00 max
Chromium	19.00/21.00
Molybdenum	1.50/2.50
Lead	added (0.10/0.30)
Tellurium	added (0.03 min)

K–M35FL

Carbon	0.015 max
Silicon	0.70/1.00
Manganese	0.40 max
Phosphorous	0.04 max
Sulfur	0.03 max
Nickel	0.30 max
Chromium	12.50/14.00
Lead	0.10/0.30
Aluminum	0.20/0.35

The products under investigation are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Injury Test

Because Italy is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a U.S. industry. On September 24, 1997, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Italy of the subject merchandise (62 FR 49994).

Period of Investigation

The period for which we are measuring subsidies (the ''POI'') is calendar year 1996.

Corporate Histories

CAS

From 1984 to 1987, the subject merchandise was produced at the Aosta facilities operating under Deltasider, a wholly-owned subsidiary of Finsider S.p.A. (Finsider), the GOI-owned holding company for steel producers. Finsider was, in turn, wholly-owned by Instituto per la Ricostruzione Industriale (IRI) an agency of the GOI. In 1987, the GOI reorganized the Finsider corporate groupings and created Deltacogne S.p.A., as a subsidiary to Deltasider. The Aosta operations were transferred to Deltacogne S.p.A.

In 1988, IRI created ILVA S.p.A. as the successor to Finsider; ILVA was also wholly-owned by the IRI of the GOI, and was created to act as both an operating company and a holding company for the government-owned steel production operations. In 1989, Deltacogne S.p.A., the producer of SSWR, was merged into ILVA S.p.A. In December 1989, the GOI again reorganized its steel producing subsidiaries and created Cogne S.r.l., a wholly-owned subsidiary of the ILVA Group, which held the Aosta operations. Cogne S.r.l. was later named Cogne Acciai Speciali S.p.A. (Cogne S.p.A.). From 1990 to 1992, Gruppo Falck S.p.A. (Falck), a private company with holdings in steel and real estate, held 22.4 percent of Cogne S.p.A.''s stock (with the remaining and controlling interest held by ILVA). Falck acquired the shares of Cogne S.p.A. by exchanging an equal value of shares of its own subsidiary, Bolzano. By the end of 1992, Falck's interest in Cogne S.p.A. was dissolved by losses and Cogne S.p.A. was again wholly-owned by the ILVA Group.

In 1991, Robles S.r.l., a subsidiary of ILVA Gestioni Patrimoniali (ILVA GP), another ILVA subsidiary, acquired the land and buildings, *i.e.*, the non-productive assets, of the Aosta facilities from Cogne S.p.A. Robles S.r.l. was then acquired by Compagnie Monegasque de Banque S.A. at the end of 1991. In 1992, Robles was reacquired by ILVA GP according to the terms of its original sales contract (which required ILVA GP to repurchase Robles if at the end of one year the new owners had failed to sell the Aosta land and buildings). Cogne S.p.A. then acquired the shares of Robles from ILVA GP. The name of Robles S.r.l. was then changed to Cogne Acciai Speciali S.r.l. (CAS).

At this time, the GOI decided to privatize the Cogne operations. At the end of 1992, the assets and some of the liabilities of Cogne S.p.A. were assessed and contributed to CAS on December 31, 1992, in exchange for shares equal to the net value of the capital contribution, 40 billion lire. From that date, CAS assumed the on-going operations of the Cogne facility and Cogne S.p.A. entered into liquidation and became Cogne S.p.A. in Liquidazione. The GOI offered CAS for sale through an open bidding process. Three parties submitted complete offers for CAS. The bid of GE. VAL. S.r.l., a privately-owned holding company, was accepted by Cogne S.p.A. in Liquidazione. The CAS shares were transferred to GE. VAL. based on two installment payments, one on the date of the agreement (December 31, 1993) and one 18 months later. At the end of 1995, Cogne S.p.A. in Liquidazione was merged into ILVA S.p.A. in Liquidazione, which was subsequently merged into IRITECNA, another IRI company in liquidation. In 1995, GE. VAL. S.r.l. was merged into MEG S.A., another holding company of the same corporate family. Since that time, CAS has been owned and controlled by MEG S.A.

Bolzano and Valbruna

From 1985 through 1990, Bolzano was a wholly-owned subsidiary of Acciaierie e Ferriere Lomarde Falck, the main industrial company of Falck which was a private corporate group with holdings in steel, real estate, environmental technologies, and other sectors. In 1990, ILVA acquired 44.8 percent of the stock in Bolzano. ILVA acquired the shares of Bolzano by exchanging an equal value of shares of its own subsidiary Cogne S.p.A. ILVA also acquired shares in other Gruppo Falck steel companies. In 1993, ILVA's interest in Bolzano was completely dissolved because of losses, and Falck again held virtually all of the shares in Bolzano. Falck decided to sell Bolzano based on its company-wide strategic decision to withdraw from the steel sector. Falck contacted Valbruna as a potential buyer in late 1994. Subsequently, the parties entered into negotiations for the transfer of Bolzano. Each party had an independent evaluation done of the value of the firm. A third study was done to reconcile the points of the first valuations that were in dispute relating to the final net equity and cash flow of Bolzano for purposes of finalizing the purchase price. Valbruna acquired 99.99 percent of the shares of Bolzano for this final price on August 31, 1995. Since then, the two companies have issued consolidated financial statements.

Affiliated Parties

In the present investigation, there are affiliated parties (within the meaning of section 771(33) of the Act) whose relationship may be sufficient to warrant treatment as a single company. In the countervailing duty questionnaire, consistent with our past practice, the Department defined companies as related where one company owns 20 percent or more of the other company, or where companies prepare consolidated financial statements. *See Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') From Italy*, 61 FR 30287 (June 14, 1996) (*Pasta from Italy*). Valbruna owns 99.99 percent of Bolzano. In the preliminary determination, we treated Valbruna and Bolzano as a single company. Our review of the record and our findings at verification have not led us to reconsider this determination. Therefore, we have calculated a single countervailing duty rate for these companies by dividing their combined subsidy benefits by their consolidated total sales, or consolidated export sales, as appropriate.

Change in Ownership

In the 1993 investigations of Certain Steel Products, we developed a methodology with respect to the treatment of non-recurring subsidies received prior to the sale of a company. *See Final Countervailing Duty Determination; Certain Steel Products from Austria, et. al.*, 58 FR 37217 (July 9, 1993) (*Certain Steel from Austria*). This methodology was set forth in the *General Issues Appendix* (*GIA*), attached to that notice. The methodology was subsequently upheld by the Court of Appeals for the Federal Circuit. *See Saarstahl AG* versus *United States*, 78 F.3d 1539 (Fed. Cir. 1996); *British Steel plc* versus *United States*, 127 F.3d 1471 (Fed. Cir. 1997).

Under the *GIA* methodology, we estimate the portion of the company's purchase price which is attributable to prior subsidies. To make this estimate, we divide the face value of the company's subsidies by the company's net worth for each of the years corresponding to the company's allocation period. We then take the simple average of these ratios, which serves as a reasonable surrogate for the percentage that subsidies constitute of the overall value, *i.e.*, net worth, of the company. Next, we multiply this average ratio by the purchase price of the company to derive the portion of the purchase price that we estimate to be a repayment of prior subsidies. Then, the benefit streams of the prior subsidies are reduced by the ratio of the repayment amount to the net present value of all remaining benefits at the time of the change in ownership.

The methodology does not automatically treat all previously bestowed subsidies as passing through to the purchaser, nor does it automatically treat the subsidies as remaining with the seller or as being extinguished as a result of the transaction. Instead the methodology recognizes that a change in ownership has some impact on previously bestowed subsidies and, through an analysis based on the facts of each transaction, determines the extent to which the subsidies pass through.

In the URAA, Congress clarified how the Department should approach changes in ownership. Section 771(5)(F) of the Act states that:

> A change in ownership of all or part of a foreign enterprise or the productive assets of a foreign enterprise does not by itself require a determination by the administrating authority that a past countervailable subsidy received by the enterprise no longer continues to be countervailable, even if the change in ownership is accomplished through an arm's length transaction.

The Statement of Administrative Action accompanying the URAA, reprinted in H.R. Doc. No. 103–316 (1994) (SAA) explains why Section 771(5)(F) was added to the statute. The SAA at page 928 states:

> Section 771(5)(F) is being added to clarify that the sale of a firm at arm's length does not automatically, and in all cases, extinguish any prior subsidies conferred. Absent this clarification, some might argue that all that would be required to eliminate any countervailing duty liability would be to sell subsidized productive assets to an unrelated party. Consequently, it is imperative that the implementing bill correct such an extreme interpretation.

Consistent with the URAA and the SAA, the Department continues to examine whether non-recurring subsidies benefit a company's production after a change in ownership, even one accomplished at arm's length. Accordingly, we continue to follow the methodology developed in the *GIA* based on our determination that this methodology does not conflict with the change in ownership provision of the URAA. As stated by the Department, ''[t]he URAA is not inconsistent with and does not overturn the Department's General Issues Appendix Methodology. * * *'' *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Final Results of Countervailing Duty Administrative Review,* 61 FR 58377, 58379 (Nov. 14, 1996) (*UK Lead Bar 94*). We further clarified in *UK Lead Bar 94* that, ''[t]he language of Sec. 771(5)(F) of the Act purposely leaves discretion to the Department with regard to the impact of a change in ownership on the countervailability of past subsidies.'' *Id.* at 58379. The Department has been applying the methodology set forth in the *GIA. See, e.g., Final Affirmative Countervailing Duty Determination: Steel Wire Rod From Trinidad and Tobago,* 62 FR 55003 (October 22, 1997) (*Steel Wire Rod from Trinidad and Tobago*) and *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Canada,* 62 FR 54972 (October 22, 1997) (*Steel Wire Rod from Canada*). CAS and Valbruna/Bolzano claim that, because the changes in ownership occurred through arm's length transactions, the previously bestowed subsidies were extinguished. However, for reasons discussed below (see *the Department's Position* on *Comments 5 and 9 through 13*), we find that application of the *GIA* methodology is appropriate.

CAS

To calculate the amount of the previously bestowed subsidies that passed through to CAS, we followed the *GIA* methodology described above. We were unable to calculate the subsidies-to-net worth ratios used in the privatization calculation for 1985 and 1986, because the net worth information was not available for the Aosta operations alone. Therefore, in accordance with section 776 of the Act, as facts available, we used an average of the years available (1987 through 1992) in the privatization calculation. As described in the ''Corporate Histories'' section above, ILVA ceased operations following the privatization and/or liquidation of all of its subsidiaries, operating units, and divisions. For untied non-recurring subsidies provided to ILVA (and prior to 1989, ILVA's predecessor, Finsider), Cogne's former parent company, we calculated the amount of these untied subsidies attributable to Cogne by applying a ratio of the Aosta operation's assets to its parent company's assets in the year of receipt of the subsidy. When calculating the subsidies to net worth ratios used in the privatization methodology described above, we included Cogne's share of the untied subsidies in the calculation.

As discussed in the ''Corporate Histories'' section above, from 1990–1993, ILVA held a minority interest in Bolzano and Falck held a minority interest in Cogne. However, as examined previously by the Department, the exchange of shares involved no cash transactions. *See Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Italy,* 58 FR 37327 (July 9, 1993) (*Certain Steel from Italy*). Moreover, the Cogne and Bolzano share exchange involved an equal value of shares in each company. At verification we were able to confirm this finding with respect to Cogne and Bolzano. *See* Verification Report of Cogne Acciai Speciali S.r.l. (CAS), dated June 1, 1998, public version on file in the Central Records Unit (CRU), room B–099 of the main Commerce building (CAS Verification Report) and Verification Report of Acciaierie di Bolzano Sp.A. and Acciaierie Valbruna S.r.l., dated June 1, 1998, public version on file in the CRU (Valbruna/Bolzano Verification Report). There were no cash or other asset contributions involved in this stock swap. Therefore, we did not attribute any portion of ILVA's untied subsidies to Bolzano or Falck's untied subsidies to CAS.

Bolzano

To calculate the amount of the previously bestowed subsidies that passed through to Bolzano from Falck, we followed the *GIA* methodology which the Department has previously determined is applicable to private-to-private changes in ownership to examine the reallocation of subsidies. *See, e.g., Pasta from Italy.* When Falck sold Bolzano to Valbruna in 1995, Falck was in the process of transferring or closing all of its steel operations. For untied non-recurring subsidies provided to Falck in the years prior to Bolzano's sale to Valbruna, we calculated the amount of these untied subsidies attributable to Bolzano by applying a ratio of Bolzano's assets to Falck's assets in the year of receipt of the subsidy. When calculating the subsidy to net worth ratios used in the methodology described above, we included Bolzano's share of the untied subsidies in the calculation. Also, as described above, we have not attributed any portion of ILVA's untied subsidies to Bolzano during the period in which ILVA held a minority interest in Bolzano.

Subsidies Valuation Information

Benchmarks for Long-term Loans and Discount Rates: In our preliminary determination, we used as our benchmark the average long-term interest rate available in Italy based upon a survey of 114 Italian banks reported by the Banca D'Italia, the Central Bank of Italy. However, during verification, we learned that the Italian Interbank Rate (ABI) is the most suitable benchmark for long-term financing to Italian companies. Because the ABI represents a long-term interest rate provided to a bank's most preferred customers with established low-risk credit histories, for other customers

commercial banks typically add a spread ranging from 0.55 percent to 4 percent onto the rate depending on the company's financial health. In years in which the companies under investigation were creditworthy, we added the average of that spread onto the ABI to calculate a benchmark. In years in which the companies under investigation were uncreditworthy, we calculated the discount rates according to the methodology described in the *GIA*. Specifically, we added to the ABI a spread of 4 percent in order to reflect the highest commercial interest rate available to companies in Italy. We then added to this rate a risk premium equal to 12 percent of the ABI, the equivalent of a prime rate.

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 GIA*, 58 FR at 37227. However, in *British Steel plc* v. *United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) ruled against this allocation methodology. In accordance with the Court's remand order, the Department calculated a company-specific allocation period for non-recurring subsidies based on the average useful life (AUL) of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *See British Steel plc* v. *United States*, 929 F. Supp. 426, 439 (CIT 1996) (*British Steel II*). Thus, we intend to determine the allocation period for non-recurring subsidies using company-specific AUL data where reasonable and practicable. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Countervailing Duty Administrative Review*, 62 FR 16551 (April 7, 1997).

In this investigation, the Department has followed the Court's decision in *British Steel*, and examined information submitted by the Respondent companies as to their average useful life of assets.

Valbruna/Bolzano: In the preliminary determination, we calculated a single weighted-average AUL for Valbruna and Bolzano. We received no comments on this calculation and our review of the record has not led us to reconsider this finding. Therefore, the AUL for Valbruna/Bolzano is 12 years.

CAS: In the preliminary determination, we did not calculate an AUL based on CAS's financial information because the calculation provided by the company included several distortions related to the asset valuation methodologies employed by the company and its use of accelerated depreciation. Instead, in the preliminary determination, we used the AUL calculated for Valbruna/Bolzano as the most appropriate surrogate for CAS's AUL. CAS did not present any additional information on its AUL calculation for our consideration for the final determination.

In the preliminary determination, we discussed the GOI's tax depreciation schedule for the steel sector in Italy as a possible surrogate AUL for CAS. According to the GOI, the depreciation schedule was based on information acquired from an industry survey conducted in 1988. We asked the GOI to provide the survey so we could determine whether the depreciation schedule reflected the average useful life of assets in the Italian steel industry. The GOI did not submit this survey. Therefore, we are unable to determine whether the schedule represents the AUL of assets in the Italian steel industry. As such, we are continuing to use the Valbruna/Bolzano AUL of 12 years as a surrogate for a CAS AUL for this final determination.

Equityworthiness

In analyzing whether a company is equityworthy, the Department considers whether that company could have attracted investment capital from a reasonable private investor in the year of the government equity infusions, based on information available at that time. *See GIA*, 58 FR at 37244.

Our review of the record and our analysis of the comments submitted (see Comment Section below) have not led us to change our finding in the preliminary determination. Based on the Department's determination in *Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel from Italy*, 59 FR 18357 (April 18, 1994), (*Electrical Steel from Italy*), we continue to find ILVA's predecessors and ILVA unequityworthy from 1985 through 1988 and from 1991 through 1992.

In measuring the benefit from a government equity infusion into an unequityworthy company, the Department compares the price paid by the government for the equity to a market benchmark, if such a benchmark exists. In this case, a market benchmark does not exist so we used the methodology described in the *GIA*, 58 FR at 37239. *See also Steel Wire Rod from Trinidad and Tobago*, 62 FR at 55004. Following this methodology, equity infusions made on terms inconsistent with the usual practice of a private investor are treated as grants. Use of this methodology is based on the premise that an unequityworthiness finding by the Department is tantamount to saying that the company could not have attracted investment capital from a reasonable investor in the infusion year based on the information available in that year.

Creditworthiness

When the Department examines whether a company is creditworthy, it is essentially attempting to determine if the company in question could obtain commercial financing at commonly available interest rates. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France*, 58 FR 37304 (July 9, 1993) (*Certain Steel from France*); *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela*, 62 FR 55014 (Oct. 21, 1997).

ILVA's predecessors and ILVA were found to be uncreditworthy from 1985 through 1992 in *Electrical Steel from Italy*; no new information has been presented in this investigation that would lead us to reconsider this finding. Therefore, consistent with our past practice, we continue to find ILVA's predecessors and ILVA uncreditworthy from 1985 through 1992. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Brazil*, 58 FR 37295, 37297 (July 9, 1993). Our examination of the financial data and ratios from 1990, 1991, and 1992 has led us to determine that ILVA was also uncreditworthy in 1993. We did not examine CAS's creditworthiness in 1994 and 1995 because the company did not receive equity infusions, grants, long-term loans, or loan guarantees in the years. Based on our examination of the financial performance of CAS in 1993, 1994, and 1995, and our analysis of its financial ratios, we continue to find CAS creditworthy in 1996.

With respect to Falck and Bolzano, we have examined the creditworthiness of Falck in 1992 since one of the loans was renegotiated in that year. To determine Falck's creditworthiness in 1992, we examined financial statistics for the prior three years. Falck's financial ratios showed that the company was able to cover its obligations. Further, Falck's debt-to-equity position was strong. Therefore, we determine that Falck was creditworthy in 1992.

Neither Falck nor Bolzano received any equity infusions, long-term loans, or loan guarantees in the other years in which the companies were alleged to be uncreditworthy. Therefore, we have not examined the creditworthiness of Falck in the years 1993–1994 nor of Bolzano in the years 1995–1996.

I. Programs Determined To Be Countervailable

Programs of the Government of Italy

A. Equity Infusions to Finsider and ILVA

The GOI, through IRI, provided equity infusions to Finsider in 1985 and 1986. IRI also provided equity infusions to ILVA in 1991 and 1992. We determine that these equity infusions provide a financial contribution that confer a benefit under section 771(5)(E)(i) of the Act, in the amount of each infusion because the GOI investments were not consistent with the usual investment practices of private investors (*see* discussion of ''Equityworthiness'' above). These equity infusions are specific within the meaning of section 771(5A)(D) of the Act because they were limited to Finsider and ILVA. Accordingly, we find that the equity infusions to Finsider and ILVA are countervailable subsidies within the meaning of section 771(5) of the Act.

We have treated these equity infusions as non-recurring grants given in the year the infusion was received because each required a separate authorization. As discussed below in the *Department's Position* on *Comment 10*, consistent with the Department's past practice, we consider these equity infusions to be untied subsidies, which benefit all the production of Finsider and ILVA, respectively, including the production of their subsidiaries. *See, e.g., Steel Wire Rod from Canada* 62 FR at 54977–79. Because both Finsider and ILVA were uncreditworthy in the year of receipt, we applied a discount rate that included a risk premium. Since CAS has been privatized, we followed the methodology described in the ''Change in Ownership'' section above to determine the amount of each equity infusion appropriately allocated to CAS after the privatization. We then divided the benefit allocated to the POI by CAS's total sales. Accordingly, we determine the countervailable subsidy to be 6.97 percent ad valorem for CAS.

B. Pre-Privatization Assistance and Debt Forgiveness

As explained in the ''Corporate Histories'' section above, Cogne S.p.A. acquired the shares of Robles S.r.l. and changed the company's name to Cogne Acciai Speciali S.r.l. (CAS), in 1992. The purpose of acquiring the company was to prepare for the privatization of the Aosta factory. In the preliminary determination, we countervailed debt forgiveness provided in connection with the privatization of CAS. Based on the information collected after the preliminary determination, and comments submitted by the parties, we have modified our approach to this program, in part.

At the end of 1992, Cogne S.p.A. transferred most of the productive assets of the Aosta facility to CAS through the capital contribution procedure under Italian law. Under this procedure, Cogne S.p.A. had assets (and liabilities) assessed under the oversight of the Italian Court and contributed them to CAS in exchange for shares in CAS worth exactly the net value of the contribution. CAS officials explained that pursuant to the capital contribution, CAS received the liabilities associated with the production process, while Cogne S.p.A. retained the other liabilities which were mostly long-term. From that point, CAS became the operating company and Cogne S.p.A. entered into liquidation. Cogne S.p.A. retained some of the inventories, and minor productive assets. CAS acquired the retained inventories and assets that Cogne S.p.A. did not sell to third parties for their book value of 122 billion lire. Cogne S.p.A. also retained part of the workforce on its payroll. On December 30, 1993, Cogne S.p.A. bought the land and buildings from CAS for the book value of 79.6 billion lire. Cogne S.p.A. then sold the land and buildings to the Regional Government in 1994 (see ''Valle d'Aosta Regional Assistance Associated with the Sale of CAS'' below).

CAS was offered for sale pursuant to an open bidding process designed to obtain the best purchase price for the company. Negotiations for the sale progressed through 1993; GE. VAL. S.r.l.'s final offer was accepted, and CAS was privatized effective January 1, 1994. As of December 31, 1993, ILVA S.p.A. issued a guarantee on behalf of Cogne S.p.A. for the uncovered liabilities of the firm, and the anticipated costs of the liquidation process, for 380 billion lire.

CAS was the first of the ILVA Group companies to be privatized. The plans for the privatization preceded the formal liquidation plans approved by the EU in the Commission's Decision of April 12, 1994, 94/259/ECSC. That plan divided ILVA into three companies: ILVA Laminati Piani, Acciai Speciali Terni, and ILVA in Liquidazione. The first two companies, which included the primary production activities of ILVA S.p.A., were eventually privatized. The latter company, ILVA in Liquidazione, retained responsibility for all of the ILVA entities which could not be sold to private parties. The EU approved some 10 trillion lire of state aid connected with the liquidation of ILVA in Liquidazione and its subsidiaries. The estimated costs of the liquidation, 10 trillion lire, covered all of the ILVA companies including the subsidiaries. The costs associated with the liquidation of Cogne S.p.A. were included in that total. *See* Verification Report of the Government of Italy dated June 1, 1998, public document on file in the CRU (GOI Verification Report).

In the preliminary determination, we examined the individual costs associated with the liquidation of Cogne S.p.A., instead of focusing on the total costs associated with privatization of the entire ILVA Group, because of the complexity of this series of transactions. Thus, we calculated the benefit of the debt coverage by subtracting the book value of the land and buildings (that were sold to the Region within the next year) from the total liabilities on Cogne S.p.A.'s books on December 31, 1993. We followed this methodology in the preliminary determination because it was clear that the company was able to recover the value of the land and buildings, and we were unsure as to what other assets on Cogne S.p.A.'s books could be recovered. CAS argued that this methodology overstated the true amount of any debt coverage because other assets were, in fact, used to offset liabilities (*see Comment 11*, below). At verification, it was established that the amount of Cogne S.p.A. debt for which ILVA bore responsibility as of December 31, 1993, was 253 billion lire, as evidenced by ILVA in Liquidazione's 1993 balance sheet. That figure includes the total net liabilities of Cogne S.p.A. as of December 31, 1993, plus the provisions for risks, and other costs associated with the liquidation of the company. Thus, we determine that CAS received 253 billion lire of debt coverage and assumption of losses in conjunction with its privatization.

The pre-privatization benefits are specific under section 771(5A)(D) of the Act because they were provided to CAS, in connection with the full package provided exclusively to the state-owned steel industry. With these pre-privatization benefits, the GOI through ILVA, made a financial contribution under section 771(5)(D) that benefits the recipient in the amount of the total liabilities and losses assumed. To calculate the benefit, we treated the debt assumption as a grant to CAS received in 1993. The grant is non-recurring because the pre-privatization assistance was a one-time, extraordinary event. We allocated the benefit over twelve years, applied a risk premium because the company was uncreditworthy in the

year of receipt, and followed the methodology described in the ''Change in Ownership'' section above. We then divided the benefit in the POI by CAS's total sales. On this basis, we determine the countervailable subsidy to be 14.77 percent *ad valorem* for CAS.

C. Capacity Reduction Payments Under Law 193/1984

Among the benefits provided by Law 193/1984 were payments to companies in the private steel sector which achieved capacity reductions consistent with an agreement by the European Coal and Steel Community (ECSC). The Department previously found that this program provides countervailable subsidies in the form of non-recurring grants to the private steel sector. *See Certain Steel from Italy*, 58 FR at 37332–33. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Valbruna and Falck received payments for capacity reduction in 1985 and 1986 under Articles 2 and 4 of Law 193/1984. Article 2 grants covered ECSC steel production while Article 4 grants covered non-ECSC pipe and tube production.

In our preliminary determination, we countervailed all closure aid received by Valbruna. In the case of Falck, we did not countervail assistance the company received under Article 4 in connection with its pipe facility because in *Certain Steel from Italy*, the Department determined that these grants were for restructuring of the pipe facility.

However, at verification, GOI officials explained that the grants Falck received under Article 4 were for the closure of its pipe facility. As explained in the *GIA*, the Department considers grants provided to shutdown part of a company's operations to benefit all remaining production. *GIA*, 58 FR at 37270, citing *British Steel Corp.* v. *United States*, 605 F. Supp. 286 (CIT 1985). *See also Steel Wire Rod from Canada*, 62 FR at 54980. Therefore, we find all closure assistance provided to Valbruna and Falck under Articles 2 and 4 of Law 193/1984 to be countervailable subsidies under section 771(5) of the Act.

To calculate the benefit attributable to Valbruna/Bolzano during the POI from the grants to Falck, we first determined the amount of Falck's grants attributable to Bolzano at the time the grants were given, using the ratio of Bolzano's assets to Falck's assets. We then allocated this amount over Valbruna/Bolzano's AUL to determine the benefit in each year. Next, we determined the amount of the benefit which remained with Bolzano after Bolzano was acquired by Valbruna in 1995, consistent with the methodology described in the ''Change in Ownership'' section above. To calculate the benefit attributed to Valbruna/Bolzano from the grants Valbruna received, we allocated the grants over Valbruna/Bolzano's AUL to determine the benefit in each year. We then summed the benefit amounts attributable to the POI from Falck's and Valbruna's grants and divided the total benefit by Valbruna/Bolzano's total sales. On this basis, we determine the countervailable subsidy to be 0.14 percent *ad valorem* for Valbruna/Bolzano.

D. Law 796/76 Exchange Rate Guarantees

Law 796/76 established a program to minimize the risk of exchange rate fluctuations on foreign currency loans. All firms that had contracted foreign currency loans from the ECSC or the Council of Europe Resettlement Fund (CER) could apply to the Ministry of the Treasury (MOT) to obtain an exchange rate guarantee. The MOT, through the Ufficio Italiano di Cambi (UIC), calculated loan payments based on the lira-foreign currency exchange rate in effect at the time the loan was approved. The program established a floor and ceiling for exchange rate fluctuations, limiting the maximum fluctuation a borrower would face to two percent. If the lira depreciated against the foreign currency, the UIC paid the difference between the ceiling rate and the actual rate. If the lira appreciated against the foreign currency, the UIC collected the difference between the floor rate and the actual rate.

The Department previously found the steel industry to be a dominant user of the exchange rate guarantees provided under Law 796/76, and on this basis, determined that the program was specific, and therefore, countervailable. *See Seamless Pipe from Italy*, 60 FR at 31996. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. This program provides a financial contribution that benefits the recipient to the extent that the lira depreciates against the foreign currency beyond the two percent band and provides a benefit in the amount of the difference between the two percent ceiling rate and the actual exchange rate.

We note that the program was terminated effective July 10, 1991, by Decree Law 333/91. However, payments continue on loans that were outstanding after that date. Bolzano was the only producer who used this program, and it received payments in 1996 on loans outstanding during the POI.

Once a loan is approved for exchange rate guarantees, payments are automatic and made on a yearly basis throughout the life of the loan. Therefore, we treat the payments as recurring grants. To calculate the countervailable subsidy, we used our standard grant methodology for recurring grants and expensed the benefits in the year of receipt. At verification, we found that Bolzano paid a foreign exchange commission fee to the UIC on each payment it received. We determine that this fee qualifies as an ''. . . application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act. Thus, for purposes of deriving the countervailable subsidy, we have added the additional foreign exchange commission to the total amount Bolzano paid under the Exchange Rate Guarantee program. We then divided the total payments received in 1996 on the two loans by the value of Valbruna/Bolzano's total sales in 1996. On this basis, we determine the countervailable subsidy to be 0.08 percent *ad valorem* for Valbruna/Bolzano.

E. Export Credit Financing Under Law 227/77

Under Law 227/77, the Mediocredito Centrale S.p.A. (Mediocredito), a GOI-owned development bank, provides interest subsidies on export credit financing. Under the program, the Mediocredito makes an interest contribution to offset the cost of a supplier's or buyer's credit financed by a commercial bank. The holder of the loan contract pays a fixed, low-interest rate on export credits taken out through the program with a commercial bank. The Mediocredito guarantees a specified variable market rate, and pays the lender any shortfall between the guaranteed market rate and the fixed rate provided to the borrower. If the market rate falls below the rate provided to the borrower, the Mediocredito receives the difference.

Valbruna used this program for a supply contract with its affiliated U.S. subsidiary, Valmix Corporation, which entered into a loan contract for purposes of importing merchandise manufactured by Valbruna. The term of the loan was 18 months and during the course of this financing arrangement, the Mediocredito made interest contributions to Valmix's commercial lender.

In the preliminary determination, we found that this program provides countervailable subsidies within the

meaning of section 771(5) of the Act. Our review of the record, our findings at verification, and our analysis of the comments submitted by the interested parties have led us to change, in part, our finding in the preliminary determination. We stated that we would examine the Respondents' claim that, because the interest contributions are consistent with the OECD Arrangement on Guidelines for Officially Supported Export Credits (OECD Guidelines), the program qualifies for an exemption under Item (k) of the Illustrative List of Prohibited Export Subsidies under Annex 1 of the WTO Agreement on Subsidies and Countervailing Measures. Based on the record evidence, however, we find that the OECD Guidelines do not apply to the Valmix loan because the repayment terms of this loan are for 18 months and the OECD Guidelines cover financing arrangements with repayment terms of a minimum of 24 months. Therefore, we need not consider Valbruna/Bolzano's arguments with respect to Item (k). *See, e.g., Final Affirmative Countervailing Duty Determinations; Certain Carbon Steel Products from Austria*, 50 FR 33369 (Aug. 19, 1985) (*Carbon Steel Products from Austria*). We continue to find that the interest contributions provided on the Valmix loan constitute a countervailable export subsidy under section 771(5) of the Act.

In accordance with the Department's practice, we treat interest contributions as reduced-interest rate loans if the borrower is aware at the time the loans are undertaken that the interest contributions will be received. *See, e.g., Certain Steel from Italy*, 58 FR at 37332. In the preliminary determination, we treated the interest contributions as grants because Valmix did not know at the time that the loan was undertaken that it would receive the contributions. However, we learned at verification that all parties were aware at the time that the loan was contracted that Valmix would receive these contributions. Therefore, we have changed our calculation of the benefit and have instead treated the Law 227/77 export credit financing as a reduced-interest rate loan. To calculate the benefit provided by this program, we compared the amount that Valmix paid under the loan and the amount Valmix would have paid on a commercial loan absent the interest contributions. We divided the benefit during the POI by Valbruna/Bolzano's total exports to the United States. On this basis, we determine the countervailable subsidy to be 0.15 percent ad valorem for Valbruna/Bolzano.

F. Law 451/94 Early Retirement Benefits

Law 451/94 authorized early retirement packages for steel workers for the years 1994 through 1996. The law entitled men of 50 years of age and women of 47 years of age with at least 15 years of pension contributions to retire early. Employees of Bolzano used the measures in all three years of the program. Bolzano is the only company subject to this investigation that had workers retire under Law 451/94 during or before the POI. In the preliminary determination, we found this program to be not countervailable. Our review of the record, our findings at verification, and our analysis of the comments submitted by the interested parties have led us to change our finding from the preliminary determination.

In the preliminary determination, we found early retirement benefits under Law 451/94 non-countervailable because the program did not relieve Bolzano of a normal obligation to its workers. Further, to the extent that the company did have costs associated with employees leaving through other means, those costs were lower than the ones faced by the company under this early retirement measure. At verification, information about this program was clarified. We learned that large companies in Italy cannot simply layoff workers without using one of the specially-designated programs for that purpose. The most comparable program to Law 451/94 is the extraordinary Cassa Integrazione Guadagni (CIG), which is used by companies in a wide variety of industries. The CIG program was found non-countervailable in *Electrical Steel from Italy*.

During verification, we found that under the extraordinary CIG, companies must continue to pay a small percentage of the employee's salary and set aside the mandatory severance contributions under Article 2120 of the Italian Civil Code. Under Law 451/94, the company incurs no additional costs. Thus, when we compared the costs associated with Law 451/94 to the costs associated with the extraordinary CIG, we found that companies would incur higher costs under the extraordinary CIG.

On this basis, we determine that Law 451/94 provides a financial contribution to the steel industry under Section 771(5)(D)(i) of the Act, and it confers a benefit to the recipient in the amount of costs covered by the GOI that the company would normally incur. Law 451/94 is specific under 771(5A)(D) because early retirement benefits under this program are limited, by law, to the steel industry. Accordingly, we find early retirement benefits provided under Law 451/94 to be countervailable subsidies under 771(5) of the Act.

Consistent with the Department's practice, we have treated payments under Law 451/94 as recurring grants expensed in the year of receipt. *See GIA*, 58 FR at 37226. To calculate the benefit conferred to Bolzano, we calculated the costs Valbruna/Bolzano would have incurred during the POI under the extraordinary CIG program and compared that to what the company paid under the Law 451/94 early retirement program. We divided this amount by Valbruna/Bolzano's total sales. On this basis, we determine the countervailable subsidy for this program to be 0.04 percent ad valorem for Valbruna/Bolzano.

Programs of the Regional Governments

A. Valle d'Aosta Regional Assistance Associated with the Sale of CAS

As discussed in the preliminary determination, when CAS was privatized, the land and buildings were sold to the Autonomous Region of Valle d'Aosta which now leases back the facility to the new owners of CAS. The framework for this triangular transaction among ILVA, CAS, and the Region was established through the protocols of agreement signed November 19, 1993. The Region, through its wholly-owned financing corporation, Finaosta S.p.A., agreed to (1) purchase the land, including the hydroelectric facilities owned by ILVA Centrali Elettriche S.p.A. (ICE) for 150 billion lire, in five annual installments, (2) to construct a waste plant, (3) to cover the costs of environmental reclamation on the land, up to 32 billion lire, and (4) to supply electricity directly to CAS from the ICE plants. In exchange, ILVA agreed to transfer CAS to a private party by December 31, 1993, with a restructuring fund. The purchaser of CAS's shares agreed to (1) vacate and abandon areas of the property not used in production activity; and, (2) to guarantee positions for 800 employees after the privatization.

Because of the complex nature of these transactions, which included different elements that were alleged to provide subsidies to CAS, we have analyzed each element separately as detailed below.

1. Purchase of the Cogne Industrial Site

Under section 771(5) of the Act, in order for a subsidy to be countervailable, it must, *inter alia*, confer a benefit. In the case of the government acquisition of goods, in this case land and buildings, a benefit is conferred if the goods are purchased for

more than adequate remuneration. Problems can arise in applying this standard when the government is the sole purchaser of the good in the country or within the area where the respondent is located. In these situations, there may be no alternative market prices available in the country. Hence, we must examine other options when determining whether the good has been purchased for more than adequate remuneration. This consideration of other options in no way indicates a departure from our preference for relying on market conditions in the relevant country, specifically market prices, when determining whether a good or service is being purchased at a price which reflects adequate remuneration. *See, e.g., Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Germany,* 62 FR 54990, 54994 (Oct. 22, 1997) (*German Wire Rod*).

As discussed in the preliminary determination, because there were no comparable sales of commercial real estate or other appropriate benchmark prices, we examined the purchase price to determine whether it was market-based. We found that the Region based its price upon a detailed, independent appraisal of the value of the site, but further discounted the price from the appraisal based on the fact that the land was occupied and that it had some environmental problems. Based on this analysis, we concluded that the Region did not purchase the Cogne industrial site for more than adequate remuneration. No evidence has been presented to warrant a change from this finding from the preliminary determination. Therefore, we find that the Region of Valle d'Aosta's purchase of the Cogne industrial site does not constitute a subsidy within the meaning of section 771(5) of the Act.

2. Lease of Cogne Industrial Site

Under section 771(5) of the Act, in order for a subsidy to be countervailable it must, *inter alia* confer a benefit. In the case of government provision of goods or services, a benefit is normally conferred if the goods or services are provided for less than adequate remuneration. The adequacy of remuneration is normally determined in relation to local prevailing market conditions as defined by section 771(5)(E) of the Act to include, ''* * * price, quality, availability, marketability, transportation, and other conditions of purchase or sale.'' Problems can arise in applying this standard when the government is the sole supplier of the good or service in the area, in which case there may be no alternative market prices. In this case, we must examine other options for determining whether the good has been provided for less than adequate remuneration. Where the government leases land, the Department has recognized several options for examining whether a countervailable benefit is provided through the relevant leasing arrangement. These options include examining, ''whether the government has covered its costs, whether it has earned a reasonable rate of return in setting its rates and whether it applied market principles in determining its prices.'' *German Wire Rod,* 62 FR at 54994. This consideration of other options in no way indicates a departure from our preference for relying on market conditions in the relevant country, when determining whether a good or service is being provided at a price which reflects adequate remuneration.

After the purchase of the land and buildings, Struttura Valle d'Aosta S.r.l. (Structure), a company wholly-owned by the Region, assumed the lease that had been between Cogne S.p.A. and CAS for the use of the site until a new lease could be negotiated. In 1996, Structure and CAS entered into a thirty-year lease for the facility which produces subject merchandise. The new lease implements the commitments set forth in the protocols of agreement: the facility is leased to CAS; CAS undertakes all maintenance on the facility (including extraordinary maintenance); and CAS commits to vacate approximately 50 percent of the property in favor of the Region. The lease was also designed to provide for the stable employment of 800 employees at the facility.

In the preliminary determination, we found that there was no appropriate transaction benchmark for evaluating the adequacy of remuneration in the lease. Therefore, we compared the Region's rate of return in the lease to that which would be provided in a private transaction for the long-term use of assets, using the average interest rate on treasury bonds as reported by the Banca d'Italia. However, we stated that for the final determination we would revisit this methodology: (1) to gather the information necessary in order to amortize the depreciation of the buildings subject to the lease; (2) to determine whether payments for extraordinary maintenance should be considered part of the lease; (3) to make an adjustment to the benchmark to account for extraordinary maintenance if appropriate; and (4) to determine whether there was a non-governmental interest rate that would be a more appropriate benchmark.

We have reconsidered these issues in light of the information gathered at verification and comments from the interested parties, summarized below. The record evidence indicates that the average rate of return on leased commercial property in Italy is 5.7 percent. *See* ''Discussions with company officials from Gabetti per L'impressa, Banca di Roma and Reconta Ernst & Young,'' dated June 3, 1998, on file in the CRU (Commercial Experts Report). We have used this rate of return as the benchmark in evaluating the adequacy of remuneration in the lease. As an average, this rate reflects different terms, lengths, and locations of lease contracts throughout Italy. This rate better reflects commercial practices in Italy than does the rate used in the preliminary determination. That rate was based on treasury bonds and would require a number of complicated and highly speculative adjustments to reflect a representative rate for leasing commercial property. Thus, in our view, the 5.7 percent rate is a more reliable and representative rate to use in examining whether the facility is being leased for less than adequate remuneration.

In applying the 5.7 percent rate, we have determined that no adjustments to this rate are warranted for either depreciation or extraordinary maintenance payments. First, we verified that the buildings covered by the lease are very old. Given the age of the structures, we have not adjusted the rate upward to reflect the depreciation of the structures because the likely useful life remaining would be relatively short.

Second, the record evidence demonstrates that although the Italian Civil Code obliges the landlord to pay for extraordinary maintenance, this obligation may be borne by the lessee if specified in the lease. In particular, we learned at verification that long-term leases often oblige the lessee to bear responsibility for these costs because of the long-term costs involved. The CAS lease is for a period of 30 years, the maximum allowed under Italian law. Thus, the terms of this particular contract are such that a commercial landlord would most likely have assigned this obligation to the tenant. Further, the obligation would be factored into the negotiation for the lease rate. To the extent that CAS may face an additional financial obligation not incurred by other parties because of extraordinary maintenance, it is balanced by the fact that CAS's lease term is much longer than the norm.

Therefore, the average rate of return is an appropriate benchmark without any adjustments for these terms.

In order to determine whether the Regional government receives adequate remuneration under the CAS lease, we compared the amount paid by CAS during the POI to the amount that would have been paid using 5.7 percent as the average rate of return. Based on this comparison, we found that the Region is not receiving an adequate rate of return on the lease, and therefore, we determine that the facility has been leased for less than adequate remuneration. Through this lease, the Autonomous Region of Valle d'Aosta made a financial contribution to CAS within the meaning of section 771(5)(D)(iii) of the Act, equal to the difference between what would have been paid annually in a lease established in accordance with market conditions and what CAS actually paid. The lease is specific within the meaning of section 771(5)(D) of the Act, because the lease is limited to CAS. Therefore, we determine that the CAS industrial lease provides a countervailable subsidy within the meaning of section 771(5) of the Act.

To calculate the benefit, we determined the difference between the amount that would have been paid during the POI if the lease rate had been determined with reference to market conditions and the amount actually paid. We divided the amount by CAS's total sales in 1996. On this basis, we determine the countervailable subsidy to be 0.23 percent ad valorem for CAS.

3. Provision of Electricity

In the preliminary determination, we found that this program does not exist because the Region is not permitted to supply electricity directly to CAS through the planned electricity consortium and because CAS purchases electricity from ENEL, the state monopoly, in accordance with standard provisions applied to other commercial electricity users in Italy. Our review of the record, our findings at verification, and our analysis of the comments submitted by the interested parties have not led us to modify our finding from the preliminary determination. Therefore, we continue to find that this program does not exist. However, in the event this investigation results in a countervailing duty order, we will continue to review this allegation in any subsequent administrative review to determine whether changes in the Italian law allow for direct purchase of electricity from entities other than ENEL. Continued examination of this program in subsequent reviews is necessary because the protocol agreements specify that the Region will supply electricity to CAS.

4. Waste Plant

In the preliminary determination, we found that this program does not yet exist because the Region has not yet started construction of the waste plant. Thus, CAS is not benefitting from the provision of waste disposal services that the Region will provide once the plant is in operation. Our review of the record, our findings at verification, and our analysis of the comments submitted by the interested parties have not led us to modify our finding from the preliminary determination. However, in the event this investigation results in a countervailing duty order we will continue to review this allegation in any subsequent administrative review to determine whether a benefit will have been provided to CAS through the provision of waste disposal services for less than adequate remuneration.

5. Loans Provided to CAS to Transfer Its Property

In the protocols of agreement of November 1993, the Region agreed to provide financing through Finaosta S.p.A. for the costs involved with the transfer of the CAS property off the portion of the site not subject to the lease. The Region plans to develop facilities for small and medium-sized enterprises on this portion of the site after the environmental reclamation of the land is complete. The provision of up to 25 billion lire in reduced interest rate financing to CAS was authorized under Regional Law 37 of August 30, 1995.

The provision of these loans was evaluated by the EU under its state aid rules. In a June 15, 1995, decision, the EU determined that the loan was not aid, but instead an indemnity to CAS. The EU concluded that because the Region had unilaterally terminated part of CAS's lease (the Cogne S.p.A.-CAS lease which included the property to be vacated), the loans represented compensation for the costs associated with the termination. However, as detailed in the preliminary determination, our analysis revealed other important facts related to this deal. CAS and the Region agreed in the protocols of agreement that CAS would vacate 50 percent of the land. The protocols of agreement predate the Cogne S.p.A.-CAS lease. As such, we found in the preliminary determination that the loans provide countervailable subsidies to CAS within the meaning of section 771(5) of the Act. Our review of the record and comments summarized below have not led us to change this finding. *See Department's Position* on *Comment 16.*

The Region's financing company, Finaosta, provided this financing in three separate loan agreements over 1996 and 1997 with the interest rate set at 50 percent of the Rendistato rate, a variable rate. Under the terms of each loan contract, a deferred six-month payback schedule was established. In the preliminary determination, we stated that these loans had an eighteen-month interest-free grace period. At verification, we discovered that, in fact, interest payments were required during the first eighteen months of each loan. We have modified our calculation accordingly. We compared the interest payments made by CAS during the POI to the interest that would have been paid under the benchmark loan during the POI, using the benchmark rate discussed in the ''Subsidies Valuation Information'' section above. We divided the benefit by the 1996 total sales of CAS. On this basis, we determine the countervailable subsidy to be 0.19 percent *ad valorem* for CAS.

B. Valle d'Aosta Regional Law 64/92

Law 64/92 of the Autonomous Region of Valle d'Aosta provides funding to cover up to 30 percent of the cost of installing environmentally-friendly industrial plants in the province. Any firm in Valle d'Aosta may apply to the Regional Industry, Craft, and Energy Department (ICED) to have part of its costs covered for a specific environmentally-friendly project. Each project requires a separate application which is evaluated by a technical committee appointed by the ICED for this purpose. Each project must be approved by the technical committee in order to be funded, up to 30 percent of the total costs. These grants provide a financial contribution within the meaning of section 771(5)(D)(i) of the Act and provide a benefit to the recipient in the amount of the grant.

Law 64/92 is not de jure specific because the enacting legislation does not explicitly limit eligibility to an enterprise or industry or group thereof. We examined data on the provision of assistance under this program to determine whether the law meets the criteria for de facto specificity under section 771(5A)(D)(iii) of the Act. Since the inception of the program only nine companies have been approved for benefits. While this alone would be sufficient for a finding of de facto specificity because there are only a few companies in a few industries that have received assistance under this program, we also examined data on the value of

grants given to these firms. CAS and one other firm received close to two-thirds of the total assistance awarded, with each firm receiving approximately one-third of the total. Thus, CAS received a disproportionate share of the total assistance under this program. Accordingly, we find Law 64/92 to be de facto specific within the meaning of section 771(5A)(D)(iii) of the Act. Therefore, we determine that Law 64/92 provides a countervailable subsidy within the meaning of section 771(5) of the Act.

Since applicants must submit a separate application for each project, we are treating the grants received under the program as non-recurring. *See GIA*, 58 FR at 37226. CAS received three grants under the program, two in 1995 and one in 1996. The total of the grants received in each year did not exceed 0.5 percent of sales in the relevant year so we have expensed the full amount of each grant in the year of receipt. To calculate the countervailable subsidy, we divided the total amount of the 1996 grant by the value of CAS's total sales. On this basis, we determine the countervailable subsidy to be 0.02 percent ad valorem for CAS.

C. Valle d'Aosta Regional Law 12/87

Law 12/87 of the Autonomous Region of Valle d'Aosta funds the promotion of commercial activities of local firms in other regions of Italy, and abroad. Companies apply to ICED for funding up to 30 percent of the costs of promotional activities in Italy (up to 10 million lire) and 40 percent of the costs of promotional activities abroad (up to 15 million lire). CAS submitted three applications for funding under this program. The region approved and funded two of the proposals, both in 1996: a grant of 15 million lire for participation in the Singapore Wire and Cable Fair and a grant of 12.7 million lire for participation in the Dusseldorf Wire Fair. Law 12/87 provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act, and provides a benefit to the recipient in the amount of the grant.

The Department has recognized that general export promotion programs, programs which provide only general information services including ''image'' events do not constitute countervailable subsidies. *See, e.g., Fresh Cut Flowers from Mexico*, 49 FR 15007, 15008 (April 16, 1984) and *Final Negative Countervailing Duty Determination: Fresh Atlantic Salmon from Chile*, 63 FR 31437, 31441 (June 9, 1998) (*Chilean Salmon*). However, where such activities promoted a specific product, or provided financial assistance to a firm for transportation and/or marketing expenses, we have found the programs to constitute countervailable subsidies. *See, e.g., Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada*, 51 FR 10041, 10067 (March 24, 1986) (*Groundfish from Canada*); *Chilean Salmon*, 63 FR at 31440. CAS received direct contributions from the Region of Valle d'Aosta to cover costs associated with participation in these trade shows including transportation, lodging, and marketing expenses. Because the financial assistance under this law was provided to CAS for the promotion of its exports, we find that the assistance to CAS constitutes an export subsidy within the meaning of section 771(5A)(B) of the Act.

We find that the grants received under this program are non-recurring because they are exceptional rather than on-going and require separate applications and approvals. *See GIA*, 58 FR at 37226. However, because the grants did not exceed 0.5 percent of CAS's total exports in the year provided (*i.e.*, the POI), we allocated the entire amount of the grants to the year of receipt. We divided the total amount of the two grants by the value of CAS's total exports during the POI. On this basis, we determine the countervailable subsidy to be 0.01 percent ad valorem for CAS.

D. Province of Bolzano Assistance: Purchase and Leaseback of Bolzano Industrial Site

As discussed in the preliminary determination, when Falck sold Bolzano to Valbruna, it sold the Bolzano land and buildings to the Autonomous Province of Bolzano which now leases the facility back to Valbruna/Bolzano. The Province bought two pieces of property, the ''Stabilimento Sede,'' which was owned by Bolzano, and the ''Stabilimento Erre,'' owned by Immobiliare Toce S.r.l., a subsidiary of Falck with real estate holdings. The purchase price for both portions was established by the Provincial Cadastral Office. The purchase was authorized under Provincial Council Resolution 850 of February 20, 1995, and was made on July 31, 1995. Valbruna entered into concurrent negotiations with the Province for a long-term lease of the Bolzano industrial site.

Because of the complex nature of these transactions, which included different elements that were alleged to provide subsidies to Bolzano, we have analyzed each element separately as detailed below.

1. Purchase of Bolzano Industrial Site

Where the government purchases a good, the Department analyzes whether the good was purchased for more than adequate remuneration and therefore confers a benefit. Our standard with respect to the government's purchase of goods is discussed in the ''Purchase of the Cogne Industrial Site'' above. As with our analysis of the Cogne land transaction, there are no private purchases of industrial sites comparable to the Bolzano property that are representative of the prevailing market conditions by which to assess the adequacy of remuneration for the purchase of the Bolzano industrial site. However, there is information on the record of this investigation that can be used to determine the adequacy of remuneration of the Bolzano industrial site.

In order to analyze whether the purchase of the Bolzano industrial site was made for more than adequate remuneration, it is important to understand the transactions underlying the purchase, and subsequent leasing, of the Bolzano industrial site. The purchase of the industrial site was part of a complicated process of transactions conducted by three parties: The Province of Bolzano, Falck, and Valbruna. The Province of Bolzano was interested in purchasing industrial land within its borders and in maintaining employment. Falck was seeking to exit the steel industry and was considering closing the Bolzano site. Valbruna was interested in increasing its steel operations. Therefore, while Falck was negotiating with the Province for the sale of the Bolzano industrial site, Falck was negotiating with Valbruna for the purchase of the Bolzano company. Concurrently, the Province and Bolzano were negotiating for the lease of the land and buildings of the industrial site. As a result of these negotiations, a share purchase agreement, land sale agreement, and lease agreement finalized these transactions on July 31, 1995. The transactions among the three parties are interrelated. The purchase of the industrial site by the Province of Bolzano is closely linked to the leasing arrangement between Valbruna and the Province.

The price paid by the Province of Bolzano for the land was based upon the estimate undertaken by the Provincial Cadastral Office. As stated above, there were no purchases of industrial sites comparable to the Bolzano site that could be used to assess the adequacy of remuneration of that purchase price. However, we verified that Valbruna had agreed to pay the same price as that

negotiated between Falck and the Province if those negotiations for the sale of the land fell through. In the preliminary determination, we concluded that Valbruna's agreement to purchase the site for the same price indicated that the price paid by the Province was determined in reference to market conditions. Therefore, we concluded that the purchase of the land by the Province of Bolzano was not made for more than adequate remuneration. Our review of the record, findings at verification and review of comments summarized below (*see* the *Department's Position* on *Comment 1*) have not led us to reconsider our finding. Therefore, we find that this program does not constitute a subsidy within the meaning of section 771(5) of the Act.

2. Lease of Bolzano Industrial Site

In the case of government provision of goods or services, the Department analyzes whether the good or service was provided for less than adequate remuneration and therefore confers a benefit. Our standard with respect to the government's sale of goods is discussed in the ''Lease of the Cogne Industrial Site'' section above. When the government is the sole supplier of the good or service in the area and there may be no alternative market price, it becomes necessary to examine other options for determining whether the good has been provided for less than adequate remuneration. The Department has recognized several options with respect to the leasing of land, ''to examine whether the government has covered its costs, whether it has earned a reasonable rate of return in setting its rates and whether it applied market principles in determining its prices.'' *See, e.g., German Wire Rod* at 54994. This consideration of other options in no way indicates a departure from our preference for relying on market conditions in the relevant country, when determining whether a good or service is being provided at a price which reflects adequate remuneration.

The terms of the Province of Bolzano-Valbruna lease are as follows. The lease contract signed July 31, 1995, provides for a thirty year term. Valbruna pays the Province of Bolzano rent in six-month installments. Valbruna undertakes all maintenance on the facility (including extraordinary maintenance). The lease was also designed to provide for the stable employment of 650 employees at the facility.

In the preliminary determination, we found that there was no transaction that could be used as an appropriate benchmark for evaluating the adequacy of remuneration in the lease. Therefore, we compared the Region's rate of return on the lease to that which would be provided in a private transaction for the long-term use of assets, using the average interest rate on treasury bonds as reported by the Banca d'Italia. However, we stated that for the final determination we would revisit this methodology: (1) to gather the information necessary in order to amortize the depreciation of the buildings subject to the lease; (2) to determine whether payments for extraordinary maintenance should be considered part of the lease; (3) to make an adjustment to the benchmark to account for extraordinary maintenance if appropriate; and (4) to determine whether there was a non-governmental interest rate that would be a more appropriate benchmark.

We have reconsidered these issues in light of the information gathered at verification and comments from the interested parties, summarized below. The record evidence indicates that the average rate of return on leased commercial property in Italy is 5.7 percent. See Commercial Experts Report. We have used this rate of return as the benchmark in evaluating the adequacy of remuneration in the lease. As an average, this rate reflects different terms, lengths, and locations of lease contracts throughout Italy. This rate better reflects commercial practices in Italy than does the rate used in the preliminary determination. That rate was based on treasury bonds and would require a number of complicated and highly speculative adjustments to reflect a representative rate for leasing commercial property. Thus, in our view the 5.7 percent rate is a more reliable and representative rate to use in examining whether the facility is being leased for less than adequate remuneration.

In applying the 5.7 percent rate, we have determined that no adjustments to this rate are warranted for either depreciation or extraordinary maintenance. First, we verified that the buildings covered by the lease are very old. Given the age of the structures, we have not adjusted the rate upward to reflect the depreciation of the structures because the likely useful life remaining would be relatively short.

Second, the record evidence demonstrates that although the Italian Civil Code obliges the landlord to pay for extraordinary maintenance, this obligation may be borne by the lessee if specified in the lease. In particular, we learned at verification that long-term leases often oblige the lessee to bear responsibility for these costs because of the long-term costs involved. The Bolzano lease is for a period of 30 years, the maximum allowed under Italian law. Thus, the terms of this particular contract are such, that a commercial landlord would most likely have assigned this obligation to the tenant. Further, the obligation would be factored into the negotiation for the lease rate. To the extent that Bolzano may face an additional financial obligation than other parties because of extraordinary maintenance, that is balanced by the fact that CAS's lease term is much longer than the norm. Therefore, the average rate of return is an appropriate benchmark without any adjustments for these terms.

In order to determine whether the Provincial government receives adequate remuneration under the Bolzano lease, we compared the rent under the Bolzano lease to the amount that would have been paid using 5.7 percent as the average rate of return. Based on this comparison, we found that the Province is not receiving an adequate rate of return on the lease, and therefore, we determine that the facility has been leased for less than adequate remuneration. Through this lease, the Autonomous Province of Bolzano made a financial contribution to Bolzano within the meaning of section 771(5)(D)(iii) of the Act, equal to the difference between the Bolzano rent and what would have been paid annually in a lease established in accordance with market conditions. The lease is specific within the meaning of section 771(5)(D) of the Act, because the lease is limited to Valbruna/Bolzano. Therefore, we determine the Bolzano industrial lease provides a countervailable subsidy within the meaning of section 771(5) of the Act.

To calculate the benefit, we found the difference between the amount that would have been paid during the POI if the lease rate had been determined with reference to market conditions and the actual rent. We divided the amount by Valbruna/Bolzano's total sales in 1996. On this basis, we determine the countervailable subsidy to be 0.16 percent ad valorem for Valbruna/Bolzano.

3. Lease Exemption

Under the Province of Bolzano-Valbruna/Bolzano lease, Valbruna/Bolzano agreed to assume certain environmental reclamation costs instead of paying rent for the first two years of the lease. In the preliminary determination, we found that this program conferred a countervailable subsidy to Valbruna/Bolzano. Based on our review of the record, our findings at

verification, and our analysis of the comments submitted by the interested parties, summarized below, we continue to find this lease exemption to be a countervailable subsidy, but the basis for the determination has changed, in part.

To determine whether the program provides a countervailable subsidy to Valbruna/Bolzano, we examined whether the Province's actions in granting the lease exemption were consistent with the usual practices of private landlords. When the Province purchased the land and buildings, there were a number of environmental problems that required costly repairs. While such a situation would be extremely unusual, a commercial landlord may very well have given a similar exemption to a tenant in order to have these problems addressed. However, a private landlord would ensure that the amount of repairs met or exceeded the cost of the rent, the tenant actually did the work, and the landlord legally had the responsibility to undertake the projects. At verification, Valbruna presented evidence that the costs incurred exceeded the amount of rent due. In addition, a list of environmental issues that Valbruna agreed to remedy was included as an enclosure to the lease. Valbruna documented that these projects, as well as other measures related to asbestos clean-up, had been undertaken.

Thus, in order to determine whether the nonpayment of rent for the first two years constitutes a countervailable subsidy to Valbruna/Bolzano, we examined whether or not the Province of Bolzano would have been responsible for these environmental reclamation costs. Under Italian law, the landlord would normally bear the responsibility for pre-existing environmental costs under a normal lease agreement. In the preliminary determination, we countervailed this lease exemption as a grant because we found that the projects undertaken related to the plant and equipment which was owned by the company instead of the buildings which were owned by the Province. However, upon further examination during verification, we found that most of the projects undertaken related to modifications of the buildings in order to permit the installation of new or alteration of existing equipment.

During verification, we received clarification as to when the need to undertake some of these environmental reclamation projects had been identified. In particular, we noted that one of the principal measures which related to noise and air pollution, had been identified several years prior to the purchase of the land. The Province explained that local residents had complained in the past regarding air and noise pollution originating from the Bolzano site. The Province asked Bolzano to develop a proposal to solve the problem. In 1992, the Province agreed to Bolzano's proposal to encapsulate the melting furnace in order to reduce air and noise pollution. By 1995, Bolzano still had not undertaken the encapsulation project. Instead, it was included in the round of environmental work covered by the lease payment exemption. This project accounted for a substantial portion of the costs undertaken by Valbruna in exchange for the period of free rent. Thus, the Province imposed an obligation on Bolzano to undertake environmental measures several years before the signing of the lease. Then, the Province agreed to forgo revenue in order to see that the obligation was fulfilled.

Valbruna also reported costs related to the clean up and removal of asbestos from the buildings. According to the Province, regulations regarding the removal of asbestos are designed to protect the health and safety of workers. Thus, normally the employer has primary responsibility for these efforts. When the employer rents the facility, the company could, as the tenant, request that the landlord undertake the asbestos removal on the buildings. However, since Valbruna agreed to assume the obligation for extraordinary maintenance under the lease, the company would have no means of requiring the owner to do the repairs. Thus, the Province agreed to forgo revenue in order to have the asbestos problem addressed even though it would not have been its responsibility to pay for the damages.

In both of these instances, the Province did not have an obligation to undertake the work in question. Thus, since it was the obligation of Valbruna/Bolzano to pay for these projects, which accounted for virtually all of the costs incurred, either because the obligation was incurred before the lease or because the company had assumed the obligation under the lease, there is no basis for Valbruna/Bolzano's claim that the rent exemption is not countervailable because it only covered costs for which the Province was responsible. Therefore, we find that the relief from rent payment for the first two years of the Valbruna/Bolzano industrial lease provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, in the form of revenue forgone, which provides a benefit in the amount of rent that would normally have been collected. The lease exemption is specific under section 771(5)(D) of the Act because it was limited to Valbruna/Bolzano. Accordingly, we determine that the exemption from payment of rent under the lease of the Bolzano industrial site provides a countervailable subsidy under section 771(5) of the Act. The lease exemption provides non-recurring subsidies because its provision is limited, by the terms of the lease, to the first two years. However, because the benefit from the exemption did not exceed 0.5 percent of Valbruna/Bolzano's total sales in the years provided, we allocated the entire amount to the year of receipt. We divided the amount of the rent exemption for the POI by Valbruna/Bolzano's total sales. On this basis, we determine the countervailable subsidy to be 0.38 percent ad valorem for Valbruna/Bolzano.

E. Province of Bolzano Law 25/81

The Province of Bolzano Law 25/81 is a general aid measure that provides grants to companies with limited investments in technical fixed assets. It targets advanced technology, environmental investment, or restructuring projects. Restructuring assistance is provided to companies under Articles 13 through 15. Articles 13 through 15 establish different eligibility requirements, different application procedures, different levels of available aid, and different types of aid (grants and loans) than assistance provided under other Articles of Law 25/81. Therefore, we find it appropriate to examine Articles 13 through 15 of Law 25/81 as a separate program. *See, e.g., Live Swine from Canada; Final Results of Countervailing Duty Administrative Review*, 62 FR 18087, 18091 (April 14, 1997) (*Live Swine from Canada*). Bolzano received a total of 18.6 billion lire in restructuring grants from 1983 through 1992. It also had a small amount from restructuring loans outstanding during the POI, which were provided at concessionary, long-term fixed rates.

In our preliminary determination, we did not make a countervailability finding on Articles 13 through 15 because we did not have the information to analyze the de facto specificity of assistance provided solely under the restructuring program, *i.e.*, Articles 13 through 15. As discussed above, we have determined it is appropriate to examine the restructuring aid provided through these articles as a separate program. During verification, we obtained Provincial budget records which listed the total amount from

loans and grants provided through the restructuring program in the years 1982 through 1992, because these were the years during which Bolzano was provided assistance. In each of the years in which Bolzano received funds under this program Bolzano received a significant percentage of total assistance awarded. While assistance was provided to a number of firms during this period, Bolzano received a much larger share in comparison to the total aid awarded. In fact, Bolzano was the largest single recipient of restructuring assistance. Bolzano received far more than the average recipient over this period. Thus, we conclude that the restructuring assistance granted to Bolzano under Articles 13 through 15 of Law 25/81 is de facto specific within the meaning of section 771(5A)(D)(iii) of the Act because Bolzano received a disproportionate share of benefits. The restructuring aid provides a financial contribution which confers a benefit in the amount of grants, and interest savings on reduced-rate long-term loans. Therefore, we determine that Articles 13 through 15 of Provincial Law 25/81 provide a countervailable subsidy within the meaning of section 771(5) of the Act.

We note that on July 17, 1996, the EU found in its decision number 96/617/ECSC that the aid granted to Bolzano under Law 25/81 was illegal because it was not notified to the EU, and was ''incompatible with the common market pursuant to Article 4(c) of the ECSC treaty.'' *See* October 27, 1997, response of the EU, public version on file in the CRU. As a result, the EU ordered the repayment of all grants and loans made to Bolzano which were approved after January 1, 1986. The EU decision did not require the repayment of Bolzano assistance approved prior to January 1, 1986.

As discussed in the ''Corporate Histories'' section above, Falck sold Bolzano to Valbruna in 1995. According to the terms of the sale, Falck retained the liability for repayment of these benefits should the EU rule against Bolzano. Pursuant to the EU's 1996 ruling, Falck effectively repaid the assistance under Law 25/81 approved and granted to Bolzano after 1986. Repayment was effected through Falck receiving a lower payment from the GOI under an assistance program and the GOI transferring that amount to the budget of the Province of Bolzano. Falck is appealing the EU's decision. For the reasons set forth in the *Department's Position* on *Comment 3* below, we do not consider the payment by Falck to affect our analysis of the benefit to Bolzano.

Bolzano received grants for four restructuring projects under this law: one was approved in 1983, another was approved in 1985, and two were approved in 1988. Because Bolzano submitted a separate application to the regional authority for each project, we are treating the grants received under Articles 13 through 15 of Provincial Law 25/81 as non-recurring. *See GIA,* 58 FR at 37226. Pursuant to the Department's non-recurring grant methodology, to calculate the benefit from the restructuring grants we allocated the grants over Valbruna/Bolzano's AUL to determine the benefit in each year. To determine the benefit from the restructuring loans that were still outstanding during the POI, we compared the long-term fixed-rate provided under the program to the benchmark rate described in the ''Subsidies Valuation Information'' section above since the company did not have long-term fixed rate loans from the same period. We then applied the Department's standard long-term loan methodology and calculated the grant equivalent for the loans. Next, we applied the methodology discussed in the ''Change in Ownership'' section above to the grants and loans. We then summed the benefit amounts attributable to the POI from Bolzano's grants and loans and divided the total benefit by Valbruna/Bolzano's total sales. On this basis, we determine the countervailable subsidy to be 0.28 percent ad valorem for Valbruna/Bolzano.

Programs of the European Union

A. ECSC Article 54 Loans

Article 54 of the 1951 ECSC Treaty established a program to provide industrial investment loans directly to the iron and steel industries to finance modernization and the purchase of new equipment. Eligible companies apply directly to the EU for up to 50 percent of the cost of an industrial investment project. The Article 54 loan program is financed by loans taken out by the EU, which are then refinanced at slightly higher interest rates than those at which the EU obtained them.

The Department has found Article 54 loans to be specific in several proceedings, including *Electrical Steel from Italy, Certain Steel from Italy,* and *UK Lead Bar 94,* because loans under this program are provided only to iron and steel companies. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. This program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act that provides a benefit to the recipient in the difference between the amount paid on the loan and the amount which would be paid on a comparable commercial loan that the recipient could actually obtain.

Valbruna did not use this program. Bolzano and CAS received Article 54 loans. Bolzano had two loans outstanding during the POI, one denominated in U.S. Dollars, the other in Dutch Guilders. CAS received one Article 54 loan in 1996 with a variable interest rate on which no interest or principal payments were due during the POI. Since these payments would not have been due on a comparable commercial loan, there is no benefit received during the POI, and thus, we find that the program is not used with respect to CAS.

With respect to the loans to Bolzano, we would have used as a benchmark interest rate a long-term borrowing rate for loans denominated in the appropriate foreign currency in Italy. However, we were unable to find such rates. Therefore, we used the average yield to maturity on selected long-term corporate bonds as reported by the U.S. Federal Reserve for the loan denominated in U.S. dollars, and the long-term bond rate in the Netherlands as reported by the International Monetary Fund for the loan denominated in guilders. (We note that Bolzano entered into the loan contract for the loan denominated in U.S. dollars in 1979. However, the interest rate for that loan was renegotiated in 1992. Therefore we have treated it as a new loan from that point and used a 1992 benchmark).

At verification, we found that Bolzano paid foreign exchange fees and semi-annual guarantee fees on the Article 54 loans. Thus, we added these additional expenses into the total amount that Bolzano paid under the program. We also added an amount equal to the foreign exchange fees Valbruna/Bolzano pays on commercial loans to the benchmark loan. We then compared the cost of the benchmark financing for each loan to the financing Bolzano received under the program and found that both loans provided a financial contribution. To calculate the benefit in the POI, we employed the Department's standard long-term loan methodology. We calculated the grant equivalent and allocated it over the life of each loan. We then applied the methodology discussed in the ''Change in Ownership'' section above. We divided the benefit allocated to the POI by the 1996 sales of Valbruna/Bolzano. On this

basis, we determine the countervailable subsidy to be less than 0.005 percent ad valorem for Valbruna/Bolzano.

B. European Social Fund

The European Social Fund (ESF) is one of the Structural Funds operated by the EU. The ESF was established in 1957 to improve workers' opportunities and raise their standards of living. The ESF principally provides vocational training and employment aids. There are five objectives identified under the ESF for funding: Objective 1 covers projects located in underdeveloped regions, Objective 2 covers areas in industrial decline, Objective 3 relates to the employment of persons under 25, Objective 4 relates to vocational training for employees in companies undergoing restructuring, and Objective 5 relates to agricultural areas. CAS, Valbruna, and Bolzano received ESF assistance under Objective 4 during the POI.

In the preliminary determination, there was insufficient evidence on the record to determine whether Objectives 3 and 4 provide countervailable subsidies. We noted, however, that the Department had previously found certain benefits under Objectives 1, 2, or 5(b) countervailable because assistance was limited to companies in specific regions. *See, e.g., Pasta from Italy,* 61 FR at 30294. Nevertheless, based on the record evidence, we were unable to determine whether the companies in this proceeding received ESF funding based on their location. In light of this insufficient record evidence, we explained that we would continue to examine the specificity of this program for the final determination.

During verification, we clarified several critical facts related to the ESF program. First, we clarified that companies may receive ESF funding directly even if they are not located in Objective 1, 2, or 5 regions. Neither Valbruna nor Bolzano is located in an Objective 2 region. Second, we discovered that funding was provided to companies subject to this investigation only under Objective 4 of the ESF. Objective 4 is aimed at vocational training, in particular anticipating labor market trends, training employees of small and medium-sized enterprise, and training workers at risk for unemployment. Officials explained that for Objective 4, there are 13 regional and three multiregional operational programs in Italy.

At the beginning of each multi-year programming period, the Regional authorities, GOI, and the EU negotiate the framework and the budget for projects to be funded and administered pursuant to Objective 4. This negotiation establishes the Single Programming Document, which includes broad goals for the Objective 4 projects throughout Italy and sets the budget and more specific goals for each of the operational programs. The most recent Single Programming Document for Italy covers the years 1994 through 1999. For the regional operational programs, normally 45 percent is funded by the EU, 44 percent by the GOI, and 11 percent by the Region. The regional operational programs are administered by the regions, which each publicly announce opportunities to receive funding for projects consistent with Objective 4 objectives. The multiregional operational programs are funded only by the EU and the GOI with approximately 55 percent of the program funding from the EU and 45 percent from the GOI. *See* GOI Verification Report. The GOI administers these multiregional programs. Although the EU and the GOI monitor the overall implementation of Objective 4 regional operational programs, and the EU monitors the overall implementation of Objective 4 multiregional operational programs, neither entity participates in the project approval process.

The ESF programs under Objectives 1, 2 and 5b are similar to the projects provided under Objective 4 but identify broader goals and target different segments. Under Objectives 1, 2, and 5b, the unemployed, and workers in science and technology are also eligible for training projects including post graduate training. In Objective 1, teachers, pupils, and civil servants may also benefit from training programs that are aimed at strengthening education and training programs. Thus, even at the broadest level, the Objectives have different aims.

Based on the fact that the projects funded pursuant to each ESF Objective are administered by different authorities at the EU, the GOI, and regional levels, the budgets are set for each separate objective with no transferability between the objectives, and there is a separate approval process for projects under different objectives, we find that Objective 4 of the ESF in Italy should be examined as a separate program for the purpose of determining whether funding provided under Objective 4 is specific within the meaning of the Act. *See, e.g., Live Swine from Canada,* 62 FR at 18091.

The Department normally examines funding provided from jurisdictional levels separately to determine whether each level of funding is specific within the meaning of the Act. Since funding for Objective 4 projects is provided at three different levels for the regional operational programs, we have examined each separately to determine specificity. The Single Programming Document negotiated among the EU, the GOI, and the regional authorities sets the program goals and budgets for the Objective 4 projects funded throughout Italy. Although Objective 4 funding is available throughout the Member States, the EU negotiates a separate programming document to govern the implementation and administration of the program with each Member State. *See* ''Verification Report of the Responses of the European Commission of the European Union,'' dated June 1, 1998, public version on file in the CRU. We find that the EU funding under Objective 4 in Italy is *de jure* specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited on a regional basis to Italy. *See, e.g., Groundfish from Canada,* 51 FR at 10048. GOI funding of Objective 4 projects is available in all areas of Italy except the Objective 1 areas, thus, eligibility is limited on a regional basis to the center and north of Italy. *See* GOI Verification Report. On this basis, we also find the GOI funding to be *de jure* specific within the meaning of section 771(5A)(D)(iv) of the Act.

We then examined the funding provided by the Region of Valle d'Aosta and the Province of Bolzano in the regional operational programs. We found that the operational programs in both Valle d'Aosta and the Province of Bolzano are not *de jure* specific. We also examined each of the regional authorities' funding pursuant to the *de facto* specificity criteria under section 771(5A)(D)(iii) of the Act. In each case, we found that benefits were distributed to many firms within each region and that the firms represented a wide variety of the industries within each region. Further, the steel industry in each region received a small amount of the total benefits awarded in comparison to other industries in the region. We determine that the funding provided by Valle d'Aosta and the Province of Bolzano under their respective regional operational programs (11 percent) is not specific under section 771(5A)(D) of the Act, and is therefore, not countervailable.

The Department considers training programs to benefit a company when the company is relieved of an obligation it would otherwise have incurred. *See Electrical Steel from Italy,* 59 FR at 7255. All three companies subject to this investigation applied for grants to conduct training programs to increase the production-related skills of their own employees. Since companies normally fund training to enhance the

job-related skills of their own employees, we determine that ESF Objective 4 funds relieve companies of an obligation. The ESF Objective 4 grants are a financial contribution under section 771(5)(D)(i) of the Act which provide a benefit to the recipient in the amount of the grant. Therefore, we determine that the ESF grants constitute countervailable subsidies within the meaning of section 771(5) of the Act.

The Department normally considers worker training programs to be recurring. *See GIA*, 58 FR at 37255. However, ESF Objective 4 grants relate to specific and individual projects and each project requires separate government approval. Therefore, we determine that ESF Objective 4 grants are non-recurring; however, because the Objective 4 grants provided to CAS in 1994 through 1996 and Valbruna/Bolzano in 1996 were less than 0.5 percent of the company's sales, we allocated the full amount of the Objective 4 non-recurring grants to the years of receipt.

To calculate the benefit from the regional operational programs, we used 89 percent of each grant awarded to CAS and Bolzano during the POI. This percentage represents the amount of funding from the GOI and EU under the regional operational programs. To calculate the benefit from the multiregional program, we used 100 percent of the grant awarded to Valbruna, because only the GOI and EU funded grants provided under the multiregional operational programs. For Valbruna/Bolzano, we summed the benefits from the grants and divided by the company's total sales. For CAS, we divided the benefit by the company's total sales. On this basis, we determine the countervailable subsidy to be 0.03 percent *ad valorem* for CAS and 0.05 percent *ad valorem* for Valbruna/Bolzano.

II. Programs Determined to be Non-Countervailable

A. Law 46: Technological Innovation Fund

Under the Technological Innovation Fund (FIT) of Law 46/82, the GOI provides grants to companies for projects that contain a high degree of technological innovation. In the preliminary determination, we found that this program was not countervailable because it was not specific within the meaning of section 771(5A) of the Act. However, we stated that for the final determination, we would continue to examine whether the provision of FIT assistance was contingent upon export performance. We verified that FIT assistance has been awarded to non-exporters, companies with low-levels of export sales, and companies with high-levels of export sales and that export performance is not a factor in the evaluation process. We reviewed applications which were both accepted and rejected and found that in no case was an application accepted because of high levels of exports or potential high levels of exports, and in no case was an application rejected because of a low level of exports. In all cases, the applications were evaluated based solely on the degree of technological innovation contained in the proposal. Thus, we verified that export performance was not a criterion used in the approval of grants under this program. Therefore, we determine that the Law 46 FIT program does not meet the definition of an export subsidy within the meaning of section 771(5A)(B) of the Act, and we continue to find the program not countervailable.

B. Law 308/82

In response to our request for information on ''other subsidies'' in the questionnaire, the GOI reported that Valbruna received grants for energy conservation under Law 308/82. However, this program was found to be non-countervailable in Certain Steel from Italy because it provided benefits to a wide variety of industries, with no sector receiving a disproportionate amount. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination.

III. Programs Not Used

Based on the information provided in the responses and the results of verification, we determine that CAS and Valbruna/Bolzano did not apply for or receive benefits under the following programs during the POI:

A. Benefits Associated with Finsider-to-ILVA Restructuring

In the preliminary determination, we countervailed the GOI's coverage of Deltacogne S.p.A.'s losses in conjunction with the restructuring of Finsider into ILVA. We followed the methodology used in *Electrical Steel from Italy* in examining the restructuring of Deltacogne into Cogne S.r.l. *Electrical Steel from Italy*, 59 FR at 18366. This approach resulted in a calculation of 120 billion lire in losses that we assumed remained with Finsider and were covered by IRI.

At verification, we discovered new information relevant to the Department's treatment of the Deltacogne-to-Cogne S.r.l. restructuring. Deltacogne was merged into ILVA S.p.A. with ILVA receiving all of the assets and liabilities of Deltacogne. No liabilities or losses remained in a shell company that were folded into Finsider and assumed by the GOI. We were able to confirm this by examining the merger contract and examining information in the 1989 ILVA financial statement. To the extent there was a difference in the financial condition of Deltacogne and Cogne S.r.l., it reflects that the companies had different holdings. Therefore, we find that the ''Benefits Associated with the Finsider-to-ILVA Restructuring Program'' is not used.

B. Grants for Interest Payments Under Law 193/1984
C. Law 46 and 706 Grants for Capacity Reduction
D. ECSC Article 56(2)(b) Retraining Grants
E. Resider Program
F. Law 675
  1. IRI Bonds
  2. Mortgage Loans
  3. Personnel Retraining Aid
  4. Interest Grants on Bank Loans
G. Debt Forgiveness: 1981 Restructuring Plan
H. Law 481/94
I. Decree Law 120/89
J. Law 394/81 Export Marketing Grants and Loans
K. Law 488/92 and Legislative Decree 96/93
L. Law 341/95 and Circolare 50175/95
M. Valle d'Aosta Regional Law 16/88
N. Valle d'Aosta Regional Law 3/92
O. Bolzano Regional Law 44/92
P. Interest Rebates on ECSC Article 54 Loans
Q. ECSC Article 56 Loans
R. European Regional Development Fund

IV. Programs Determined Not to Exist

Based on information provided in the responses and the results of verification, we determine that the following programs do not exist:

A. R&D Grants to Valbruna
B. Subsidies for Operating Expenses and ''Easy Term'' Funds
C. 1993 European Commission Funds

Interest Party Comments

Comment 1: Province of Bolzano's Purchase of the Bolzano Industrial Site: Valbruna/Bolzano asserts that the Department properly determined that the Province of Bolzano did not purchase the Bolzano industrial site for more than adequate remuneration. Respondent argues that Valbruna's willingness to purchase the Bolzano industrial site at the purchase price

agreed to by the Province and Falck, in the event that the sale was not consummated, and the fact that the purchase price paid by the Province was in line with the estimates in an independent appraisal done by an architect hired by Valbruna, demonstrate that the industrial site was not purchased for more than adequate remuneration. Valbruna states that the Province's own estimate of the price of the land, which was comparable to that paid for neighboring properties on a per-square meter basis, demonstrates that the purchase was in accordance with market conditions and could not be for more than adequate remuneration. The architect's appraisal corroborates this conclusion. Finally, Valbruna argues that the information about other land transactions in the Province of Bolzano is an appropriate benchmark to evaluate the adequacy of remuneration, and this information demonstrates that Bolzano received no countervailable benefit from the sale of the land.

Petitioners argue that Valbruna cannot be considered an uninterested party in the land deal. Petitioners state that although Valbruna claimed it was willing to pay the same price for the property as the Province in the event that arrangements with Falck fell through, the chronology of the deal demonstrates that Valbruna knew it would never have to purchase the site. Petitioners contend that the Share Purchase Agreement provides evidence that Valbruna would not have been required to purchase the site. Petitioners further argue that Valbruna never has provided an adequate appraisal of the property and that the architect's appraisal is based on a number of inaccurate assumptions. Petitioners compare the facts related to the Bolzano land sale to the Cogne land sale, and contend that this comparison reveals that the Bolzano transaction was not in accordance with market conditions because unlike Valle d'Aosta, Bolzano's appraisal of the property is insufficiently detailed. Petitioners contend that other information also indicates that other parties were not interested in purchasing the land.

Petitioners also argue that the Department should use the amount of debt reduction that Bolzano experienced contemporaneously with the sale of its industrial property as a proxy for the benefit derived from this transaction since Respondents failed to provide sufficient information to establish an appropriate benchmark to measure the adequacy of remuneration in the land deal. Petitioners state that the other sites —Magnesio, Aluminia, and IVECO—are not comparable to the Bolzano site. Petitioners argue that the Department should select a benchmark in order to evaluate whether the site was purchased for more than adequate remuneration which reflects that the site had minimal commercial value because of the environmental problems. Petitioners state that the purchase price for the land was used to improve the financial health of Bolzano by reducing its financial burdens, and thus Valbruna received a benefit from the transaction. Petitioners argue that the primary goal of the land deal was improving Bolzano's balance sheet.

Respondent replies that Falck's use of the money is irrelevant and that the reduction of debt resulting from the sale of the land cannot be demonstrated to be a countervailable benefit.

Department's Position: Regarding the Province's purchase of the Bolzano industrial site, we agree with Respondent's arguments that the purchase was not made for more than adequate remuneration. Our findings at verification on this matter confirmed that: (1) the Cadastral Office of the Province of Bolzano conducted an appraisal of the land and buildings prior to purchasing the site from Falck; (2) Valbruna agreed to purchase the site at the price determined by Bolzano in the event that the arrangement between the Province and Falck did not come to fruition; and (3) the Province had fulfilled all of its contractual agreements to Falck regarding the purchase of the site. On this basis, we find that the price paid by the Province for the Bolzano industrial site was in accordance with market conditions.

Regarding Petitioners' argument that the Department should use the amount of debt reduction that Bolzano experienced contemporaneously with the sale of its industrial property as a proxy for the benefit derived from this transaction, the Department disagrees. Because the Department has determined that the Province did not purchase the site from Falck for more than adequate remuneration, the Department finds that Falck and its subsidiaries did not derive a countervailable benefit from the sale, within the meaning of section 771(5)(E)(iv) of the Act.

In addition, we also disagree with Petitioners' argument that Valbruna's agreement to purchase the land from Falck is inappropriate to consider in determining whether the Province of Bolzano paid more than adequate remuneration for the industrial site. We recognize that it was highly unlikely that Valbruna would have to perform on this obligation. However, given that the Province used the acquisition price in determining the lease rate, we infer that Valbruna had a strong commercial interest in ensuring that Falck did not pay more than adequate remuneration for the site. In addition, under the leasing agreement between the Province of Bolzano and Valbruna, Valbruna has the option to purchase the industrial site from the Province within five years of the signing of the lease. For these reasons, we consider Valbruna's guarantee to Falck that it would acquire the property for the price agreed to between Falck and the Province of Bolzano is an indication that the price paid by the Province of Bolzano for the Bolzano industrial site was reflective of market considerations. Therefore, the purchase of the industrial site by the Province of Bolzano does not constitute a subsidy within the meaning of section 771(5) of the Act.

Comment 2: Bolzano Lease: Valbruna/Bolzano argues that the Province of Bolzano's lease of the Bolzano industrial site to Valbruna provided adequate remuneration to the Province and thus did not confer a benefit. Respondent claims that because the lease covered the Province's costs, earned a reasonable rate of return based on what was charged in other provinces, and reflected market-based pricing, it is provided for adequate remuneration. Regarding the two-year rent exemption, Respondent argues that the exemption reflected an exchange between the parties in accordance with market principles in which Valbruna reciprocated by assuming responsibility for environmental reclamation and extraordinary maintenance costs usually attributed to the lessor. Respondent further argues that the Department should combine Valbruna's annual rent charges with its environmental and extraordinary maintenance expenses in determining whether the company paid adequate remuneration to the Province under the lease.

Petitioners argue that the provisional lease agreement with Valbruna did not reflect normal market conditions and therefore provides a countervailable subsidy. In calculating the benefit, Petitioners argue that the Department should not offset rent payments with any extraordinary maintenance or environmental reclamation payments by the company. In addition, Petitioners argue that, due to the length of the lease, the Department should treat the lease as a long-term loan and use the adjusted Bank of Italy Reference Rate as a benchmark. Petitioners further argue that Valbruna has failed to undertake environmental clean-up costs as required under the lease. Petitioners contend that the Department should treat these unpaid costs as revenue

foregone within the meaning of the statute in its final analysis.

Department's Position: Section 771(5)(E) of the Act states that the adequacy of remuneration with respect to a government's provision of goods or services shall be determined in relation to prevailing market conditions for the goods or services provided. When the government leases land, the Department has determined that examining the rate of return is a reasonable approach in determining the adequacy of remuneration in the absence of alternative market reference prices. *See, e.g., German Wire Rod,* 62 FR at 54994. As explained above, the record evidence demonstrates that the average rate of return in Italy on leased commercial property is 5.7 percent. *See* Commercial Experts Report. Based on our comparison of the Province's rate of return under the Bolzano lease with this benchmark, we determine that the Province did not receive adequate remuneration. As Valbruna/Bolzano acknowledges in its case brief, the Province earned less than a 5.7 percent rate of return on the lease.

Based on our analysis of the Province's rate of return under the lease, a further examination of whether the Province covered its costs and whether the terms of the lease reflected market-based pricing is unnecessary. As we noted in *German Wire Rod,* the Department identified the factors of covering costs, earning a reasonable rate of return, and reflecting market-based pricing as several reasonable options, and not a three-prong analysis as Valbruna suggests. Because we were able to obtain a reliable rate of return to serve as the appropriate benchmark, we have not relied upon additional factors in this final determination.

The record evidence also supports our determination to countervail the two-year rent exemption Valbruna/Bolzano received under the lease. The Province agreed to offset Valbruna/Bolzano's rent payments for the first two years of its lease in exchange for the company's agreement to pay for extraordinary maintenance and environmental clean-up costs at the Bolzano plant site. However, the record evidence demonstrates that in situations involving long-term leases, the lessee often bears responsibility for extraordinary maintenance costs. *See* Commercial Experts Report. While the Italian Civil Code does provide for extraordinary maintenance to be paid by the landlord in instances where it is otherwise not specified in the contract, the terms of Valbruna's contract, in particular the company's thirty-year lease term, lead us to conclude that a commercial landlord would have assigned the extraordinary maintenance costs to the tenant, with no special rent abatement. Thus, we do not consider this arrangement to constitute a sid pro quo exchange between Valbruna and the Province.

Moreover, the record evidence demonstrates that the Province's normal practice is to require lessees to pay for environmental clean up costs. Provincial government officials explained that the Province normally requires companies to pay for environmental costs and investments without any kind of rent exemption from the Province. As an example, Provincial officials described a situation involving Falck, the former parent company of Bolzano. In 1992, the Province issued a decision requesting that Falck proceed, at its own expense, with a noise reduction project. *See* Province of Bolzano Verification Report, dated June 1, 1998, public version on file in the CRU. Although Falck never proceeded with the plan, the Province's request for Falck to assume responsibility for the costs of the environmental project provides a concrete example of how companies in the Province are normally responsible for costs associated with environmental reclamation projects. This record evidence supports our determination that the two-year rent exemption provided a financial contribution in the form of foregone government revenue. On this basis, we also find it inappropriate to make any adjustments for Valbruna's extraordinary maintenance or environmental costs.

As discussed above, because we were able to obtain a reliable average rate of return on commercial leased property, we have not adopted the Petitioners' proposal that we use the adjusted Bank of Italy Reference Rate as a benchmark. Although this 5.7 percent rate of return reflects rates that include different terms, lengths, and locations in Italy, we consider this benchmark to be a better reflection of commercial practices than the methodology described in the preliminary determination and that put forth by Petitioners. Moreover, the rate used in the preliminary determination was based on treasury bonds and would require a number of complicated and highly speculative adjustments to reflect a representative rate for leasing commercial property.

Petitioners' argument that we should not make an adjustment for the costs of environmental clean-up because Valbruna failed to undertake such activity is not supported by the record evidence. We verified that Valbruna did incur many expenses related to the environmental projects on the Bolzano site. However, as explained above, we have not made any adjustments to the rate, and therefore the issue is moot.

Comment 3: Province of Bolzano Law 25/81: Valbruna/Bolzano argues that for a subsidy to exist, there must be a financial contribution which confers a benefit. Valbruna/Bolzano contends that the Department verified that the financial contribution under this program was repaid and therefore, the subsidy ceases to exist. Respondent argues that the Department has applied this rationale in cases where Respondents have repaid grants, citing *Certain Fresh Cut Flowers from Peru,* 52 FR 6837 (March 5, 1987) and *Certain Steel Products from South Africa,* 58 FR 62100 (Nov. 24, 1993), as case precedent for treating repaid subsidies as noncountervailable. Further, Valbruna/Bolzano argues that Falck's decision to appeal the matter is irrelevant citing *Certain Steel Products from Germany,* 58 FR 37315 (July 9, 1993).

Alternatively, to the extent the Department determines that some or all of the Law 25/81 assistance constitutes a countervailable subsidy, Respondent contends that the subsidy is not *de facto* specific. First, Respondent argues that the Department should assess the specificity of the program across Law 25/81 as a whole as opposed to treating the restructuring assistance granted under Articles 13 through 15 as a separate program. Valbruna argues that under this analysis, Law 25/81 provides aid to a wide variety of industries and enterprises. Respondent also argues that Bolzano did not receive a disproportionate share of benefits. Finally, Respondent argues that, in the event that the Department limits its specificity analysis to Articles 13 through 15, it should examine the aid Bolzano received in the context of the entire life of the program.

Petitioners take issue with Respondent's arguments regarding the *de facto* specificity analysis of the restructuring assistance granted to Bolzano under Law 25/81. Petitioners argue that the Department should uphold the decision reached in its preliminary determination and treat the restructuring assistance granted under Articles 13 through 15 of Law 25/81 as a separate program. Petitioners contend that under this analysis, Bolzano received a disproportionate share of benefits in each award year. Petitioners also argue that the Department should examine the *de facto* specificity of the restructuring assistance granted to Bolzano on a year-by-year basis. With respect to Respondent's repayment argument, Petitioners counter that

because Falck has appealed the EU's decision that part of the assistance provided under the program was illegal and had to be repaid, the final disposition of the matter has not been settled so the Department may not consider the funds as being repaid.

Department's Position: We disagree with Respondent's argument that we should find no benefits from assistance approved after 1986 under Law 25/81 because part of the subsidy has been repaid. As discussed above, Falck has appealed the EU's decision, and therefore, we are not considering this issue. Contrary to Respondent's assertion, this appeal is relevant to this inquiry because the final disposition of the repayment has not been settled. In *Certain Steel from Germany,* the Department treated grants that would be repaid after the POI as a contingent liability. During verification in that case, the Department met with the tax authority that controlled the matter, and found that a repayment schedule was imminent. Thus, the Department was satisfied that the decision of the tax authority was final. *See Certain Steel from Germany,* 58 FR at 37324. Falck has appealed the EU's decision to the Court and the matter will likely remain unresolved for a number of years. Therefore, we are not considering the repayment at this time and need not address Respondent's arguments pertaining to this issue. We have appropriately treated this assistance as countervailable and have allocated to Valbruna/Bolzano the benefit derived from these subsidies using the Department's standard methodology described in the ''Change in Ownership'' section above. Should this investigation result in a countervailing duty order and should an administrative review be requested, once there is a final judgement concerning Falck's appeal, we will reconsider this issue at that time.

We also disagree with the Respondent's argument that the aid given to Bolzano under Articles 13 through 15 of Law 25/81 is not *de facto* specific. In our preliminary determination, we found that there were separate and distinct eligibility requirements, levels of funding, application procedures, and types of benefits provided under Articles 13 through 15. At verification, we confirmed these facts. Therefore, consistent with the Department's practice, we have examined the restructuring assistance under Articles 13 through 15 as a separate program. *See, e.g., Live Swine from Canada,* 62 FR at 18091. Respondent has presented no arguments to counter this finding, but argues that Law 25/81 assistance is not *de facto* specific using data based on benefits provided under the entire aid program rather than aid provided solely under Articles 13 through 15, the restructuring program. However, when the level of benefits is examined under Articles 13 through 15, the record evidence supports our finding that Bolzano received a disproportionate share of assistance in each year in which Bolzano was provided assistance. Bolzano was the largest single recipient of aid from the inception of the program through the POI and received a far higher level of assistance when compared to the other firms that also received aid.

The Respondent's cite to *Certain Steel Products From Belgium* 58 FR 37280 (July 9, 1993) as support for its claim that the Department examines dominant use across the entire life of the program is misplaced. In that case, we examined disproportionate use of the Societe Nationale de Credit a l'Industrie (SNCI) program on a year-by-year basis. We stated, ''[f]or each of the years for which we have data during this period, the steel industry was the largest single recipient of SNCI investment lending.'' *Steel from Belgium,* 58 FR at 37280. The Department listed the percentage of benefits the steel industry received in each year the Belgian steel producers used the program. *Id.* Thus, the case cited by Respondent does not support the argument presented. However, as we stated in that case, we normally do not rely on a single year's worth of data to determine dominance or disproportionality as that might yield anomalous results. Thus, we examine all the years in which a company received benefits and additional years, if warranted, prior to each year assistance was provided. Whether we examine assistance under Articles 13 through 15 on a year-by-year basis, or for the span of years during which Bolzano received assistance, 1982 through 1992, we find that Bolzano received a disproportionate share of funds awarded.

Comment 4: Early Retirement Benefits under Law 451/94: Valbruna/Bolzano argues that the Department should affirm its preliminary determination that Law 451/94 is not countervailable. Valbruna states the Department correctly found that companies face the same, if not greater, financial commitments to their workers under Law 451/94 as under other early retirement programs that are available to non-steel workers in Italy, such as the extraordinary CIG program. Therefore, Respondent argues that Law 451/94 does not confer a benefit to Bolzano. To the extent that Law 451/94 did relieve Bolzano of an obligation, Respondent argues that it was an additional financial burden imposed by the GOI exclusively on the Italian steel industry that was over and above the obligations imposed upon other industries. Respondent states that under these circumstances the Department's policy is to treat worker assistance as noncountervailable, citing *Certain Steel Products from Belgium,* 58 FR at 37276. Alternatively, Respondent contends that, should the Department determine that Law 451/94 does provide a countervailable subsidy, the Department should measure the benefit as no higher than the difference between the expenses Bolzano would have incurred during the POI under the extraordinary CIG program and the expenses the company incurred under Law 451/94.

Petitioners argue that the Department should reverse its preliminary determination that Law 451/94 early retirement benefits are not countervailable because information submitted to the record subsequent to the Preliminary Determination demonstrates that the program relieves companies of obligations that they would otherwise incur. Petitioners contend that the verified record demonstrates that Law 451/94 imposes fewer early retirement costs on companies than the extraordinary CIG program. Petitioners agree with Respondent's assertion that the benefit under Law 451/94 should be calculated as the difference between the expenses Bolzano would have incurred during the POI under the provisions of the extraordinary CIG program and the expenses the company incurred under Law 451/94.

Department's Position: The Department's practice is to treat early retirement benefits as countervailable when the company is relieved of an obligation it would otherwise incur and that relief is specific. *See GIA,* 58 FR at 37255. During verification, GOI officials confirmed that Italian companies are not free to layoff workers at will. *See* GOI Verification Report. We also learned that, absent the Early Retirement Program under Law 451/94, steel companies would incur the costs associated with the extraordinary CIG program, including the contribution of a percentage of the worker's salary and the mandatory severance contributions under Article 2120. GOI officials also explained that the Early Retirement Program under Law 451/94 is less costly from the employer's perspective than the extraordinary CIG requirements because the company would not be required to contribute a percentage of salary or continue to set aside Article

2120 contributions. *See* GOI Verification Report, dated June 1, 1998, on file in the CRU. On this basis, we determined that Law 451/94 relieves steel companies from the obligation to pay the higher costs associated with the alternative CIG program. Therefore, we have countervailed the benefits Bolzano received under Law 451/94 in this final determination by calculating the costs Bolzano would have incurred under the extraordinary CIG program including the severance contributions that the company did not face under Law 451/94.

In claiming that Law 451/94 provides a benefit to the workers and not the steel companies, Valbruna has misconstrued the Department's practice. As explained in the *GIA,* where governments simply reimburse companies for additional payments imposed by special worker assistance programs, the governments have not relieved the companies of any obligation. *GIA,* 58 FR at 37256. In these situations, the Department considers the workers and not the companies as the recipient of the benefit. *Id.* Thus, in *Steel from Belgium,* the Department did not countervail the portion of benefits provided to the companies that were reimbursements for the additional payments imposed by the special steel program because those payments were never an obligation of the companies. *See Steel from Belgium,* 58 FR at 37276. Here, however, the record evidence demonstrates that because Italian companies are unable to layoff workers at will, companies are obligated to pay for severance and pension programs mandated under Italian law. Law 451/94 relieves the steel companies from the higher costs associated with these other severance and pension programs, such as the extraordinary CIG, and therefore is countervailable.

Comment 5: Plant Closure Grants under Law 193/84: Valbruna/Bolzano argues that the grants Falck received under Articles 2 and 4 of Law 193/84 were tied to the production of tubular and flat steel products, goods outside the scope of this investigation and, therefore, provided no benefit to Bolzano's exportation or production of subject merchandise. Consistent with the Department's practice for ''tied'' subsidies, the grants cannot be said to benefit the subject merchandise. Citing to *Steel Wire Rod from Canada,* Respondent also claims that the Department has refused to accept the ''tied'' nature of closure benefits only when the assistance is received after the plant has ceased production. Respondent further argues that the grants under Law 193/84 are not countervailable because the Department has not properly determined that the grants received by Falck passed through to Valbruna upon its purchase of Bolzano. Respondent contends that under the CIT's ruling in *Delverde S.r.l.* v. *United States,* 989 F. Supp. 218 (CIT 1997), because this is a private-to-private arm's length transaction, the Department must explain how the benefits received by the previous owner are not reflected in the purchase price and how the new owner received a benefit.

Petitioners respond that it is the Department's practice to attribute grants provided for the specific purpose of closing plants to all merchandise produced by the recipient, noting that the CIT upheld this practice in *British Steel Corp.* v. *United States,* 605 F. Supp. 286 (CIT 1985). Petitioners also argue that, pursuant to its practice, the Department is not obligated to explain whether or not Falck's benefits under Law 193/84 were reflected in the market value paid by Valbruna for the purchase of Bolzano's shares. Petitioners contend that the *Delverde* decision is not a binding final and conclusive judgment reversing Commerce's practice. Therefore, Petitioners argue that the Department should affirm its finding that the benefits attributable to Bolzano from Falck's use of Law 193/84 ''passed through'' to Valbruna when it bought Bolzano from Falck.

Department's Position: The Department disagrees with Respondent's assertion that the plant closure assistance Falck received under Law 193/84 did not benefit the export or production of the subject merchandise. The Department's practice with respect to corporate restructuring through the closure of plants is articulated in the *GIA,* 58 FR at 37270:

> * * * It has been argued that because plant closure results in the reduction of capacity, subsidies that promote such reduction cannot fall into the category of benefitting the manufacture, production or export of subject merchandise. However, * * * the Department's determination reflects the fact that once inefficient facilities are closed, the company can dedicate its resources to the efficient production of the remaining facilities. Therefore, closure payments for plants producing subject and non-subject merchandise alike are countervailable.

Moreover, contrary to Respondent's claim, this practice applies regardless of whether the assistance is received prior to the plant closure. *See e.g., Steel Wire Rod from Canada,* 62 FR at 54981. In *British Steel,* the CIT upheld the Department's practice ruling that, ''[a]s a company becomes more cost efficient and thereby more price competitive, there is a direct benefit to the manufacture, production, and export of all the firm's products.'' *British Steel,* 605 F. Supp. at 293. The Department's ''tying'' practice is inapplicable to closure payments because the assistance provided confers a benefit on all of the company's operations.

We also disagree with Respondent's argument that the *Delverde* decision overturns the Department's methodology with respect to analyzing private-to-private change in ownership transactions. The CIT only directed the Department, on remand, to provide a fuller explanation of its methodology, and has not ruled on the Department's final remand determination. As explained in *UK lead Bar 96,* the Department continues to follow its existing methodology. *UK Lead Bar 96,* 63 FR at 18371. Under our existing methodology, we neither presume automatic extinguishment nor automatic pass through of prior subsidies in an arm's length transaction. Contrary to the Respondent's contention on this matter, the Department utilized the pertinent facts of the case in determining whether the grants received by Falck passed through to Valbruna. Following the *GIA* methodology, the Department subjected the level of previously bestowed subsidies and the purchase price paid by Valbruna to a series of tests and analyses. These analyses resulted in the ''pass through ratio'' used in this investigation. Under this methodology, some of the benefit passes through and some remains with the seller. On this basis, the Department determined that a portion of the benefits associated with Falck's closure assistance which were allocated to Bolzano was not extinguished when Falck sold Bolzano to Valbruna.

Comment 6: European Social Fund: Valbruna/Bolzano argues that worker training grants received by Valbruna and Bolzano under the ESF program did not relieve the company of obligations that they would otherwise incur. Respondent states that there is no evidence on the record to suggest that either company had incurred an obligation to provide training, therefore, the funding did not provide a countervailable subsidy. Respondent cites the preliminary determination from *Electrical Steel from Italy,* 59 FR 4682 at 4690, as evidence that the Department has agreed in other cases that ''Italian companies have no legal obligation to retrain their workers.'' Should the Department determine that funds under the ESF program constitute a subsidy, Respondent maintains that the subsidy is not *de facto* specific. Respondent further argues that should the Department determine that the ESF

program confers a countervailable subsidy, it should deduct the amount of service fees Valbruna paid to Riconversider for processing its application from the total amount of the grant awarded to Valbruna.

Petitioners argue that the Department, based on verified record evidence, should find the ESF countervailable on the basis of regional specificity. Petitioners argue that there are no clear dividing lines between the Objectives under the ESF as Cogne received funding under multiple Objectives since 1984. Further, Petitioners point out that the Province of Bolzano uses the same commission to evaluate applications under Objectives 3, 4, and 5(b). Petitioners argue that the ESF assistance is specific because the steel industry was a dominant user of the program since Riconversider received more than 50 percent of the funding under the Multiregional operational program during the POI. Citing *Electrical Steel from Italy,* 59 FR at 18368, Petitioners argue that the Department has a consistent policy of countervailing training benefits intended to train a company's own workers.

Department's Position: We disagree with Respondent that the training grants under the ESF program do not relieve Valbruna and Bolzano of obligations. In the final determination of *Electrical Steel from Italy,* we reversed the preliminary determination cited by Respondents, finding that funds used to upgrade the skills of workers are countervailable because these costs are normally borne by the company to improve the efficiency of its workforce. *See Electrical Steel from Italy,* 59 FR at 18368. In this investigation, we verified that the training assistance provided to Respondents under ESF Objective 4 funded training programs to enhance the skills of workers to improve the production process. *See* CAS and Valbruna/Bolzano Verification Reports. Companies have an implicit responsibility to train their workers on the manufacturing process for their own production. Therefore, we find that the training programs under Objective 4 of the ESF relieved the companies of an obligation they otherwise would have incurred.

We agree with Petitioners, in part, that the Objective 4 program in Italy is regionally specific. In the case of regional operational programs, funding for this program is divided between the EU, GOI, and regional authorities. Funding for multiregional operational programs is divided equally between the EU and the GOI. The EU portions of the grants are *de jure* specific because they are limited to a designated geographical region within the jurisdiction of the European Union. The GOI portions of the grants are *de jure* specific because they are limited to non-Objective 1 areas, *i.e.,* the center and north of the country. Because the funds provided by the Authority of the Region of Valle d'Aosta and the Authority of the Province of Bolzano are not limited on this basis, the Department analyzed whether the regional operational programs for Valle d'Aosta and the Province of Bolzano are provided on a *de facto* specific basis. The record evidence demonstrates that within each region grants are awarded to a wide variety of industries. Also, the steel industry's share of the grants was not disproportionate to other industries' shares. Therefore, we find that in the case of the regional operational programs, 89 percent of the funds are countervailable (45 percent from the EU, 44 percent from the GOI), and in the case of the multiregional operational funds, 100 percent of the funds are countervailable because these were funded solely by the GOI and the EU.

Finally, the Department agrees with Respondent that the expenses Valbruna paid to Riconversider should be deducted from the net amount the company received under Objective 4 of the ESF program. We verified that Valbruna had to pay service and commission fees in order to receive the ESF assistance. *See* Valbruna/Bolzano Verification Report. We determine that these fees qualify as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act. Thus, in determining the benefit from the grants disbursed to Valbruna under Objective 4 of the ESF program, the Department subtracted the amount of money the company paid to Riconversider to derive the net amount of grants it received under the program.

Comment 7: ECSC Article 54 Loans: Respondent states that Bolzano repaid the Dutch Guilder loan it received under the ECSC Article 54 loan program and, since the program was discontinued in 1994, there is no possibility that Bolzano can receive any additional funding under the program. Thus, Respondent argues that this loan should not be included in any cash deposit rate established for Valbruna/Bolzano in the event of an affirmative final determination, citing *Pure and Alloy Magnesium from Canada,* 57 FR 30946 (July 13, 1992) in support of its position.

Petitioners argue that the Department understated the value of the benefit accruing to Bolzano as a result of its U.S. Dollar ECSC Article 54 loan. The interest rate for this loan was renegotiated in 1992. For the purposes of deriving a grant equivalent, the Department based its calculations from the time when the new interest rate was established. Petitioners argue that Bolzano was uncreditworthy in 1992 and, therefore, the Department should have used as a commercial benchmark, the highest long-term fixed interest rate available in the United States, plus a risk premium equal to 12 percent of the U.S. prime interest rate. Petitioners further argue that benefits Bolzano received under the Article 54 loan should be included in the cash deposit rate established for Valbruna/Bolzano in the event of an affirmative final determination.

Department's Position: We disagree with the Respondent's argument that the countervailable benefit from the Dutch Guilder loan Bolzano received under the ECSC Article 54 loan program, should not be included in any cash deposit rate. The Department's practice is to adjust the cash deposit rate to zero for countervailable subsidies only when there is a program-wide change, such as termination, and there are no residual benefits. *See Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey,* 61 FR 30366, 30370 (June 14, 1996). The Department deems a countervailable benefit to be received at the time when the firm experiences a difference in cash flows, either in the payments it receives or the outlays it makes. In the case of loans, the Department measures the receipt of the benefit at the time a firm is due to make a payment on the loan. In this instance, Bolzano repaid the Dutch Guilder loan it received after the POI. Moreover, repayment of a loan does not constitute a program-wide change. Therefore, consistent with the Department's practice, no change to the cash deposit rate is warranted.

These circumstances are distinguishable from those in *Magnesium from Canada,* where the Respondent repaid the grant in full during the POI. Thus, the Department did not include the subsidy in the cash deposit rate because the company's repayment of the grant during the POI extinguished the possibility of any future benefit. Therefore, should this investigation result in a countervailing duty order, the Department will include the net subsidy from this program in Valbruna/Bolzano's cash deposit rate.

We also disagree with Petitioners' claims that the Department understated the value of the benefit accruing to Bolzano as a result of its U.S. Dollar ECSC Article 54 loan. As stated above, in determining the benefit under this

program, we derived our grant equivalent based on the year in which the interest rate was renegotiated. We agree that the renegotiation of the interest rate on the loan in 1992 can be viewed as the bestowal date of the loan and have calculated a new grant equivalent based on the renegotiated terms. However, contrary to Petitioners' claim, we do not find Falck to have been uncreditworthy in 1992 and, therefore, we have not added a risk premium to the benchmark rate.

Comment 8: Effective Interest Rates: Petitioners argue that the Department should add to the benchmark interest rate for long-term loans used in the preliminary determination, an additional spread that is representative of what Italian banks normally charge in bank fees to corporate clients. Petitioners also argue that the Department, in making this upward adjustment, should rely on the average interest rate spread on the ABI verified during its discussion with an official from a private Italian Bank.

Department's Position: We agree with Petitioners' argument that the Department should add a spread onto the benchmark in order to determine an effective long-term interest rate. As stated earlier in the ''Subsidies Valuation Information'' section, for purposes of this final determination, our long-term lira-denominated benchmark is based on the Italian Interbank Rate (ABI) because we verified that commercial banks in Italy consider the ABI rate the most suitable benchmark for long-term financing available to Italian companies. Commercial banks add a spread ranging from 0.55 percent to 4 percent onto that rate depending on the financial health of the recipient. Therefore, in years in which companies under investigation were creditworthy, we added the average of that spread (*i.e.*, 2.275 percent) onto the ABI rate to calculate a benchmark.

During verification, a commercial banker informed us that the interest rate charged to their clients is all inclusive and covers all fees, commissions, and other charges associated with the loan. *See* Commercial Experts Report. Therefore, by including the spread provided to us by an Italian commercial bank, we have calculated the effective cost of the loan because the benchmark interest rate includes all other charges associated with the loan.

Comment 9: Assumption of Losses: CAS argues that the Department erred in attributing any pre-1993 subsidies to CAS that were provided to its predecessors and its predecessor's parent companies. Specifically, CAS states that, because Deltacogne's accumulated losses were not ''distributed'' to Cogne during the Finsider-to-ILVA Restructuring, neither Cogne nor any other party that subsequently owned the Aosta facility received a countervailable benefit. Respondent states that there is no need for the losses of a predecessor company to be distributed to a successor company. CAS argues that the Department erred in calculating a benefit to CAS from this program because the ''losses'' involved no governmental transfers. CAS cites other cases (*Seamless Pipe from Italy* and *OCTG from Italy*) where the Department refused to investigate alleged assumptions on behalf of Dalmine (another subsidiary of Finsider/ILVA) because there was no record evidence demonstrating that the company's liabilities were forgiven by the GOI. Further, CAS argues that the facts discovered at verification confirm that ILVA's possible responsibility for a part of Deltacogne's liabilities did not represent debt-forgiveness on the part of the government. CAS states that no Deltacogne liabilities were assumed by IRI through the restructuring process because Deltacogne was not placed into liquidation, but was merged into ILVA.

Petitioners argue that the Department's preliminary analysis with respect to the 1989 restructuring program understated the actual benefit to CAS by focusing solely on losses instead of losses and liabilities. Petitioners argue that the Department's practice supports countervailing both the coverage of losses and the assumption/forgiveness of liabilities as separate subsidy events. In support of their position, Petitioners cite *Electrical Steel from Italy* which involved the same circumstances, but a different Finsider subsidiary, Terni Acciai Speciali S.r.l. (TAS), where the Department countervailed both liabilities and losses that were not distributed to ILVA as a result of the restructuring. Petitioners argue that the facts discovered at verification regarding the method through which Deltacogne was transferred to ILVA do not change the countervailability of Deltacogne's losses and liabilities that were not distributed to Cogne S.r.l., and to do so would elevate form over substance. Debts left in ILVA are part of the same program. Petitioners assert that when assets are redistributed and liabilities/losses are left in a shell company, there need not be a separate government action to show a benefit to the continuing entity. Petitioners state that it is the Department's well-established practice to find that relieving the continuing entity of the burden of liabilities and/or losses is a countervailable event citing *Certain Steel from Austria, Electrical Steel from Italy,* and *Steel Wire Rod from Trinidad and Tobago.* Thus, Petitioners argue that the Department should countervail all undistributed liabilities and losses with respect to the 1989 restructuring and creation of Cogne S.r.l. Petitioners state that the transformation in corporate form from Cogne S.r.l. to Cogne S.p.A. shortly after the creation of the company is important because it shows that liabilities remained with ILVA through this restructuring.

CAS responds that the statute requires a determination that the government provided a financial contribution to the entity, which is not demonstrable in this case. CAS also states that losses are not countervailable subsidies.

Department's Position: Based on the facts discovered at verification, the situation described in the preliminary determination does not accurately describe the events related to the restructuring of Deltacogne into ILVA and the creation of Cogne S.r.l. Thus, we have modified our approach to this program. As described in the ''Benefits Associated with the Restructuring of Finsider'' program above, our review of the record indicates that no liabilities/losses remained in Finsider as a result of the restructuring of Deltacogne into ILVA and subsequently, Cogne S.r.l. Because of the manner in which the operations of the Aosta facility were transferred from Deltacogne to ILVA and from ILVA to Cogne S.r.l., the record evidence does not demonstrate the extent to which all the liabilities and losses were distributed to Cogne S.r.l. that belonged to those operations. Several operations were included in Deltacogne (Aosta factory, hydroelectric plants, Verres steel works) which were merged into ILVA and then spun-off into separate entities. Information contained in the financial statements does not demonstrate that liabilities and losses that properly belonged to the Aosta operations were not distributed to Cogne S.r.l.

As the Petitioners point out, if liabilities or losses remained in ILVA that should have transferred to Cogne S.r.l., we would treat that as a separate subsidy event from the one originally alleged and examined, which involved the assumption of liabilities and losses left in Deltacogne S.p.A. by the GOI through Finsider S.p.A. *See, e.g., Certain Steel from Austria,* 58 FR at 37217.

In this respect, CAS is mistaken that assumption of losses by the government is not countervailable. The Department's

long-standing practice has been to treat the assumption of losses as a countervailable event because such governmental action confers a benefit. *See e.g., Certain Steel from Austria*, 58 FR at 37217 and *Electrical Steel from Italy*. 59 FR at 18359. If losses are not distributed to the new company through a restructuring process, a benefit is conferred upon the productive assets of the new entity. Under Italian law, losses must eventually be accounted for—either offset by future profits or by a reduction in share capital. If, however, losses are assumed by the government that the company otherwise would bear responsibility for, then there is a benefit to the new company which receives the productive assets free of the losses associated with previous years of inefficient production.

Further, we disagree with CAS's interpretation of the statutory requirements regarding financial contributions. CAS apparently presumes that the URAA reversed the Department's practice in this regard. However, the SAA specifically states that ''practices countervailable under the current law [the pre-URAA statute] will be countervailable under the revised statute.'' SAA at 925. Moreover, the definition of ''financial contribution'' contained in section 771(5)(D) of the Act is ''not intended to be exhaustive'' but sufficiently broad to encompass the same types of government actions countervailed under the pre-URAA statute. *Id*. at 927. Thus, as with the assumption of liabilities, the assumption of losses by the government provides the equivalent of a direct transfer of funds that confers a benefit which is countervailable under section 771(5) of the Act. *See, e.g., Steel Wire Rod from Trinidad and Tobago*, 62 FR at 55012.

Respondent's reference to the initiations of *OCTG from Italy* and *Seamless Pipe from Italy* is without merit because the Department's legal standard in initiations is fundamentally different than that in preliminary and final determinations. At the initiation stage, the Department evaluates whether the information contained in the petition is sufficient to warrant investigation of alleged subsidies. *See* section 702(c) of the Act. Thus, a determination at the initiation stage that the petition contains insufficient evidence to warrant investigation is qualitatively different than a determination based upon the record evidence that there is no countervailable benefit from a program. Nevertheless, Respondent seems to be arguing that the Department should determine, based on the record evidence, that there is no benefit to CAS from this program. However, as discussed above, we have examined the record evidence in this case and determined that CAS did not receive countervailable benefits.

Therefore, while we agree with Petitioners that liabilities and losses left in ILVA that were not properly distributed to Cogne S.r.l. would constitute countervailable benefits that do not require a separate government action, we cannot reasonably conclude from the record evidence that liabilities and losses were not distributed to Cogne S.r.l. As such, we have found this program to be ''not used.''

Comment 10: CAS Does Not Benefit from Equity Infusions: CAS argues that the equity infusions to Deltasider and ILVA conferred no countervailable benefit on Deltasider, Cogne, or any other owner of the Aosta facility. CAS states the Department's proposed regulations and policy establish a rebuttable presumption that a subsidy received by one entity will be attributed to products only manufactured by that entity. *Countervailing Duties, Proposed Rule*, 62 FR 8818 (Feb. 26,1997) (*1997 Proposed Regulations*). CAS states that any subsidies ILVA received from the 1991–1992 equity infusions should be allocated exclusively to its unconsolidated operations because ILVA transferred none of that equity to Cogne (or other subsidiaries). CAS argues that in *OCTG from Italy* and *Seamless Pipe from Italy*, the Department declined to investigate subsidies provided to ILVA S.p.A. as a benefit to the subject merchandise in those cases because there was no evidence that subsidies were being channeled through to the production of the subject merchandise.

CAS argues further that Finsider's equity infusions in 1985–1986 provided no countervailable benefits to Deltasider, the Finsider operating company that held the Aosta operations during those years. CAS states that the Department's ''holding company'' rule, whereby subsidies received by a holding company are attributed to that company's consolidated sales, does not apply to government-owned holding companies such as Finsider. CAS cites *UK Lead Bar 96* and *Brass Sheet and Strip from France* to support its position that in order for a subsidy provided to a government-owned holding company to be attributed to the sales of its subsidiaries, there must be a demonstrated transfer. Further, CAS states that Finsider transferred none of its 1985–1986 equity infusions to Deltasider. CAS argues that, as a general principle, attributing a recipient's subsidy to an affiliated party absent evidence of an actual financial transfer violates standards established by Generally Accepted Accounting Principles that the Department must, in general, follow. CAS further argues that the existence of a consolidated financial statement is irrelevant to whether a subsidiary benefitted from a subsidy provided to the parent company. CAS contends that this method of attribution could present different results to similarly-situated subsidiary companies if one is consolidated and one is not.

Petitioners argue that the Department properly countervailed all instances of equity infusions in this case. Petitioners argue that Respondents overstate the Department's practice with respect to holding companies. Petitioners state that the Department's rule with respect to holding companies calls for the attribution of the untied subsidy to the consolidated sales, not any requirement to demonstrate pass-through to a particular subsidiary entity. Petitioners state the corporate relationship between ILVA and Cogne by itself is sufficient to attribute a portion of the equity infusions to Cogne. Petitioners cite the *GIA* and *UK Lead Bar* as support that, ''the Department often treats the parent entity and its subsidiaries as one when determining who ultimately benefits from the subsidy.'' *GIA* at 37262.

Department's Position: In the preliminary determination, the Department appropriately attributed the benefits from non-recurring untied subsidies received by ILVA and Finsider to the consolidated operations of the ILVA and Finsider Groups which included Cogne, the producer of subject merchandise. This is consistent with the Department's practice that attributes untied subsidies to the company's total domestically-produced sales. *GIA*, 58 FR at 37267. 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 UK Lead Bar 95*, 62 FR at 53311.

We disagree that *OCTG from Italy* and *Seamless Pipe from Italy* establish controlling precedent for the treatment of these equity infusions. In those cases, the Department decided not to initiate on alleged indirect equity infusions. This decision not to initiate cannot be construed as precedent for how the Department treats untied subsidies to parent or holding companies. Moreover, the particular subsidies at issue in this case, equity infusions provided to Finsider and ILVA, were not alleged in *OCTG from Italy* and *Seamless Pipe from Italy. See OCTG from Italy*, 59 FR at 37965 and *Seamless Pipe from Italy*, 59 FR at 37028. Respondent's quotation

from the initiation notices in those cases fails to include the primary reason the Department decided not to initiate on an alleged ''indirect'' equity infusion into Dalmine which involved the sale of shares of a partially-owned Dalmine subsidiary company to Dalmine's parent, ILVA. The Department found that there was no basis for the allegation that this acquisition of the subsidiary's shares constituted an ''indirect'' equity infusion. Thus, the allegations in those cases were substantively different than the program under examination in this case which involves the direct purchase of equity by the GOI.

OCTG from Italy and *Seamless Pipe from Italy* also drew a distinction between ILVA as an operating company and Finsider as a holding company, which was somewhat artificial. ILVA was both a holding company and an operating company. The Department has recognized that where a holding/operating company exercises considerable control over its consolidated subsidiaries, the two may be treated as one for purposes of attributing subsidies. *See, e.g., UK Lead Bar 95*, 62 FR at 53316. In these instances, the Department has found that a subsidy provided to one corporate entity can bestow a countervailable benefit upon another entity within the corporate group. *See, e.g., Steel Wire Rod from Canada*, 62 FR at 54978; *Seamless Stainless Steel Hollow Products from Sweden*, 52 FR 5794 (Feb. 26, 1987). In such circumstances, where the parent and its subsidiaries are treated as a single entity, and we determine that the parent has received subsidies not tied to production or sale of a particular product or to sales of products in a particular market (*i.e.*, untied subsidies such as equity infusions), the Department allocates the benefit from such untied subsidies over the total consolidated sales from domestic production. *See GIA*, 58 FR at 37267; *Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products from France*, 56 FR 6221, 6224–25 (Jan. 27, 1993) (*France Bismuth*). Where the parent and subsidiary are essentially one entity, it is unnecessary to analyze whether the parent has ''passed'' the subsidy to the subsidiary because ''a parent company exercises control over the capital structure and commercial activities of its consolidated subsidiaries.'' *UK Lead Bar 95*, 62 FR at 53311.

Only in the limited circumstances where we determined that there is an insufficient identity of interests between the parent and the subsidiary to warrant treating the entities as one, do we not follow this general practice concerning attribution of untied subsidies. *See, e.g., Ferrosilicon from Venezuela*, 58 FR at 27542. In this case, however, Finsider was a government-owned holding company that held steel producing companies. An equity infusion into Finsider, a holding company with no operations of its own, clearly benefitted the steel production of its subsidiaries. Finsider existed solely to manage the government-owned steel production companies. Thus, there is a clear identity of interest between Finsider and its subsidiaries, including the CAS predecessor companies, which makes it appropriate to attribute the equity infusions to the consolidated holdings of the Finsider Group. *See, e.g., Steel Wire Rod from Canada*, 62 FR at 54978. The same identity of interest existed between ILVA and its consolidated subsidiaries. Thus, the record evidence supports attributing benefits received from equity infusions to the consolidated group holdings of the Finsider Group and the ILVA Group, and no demonstration that untied benefits passed through to the consolidated subsidiaries is required.

CAS also misconstrues the Department's practice with respect to government-owned holding companies. As Petitioners correctly point out, the Department has often attributed untied subsidies provided to a holding company to the consolidated holdings of the company even where the holding company is government-owned. *See, e.g., Steel Wire Rod from Canada*, 62 FR at 54978; *France Bismuth*, 58 FR at 6224–25. One exception to this rule is if the holding company was found to be merely a conduit for channeling the subsidy to a particular subsidiary, in which case the entire subsidy would be attributed to the subsidiary. *See, e.g., Final Affirmative Countervailing Duty Investigation: Certain Carbon Steel Products from Austria*, 50 FR 33369 (Aug. 19, 1985). Thus, the Department normally presumes that the untied subsidy benefits the consolidated operations. The Department does not draw a distinction between private and government-owned holding companies that share an identity or commonality of interest (*e.g.*, are steel producers). On this point, we note that our statements in *UK Lead Bar 96* concerning attribution of subsidies between government-owned holding companies and their related subsidiaries do not require a separate analysis for government-owned holding companies, as CAS advocates. *UK Lead Bar 96* should not be construed as establishing a separate test for determining how subsidies provided to government-owned holding companies should be attributed, but rather as a response to a distinction drawn by the Respondent in *UK Lead Bar 96* concerning our analysis in *Ferrosilicon from Venezuela*, which involves the ''identity of interests'' concept outlined above. *See UK Lead Bar 96*, 63 FR at 18373. As the case law discussed above demonstrates, the Department's past attribution practice has made no distinction based solely on the government ownership of the holding company.

We also disagree with CAS that this policy violates GAAP. As discussed in the Accounting Research Bulletin, provided by CAS in support of its argument, a single enterprise may be organized either as one corporation with branches and divisions, or as a parent company and subsidiaries. The Accounting Research Bulletin goes on to explain that consolidated financial statements recognize that ''* * * boundaries between separate corporate entities must be ignored to report the business carried on by a group of affiliated corporations as the economic and financial whole that it is.'' *See* CAS April 9, 1998 submission at A3. If a subsidiary is consolidated with the parent company for financial reporting purposes, normally it is because the parent holds more than 50 percent of the shares in that company and exercises control over its operations. There are legitimate business reasons why certain subsidiaries are consolidated and certain others are not. The examination of consolidated operations is appropriate in the Department's attribution practice, because it is at this level that a private investor (in the case of an equity infusion) or private lender (in the case of a loan) would normally conduct its analysis of whether an investment in the holding/parent company is a viable risk. As stated in the Accounting Research Bulletin, ''[t]hose who invest in the parent company * * * invest in the whole group, which constitutes the enterprise that is a potential source of cash flow to them as a result of their investment.'' *Id*. In this way, the consolidated companies are tied together and may be appropriately treated as one for purposes of attributing untied subsidies provided to the holding company, including a parent company with its own operations.

Attributing untied subsidies provided to the parent/holding company to the consolidated holdings does not imply a determination of which corporate entity in a group owns specific assets. Attributing untied subsidies provided to the parent/holding company to the

consolidated holdings of the corporate group merely assigns the benefit on a pro rata basis across all operations.

We agree that the existence of consolidated financial statements is not the only factor to be considered in determining the proper attribution of an untied subsidy provided to the parent company of a corporate group. For instance, we discussed above instances where a subsidy is channeled through a holding company to a particular subsidiary entity, in which case the subsidy would not automatically be attributed to the entire group. In addition, 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, such as in *Ferrosilicon from Venezuela*. The Department will consider other facts relevant to our determination including whether there have been massive and complicated restructurings, in which case we may attribute untied subsidies on an alternative basis other than consolidated sales where appropriate. However, absent that type of fact pattern, it is appropriate to find that the untied subsidy to the holding/parent company benefitted all of its operations including its consolidated operations. CAS's concern that this policy results in inequitable results for consolidated and non-consolidated subsidiaries is misplaced because the appropriate attribution of subsidies is based on the specific facts in a particular case. *UK Lead Bar 96*, 63 FR at 18372.

In this investigation, the Cogne subsidiary companies (the predecessor companies of CAS) were always consolidated with the parent and there are no facts to demonstrate that the equity infusions were channeled to a particular subsidiary (including a Cogne company). Thus, we find that the equity infusions to ILVA and Finsider benefitted all of their consolidated production including, on a pro rata basis, production of subject merchandise. To determine the benefit to CAS, we used the methodology described in the ''Change in Ownership'' section above.

Comment 11: Assumption of Cogne's Liabilities: CAS argues that the assumption of Cogne's liabilities at the time CAS was privatized provided no financial contribution or other countervailable benefit to CAS. CAS argues that Cogne and CAS were separately incorporated entities that maintained separate financial records and did not exchange assets ''without restriction.'' Further, CAS argues that the GOI's ultimate responsibility for any portion of Cogne's liabilities arose by operation of a generally applicable provision of Italian law and not as a result of a Governmental decision. CAS argues that Italian law makes all parent companies responsible for the debts of their wholly-owned subsidiaries. CAS argues that since this provision of Italian law governs all companies, any debt coverage provided to Cogne in connection with the liquidation is not specific.

CAS also argues that the Department's methodology in the preliminary determination overstated any benefit by failing to account for the value of several substantial and *bona fide* assets including inventories, current assets, and bank deposits that remained on Cogne S.p.A. in Liquidazione's books as of CAS's privatization. Respondent argues that there is no reason to subtract some, but not all of the assets from the calculation of net liabilities, citing *Steel Wire Rod from Trinidad and Tobago*. Further, CAS argues that losses are not countervailable benefits.

Petitioners argue that the Department's preliminary determination with respect to this program understated the actual benefit to CAS by focusing solely on losses instead of losses and liabilities. Petitioners argue that the Department's practice supports countervailing both the coverage of losses and the assumption/forgiveness of liabilities as separate subsidy events. Petitioners argue that, if the Department adjusts the liabilities and losses for the assets that remained in the books of Cogne S.p.A., certain assets including the receivables from CAS should not be counted.

Department's Position: The Department properly countervailed benefits provided in connection with the privatization of CAS in the preliminary determination. Before CAS was privatized, its holdings and those of its parent company, Cogne S.p.A., were reorganized, so that Cogne S.p.A. contributed most of the assets and the responsibility for continued operations to CAS, while retaining most of the liabilities. Cogne S.p.A. was placed into liquidation, and was eventually absorbed into ILVA in Liquidazione. However, we have revised our methodology with respect to the calculation of this benefit for this final determination based upon facts discovered at verification. In the preliminary determination, we subtracted the book value of the land and buildings from Cogne S.p.A.'s total liabilities and treated the difference, approximately 411 billion lire, as the amount of liabilities ILVA assumed through this process. However, former ILVA officials reported at verification that the most appropriate figure reflecting the cost of the liabilities/losses remaining in Cogne S.p.A. at the time of CAS's privatization was reported on ILVA S.p.A. in Liquidazione's 1993 financial statement. This figure, a 253 billion lire fund established to cover liabilities and losses associated with Cogne S.p.A.'s liquidation, represents the total cost incurred by ILVA at that time. The cost to ILVA reflects the value of the liabilities and losses which were assumed by the GOI as part of the privatization process, and as such, constitute the benefit to CAS in connection with its privatization, and the liquidation of Cogne S.p.A. as of year-end 1993. The assumption of the liabilities/losses by ILVA and the GOI through this process constitutes a benefit to CAS because it was relieved of financial obligations for which it would otherwise have been liable. Using this figure also removes the problem of which assets and liabilities should be included in the calculation of the net liability as of year-end 1993, and whether losses should also be included in the calculation. Accordingly, the interested parties' arguments concerning the specific assets and liabilities that should be included in the calculation of the benefit are moot. Notwithstanding this change in our calculation, we continue to find that the assumption and/or coverage of liabilities and losses are countervailable subsidies. As we explained in the *Department's Position* on *Comment 9* above, the assumption of losses provides the equivalent of a direct transfer of funds that confers a benefit, which is countervailable under section 771(5) of the Act.

We agree with CAS's statement that assets and liabilities did not flow without restriction between Cogne and CAS. The companies were separately incorporated. Once the capital contribution was made at the end of 1992, nearly all of the productive assets of Cogne were transferred to CAS in exchange for shares and CAS assumed the production activities from that date. The transfers between the two companies after that date were made at book value. By the end, CAS held all assets with value. However, we note that this fact is not particularly relevant to whether or not a subsidy was provided in connection with the privatization of CAS and liquidation of Cogne because our finding is based on the total amount that ILVA and the GOI was forced to cover as of the time of privatization and is not connected to individual transfers between the two companies.

We do not find CAS's argument pertaining to the sole shareholder provision of Italian law persuasive. The liquidation of Cogne S.p.A., including the debt forgiveness/coverage that was provided, was done in the context of a massive restructuring/privatization plan undertaken by the GOI and approved and monitored by the EU. The costs of the liquidation of Cogne S.p.A. were included in the total aid package approved, for some 10 trillion lire. Thus, the benefits were provided in the context of a massive state-aid package designed to allow the GOI to rationalize and privatize its steel holdings. CAS mischaracterizes the liquidation of Cogne S.p.A. as the normal application of a provision of Italian law. As Cogne S.p.A.'s liquidation was part of this extensive state-aid package, the record evidence demonstrates that the liquidation is not a normal occurrence. Finally, CAS's argument assumes that if a private company owned Cogne S.p.A., it would have allowed the company's financial condition to deteriorate to the level it did. This argument is without merit. There is no basis for concluding that a private owner would have allowed such an unprofitable operation—one that the EU recognized as uneconomical in 1989—to continue operating for so long. *See* GOI December 2, 1997, questionnaire response, public version on file in the CRU. This determination is consistent with our past practice, *see, e.g., Steel Wire Rod from Trinidad and Tobago.*

Comment 12: Cogne's Liquidation Extinguishes Prior Subsidies: CAS argues that Cogne's liquidation extinguished all pre-1993 subsidies otherwise attributable to CAS. CAS states that its shares were sold to private investors in the course of the liquidation proceeding, and it is the Department's long-established practice to consider that any bankruptcy-type proceeding extinguishes all pre-bankruptcy subsidies, citing *Certain Stainless Steel Products from Spain* 47 FR 51453 (Nov. 15, 1982) (*Stainless Steel Products from Spain*) in which benefits provided prior to a receivership plan were found to be extinguished; *Certain Textile Mill Products and Apparel from Colombia,* 52 FR 13272 (April 22, 1987) (*Apparel from Colombia*) in which the suspension of interest payment obligations on loans was found not to be a subsidy because it was done through bankruptcy laws; *Salmon from Norway,* 56 FR 7675 (Feb. 25, 1991) in which principal/interest suspensions and loan write offs occurred through bankruptcy proceedings and were not found to be subsidies; *Pads for Woodwind Instrument Keys from Italy,* 49 FR 17791 (April 25, 1984) (*Instrument Key Pads from Italy*) in which a provincial program that allowed companies to recover from bankruptcy was found not to be specific. CAS also cites *OCTG from Canada,* 51 FR 15037 (April 22, 1986) where the Department found that subsidies that were provided to one company did not pass through to the purchaser of that company's assets. CAS argues that the Department's practice with respect to bankruptcy-type proceedings does not require that the operation be closed in order for the pre-existing subsidies to be extinguished. CAS argues that this position would be inconsistent with commercial considerations and contrary to the intent of the countervailing duty law because it would require operations to be closed in order for subsidies to be extinguished when an on-going operation can normally obtain a higher return on its sale.

Petitioners argue that the liquidation of Cogne S.p.A. is not relevant to the Department's determination of whether or not there is a subsidy. Petitioners argue that the sale of the CAS shares did not arise out of the liquidation proceeding, but was a premeditated decision by the GOI to continue the operation of the facility. Petitioners argue that the GOI did not try to get the best possible price for the shares as the real price was the net value of the company minus the restructuring fund, and that the GOI actually paid the new owners to purchase the company. Petitioners further argue that the analysis provided by Respondents related to bankruptcy proceedings relates solely to subsidies provided in the context of a bankruptcy proceeding. Petitioners state that to find no subsidy benefits to the new company would invite circumvention of the countervailing duty law because governments could simply create new entities and leave the debts in the old companies. Petitioners cite *German Wire Rod* to support their position that the Department has determined that bankruptcy proceedings do not impact previously bestowed subsidies if unaffected through the bankruptcy process.

Department's Position: We agree with Petitioners that the facts related to the liquidation of Cogne S.p.A. are not relevant to our determination as to the existence and continuation of benefits from previously bestowed subsidies. As discussed below, we find no factual distinctions which render our standard privatization methodology inappropriate. Moreover, the cases which CAS cites are distinguishable from the facts surrounding CAS's privatization and do not reflect a policy with respect to the forgiveness of debt provided to a government-owned company.

In *Apparel from Colombia, Stainless Steel Products from Spain* and *Salmon from Norway,* the Department found that the forgiveness of obligations or beneficial repayment terms were not countervailable because the forgiveness was done through a bankruptcy proceeding in which the government acted in a manner consistent with commercial banks. In those cases, the benefit at issue was provided through the bankruptcy proceeding itself. *See Apparel from Colombia,* 52 FR at 13277; *Stainless Steel Products from Spain,* 47 FR at 51442, and *Salmon from Norway,* 56 FR at 7685. In *Instrument Key Pads from Italy,* the issue before the Department was the specificity of a government program which provided financing to firms facing financial difficulties. The existence of the bankruptcy proceeding did not lead to the noncountervailability finding, but rather the Department determined that the law in question was not limited to an enterprise or industry or group of enterprises or industries. *Instrument Key Pads from Italy,* 49 FR at 17793–94.

Despite these factual distinctions, to the extent that the Department's analysis in these cases may be interpreted as finding the bankruptcy proceedings as extinguishing prior subsidies, that interpretation is inapplicable to this investigation. In *OCTG from Canada,* the Department noted the arm's length nature of the change in ownership transaction. *OCTG from Canada,* 51 FR at 15042. In *Certain Steel Products from Spain,* the Department suggested that pre-receivership benefits were extinguished when these debts became consolidated in the bankruptcy proceeding. *Certain Steel Products from Spain,* 47 FR at 51443. However, in adopting the current privatization methodology, the Department specifically disavowed any prior decisions in conflict with its revised approach. The Department stated: ''[t]o the extent that the approach adopted here arguably is inconsistent with prior decisions, such decisions are superseded by our conclusions here.'' *GIA,* 58 FR at 47263. Thus, these pre-1993 cases are not controlling precedent on the Department's current privatization methodology, which does not find extinguishment based upon bankruptcy proceedings. *See, e.g., German Wire Rod,* 62 FR at 54992.

None of these case precedents require a determination by the Department that the liquidation proceeding extinguished

subsidies or prevented subsidies from being passed through to CAS. In this investigation we are not examining an instance of bankruptcy laws providing beneficial repayment terms to the company or whether the government was acting as a commercial entity as was the case in the first three cases. Although Cogne S.p.A. could not have covered its obligations on its own, the company was not placed into bankruptcy, but into liquidation. Further, none of the payment terms/obligations were reduced as a result of the liquidation process—they were simply assumed by ILVA and later the GOI. In addition, specificity, which was the issue in *Instrument Key Pads from Italy,* is not an issue in the instant investigation. The debt forgiveness provided to CAS was part of a 10 trillion lire state aid package for the liquidation and privatization of the government-owned steel companies in Italy.

Further, *OCTG from Canada* involved the sale of physical assets at an appraised value, not the sale of an on-going concern. CAS argues that the purchasers of CAS bought only assets from Cogne S.p.A., not Cogne S.p.A. itself. While it is true that they did not purchase Cogne S.p.A. itself, what they got was even better—all of the productive assets of Cogne S.p.A. (which had been transferred to CAS), and very little of the company's extensive debt and loss burden. At no time did operations cease, they were simply transferred from one company to another. Thus, this is not the case of pieces of equipment being auctioned to the highest bidder—CAS was sold as an on-going concern with all of the productive assets and few of the liabilities and losses associated with that operation.

In addition, the other cases cited by CAS involved whether the actions of the government provided a countervailable subsidy. In *Certain Stainless Products from Spain,* one Respondent went into bankruptcy, a receivership plan was agreed to by the court, and the company's creditors established payment terms for the company's debt. The company's debt was comprised of loans from suppliers, short- and long-term debt from commercial banks and short-term loans provided by the government. Thus, in agreeing to the court approved debt restructuring plan, the government was acting in the same manner as commercial bankers and suppliers. We further noted in that case that the short-term loans provided to the company by the government would have been paid off within a year of their issuance but for the declaration of bankruptcy. Similarly in *Salmon from Norway,* the issue was the actions taken by the government with respect to outstanding loan payments due them from commercial fish farmers. For fish farmers facing financial difficulties, the government deferred interest and principal payments. When it became apparent that the loans would never be repaid, the government initiated a legal proceeding to declare the company bankrupt and to seize the company's assets. These assets were sold at a public auction and losses which could not be recovered were then written off. We found that these actions by the government were not countervailable because the government did not act ''in a manner inconsistent with commercial considerations.''

Thus, the cases cited by CAS fail to support CAS's argument that Cogne's liquidation extinguished its pre-1993 subsidies. We further note that the cases cited by CAS address government actions with respect to private not government-owned companies. Facts which may be present with respect to bankruptcies of government-owned companies raise issues that are not present in the bankruptcies of private companies. For example, in the instant investigation, an Italian commercial banker stated that in the event that a government-owned company is unable to service its loan payments, it is assumed that the government will intervene and make the remaining payments. *See* Commercial Experts Report at 3. In addition, during our verification of the CAS response, we asked the bankruptcy consultant hired by CAS whether he was aware of any actual bankruptcy or liquidation of a state-owned company where creditors were left without full repayment by the government. The consultant stated that he was not aware of any such instances. *See* CAS Verification Report at 9. Thus, the record evidence in this case indicates that the treatment of bankrupt private companies does not provide an appropriate basis for the treatment of bankrupt government-owned companies or for bankruptcies where the government has interfered. Therefore, even if the cases cited by CAS were relevant to its debt forgiveness and privatization, those cases would not govern the Department's analysis of the issues present in this investigation because those cases failed to address the unique circumstances of a bankrupt government-owned company or a company operating in an environment where a government has interfered in normal commercial banking operations.

Comment 13: Privatization Extinguishes Subsidies: CAS argues that its 1993 privatization also extinguished all pre-privatization subsidies. CAS states that the Department must consider the specific circumstances of CAS's privatization in determinating whether pre-existing subsidies survived the privatization. CAS states that the transfer of a productive unit to CAS by Cogne at its full appraised value extinguished pre-existing subsidies. CAS argues that the Court's rationale in *Inland Steel Bar Co. v. United States,* 960 F. Supp. 307 (CIT 1997) (*Inland Steel*) requires a finding that there is no pass through in this case, when a company transfers a productive unit because a subsidy may only be received by a legal entity. CAS further states that Cogne achieved not only an arm's length price in the privatization of CAS, but the best possible price, as required by the EU rules on privatization. CAS states that it was sold for the best possible price and, thus, received no competitive benefit from the transaction.

CAS argues that the attribution of pre-privatization subsidies to CAS would violate the Department's obligation to allocate non-recurring subsidies over a ''reasonable period'' based on the ''subsidy's commercial and competitive benefit.'' CAS states that the only ''reasonable period'' for allocation would end in 1993 because of the privatization of the company. CAS states that by allocating through the AUL method, the Department recognizes that allocation is like depreciation, and thus must be discontinued when an operation is closed or abandoned. CAS further argues that Congress imposed no single, inflexible formula on the Department's allocation of non-recurring subsidies, and that it would be unreasonable and arbitrary to allocate benefits over the average useful life of CAS's assets because it receives no commercial or competitive benefit from pre-privatization subsidies.

CAS claims that a policy mandating no extinguishment of pre-privatization subsidies would produce inconsistent and absurd results and compares the Department's practice with respect to upstream subsidies to privatization to demonstrate this point. CAS hypothesizes two scenarios, one in which an input is purchased for the best possible price from a third party in which an upstream analysis would find no subsidy and one in which the input is purchased from a privatization, in which the subsidy would pass through. CAS states that for that reason, the conclusions of the privatization analysis are absurd.

Petitioners argue that CAS's arguments merely demonstrate that the

company was sold at arms-length, which does not require the Department to find that no subsidies passed through the privatization.

Department's Position: We agree with Petitioners. CAS's argument merely attempts to demonstrate that the sale of the company was done at arm's length, which does not demonstrate that previous subsidies were extinguished. Section 771(5)(F) of the Act states that the change in ownership of the productive assets of a foreign enterprise does not require an automatic finding of no pass through even if accomplished through an arm's length transaction. The SAA directs the Department to exercise its discretion in determining whether a privatization eliminates prior subsidies by considering the particular facts of each case. SAA at 928. In this instance, consistent with the statute and SAA, we have examined the facts of this case and determined it is appropriate to allocate subsidies to CAS using the Department's standard privatization formula.

First, CAS draws an artificial distinction between the ''best possible price'' and the ''arm's length'' price. The commercial nature of an arm's length transaction would almost always require that the best possible price be paid because the seller has no incentive to accept anything less. Nonetheless, the record evidence does not support CAS's statement that it was sold for ''the best possible price.'' Although CAS was sold pursuant to an open bidding procedure that involved several bidders and multiple rounds of offers, the record demonstrates that the purchase price was not the focus of negotiations; all bidders agreed to pay the net worth of the firm. The actual linchpin of the sale was the value of the restructuring fund the purchaser would receive upon buying CAS's productive assets. (Given the proprietary nature of the bidding documents, the specific details surrounding the negotiations for the sale of CAS cannot be addressed in this public notice). The restructuring fund was necessary because of the company's history of poor performance. Thus, we find no distinguishing facts surrounding CAS's purchase price to render application of the Department's standard methodology inappropriate. We also note that we have appealed the decision to the Federal Circuit. Therefore, *Inland Steel* does not mandate a finding of no pass through in this investigation. Rather, we continue to follow the methodology upheld by the Federal Circuit in *Saarstahl* and *British Steel.*

Second, we disagree with CAS's arguments concerning the AUL period and privatization for several reasons. There is no inconsistency between the AUL period and the allocation of subsidies that passed through to CAS. The AUL represents a reasonable period of years over which a non-recurring subsidy benefits production. As we explained in the *GIA*, ''the length of the benefit stream is not determined by how the subsidy is used.'' *GIA*, 58 FR at 37229. Altering the AUL period based on either use or change in ownership of the productive assets would be tantamount to tracing the effect of the non-recurring subsidy which is clearly not required by the CVD law. *See* section 771(5)(C) of the Act. Altering the AUL period to account for a change in ownership would result in an automatic finding of no pass through contrary to section 771(5)(F) of the Act, the SAA, and practice.

Third, CAS argues that the use of an allocation period is similar to depreciation and thus must end when enterprises are discontinued or abandoned. CAS never permanently ceased operations. The sale of an on-going concern is not similar to discarding a piece of equipment. CAS attempts to draw a parallel between depreciating an asset that is abandoned and the allocation of a subsidy through a change in ownership where a parallel simply does not exist. We note that there are no facts on the record of this case that would demonstrate that the allocation period we have chosen is unreasonable.

Finally, CAS's argument comparing the Department's privatization and upstream subsidy practices disregards the distinct analyses performed under these methodologies. An upstream subsidy analysis concerns subsidies provided to an input which is incorporated into a downstream product. The Department is seeking to determine whether the subsidy provided to the input can be attributable to the production of the subject merchandise. *See* 771A of the Act. In the privatization analysis, the Department has already made a determination that the subject merchandise itself has benefitted from countervailable subsidies, and the Department is seeking to determine whether subsidies previously bestowed to the production of the subject merchandise pass through to the new owner.

The Department does not trace the competitive benefit of subsidies provided to subject merchandise. *See* 771(C) of the Act, *GIA* 58 FR at 37260–61. However, the competitive benefit analysis performed under the upstream subsidy analysis is a narrow exception mandated by the statute, which codifies the Department's chosen methodology to address the particular factual circumstances of subsidized inputs used in the production of the subject merchandise. Given the distinct factual circumstances addressed by the privatization and upstream subsidy analyses, we see no reason to change our established privatization practice which is consistent with the statute, the We also disagree with CAS that this policy violates GAAP. As discussed in the Accounting Research Bulletin, provided by CAS in support of its argument, a single enterprise may be organized either as one corporation with branches and divisions, or as a parent company and subsidiaries. The Accounting Research Bulletin goes on to explain that consolidated financial statements recognize that ''* * * boundaries between separate corporate entities must be ignored to report the business carried on by a group of affiliated corporations as the economic and financial whole that it is.'' *See* CAS April 9, 1998 submission at A3. If a subsidiary is consolidated with the parent company for financial reporting purposes, normally it is because the parent holds more than 50 percent of the shares in that company and exercises control over its operations. If a parent company prepares consolidated financial statements, there are legitimate reasons why certain subsidiaries are consolidated and certain are not—*i.e.*, level of participation and control in the subsidiary. The examination of consolidated operations is appropriate in the Department's attribution practice, because it is at this level that a private investor (in the case of an equity infusion) or private lender (in the case of a loan) would normally conduct its analysis of whether an investment in the holding/parent company is a viable risk. As stated in the Accounting Research Bulletin, ''[t]hose who invest in the parent company * * * invest in the whole group which constitutes the enterprise that is a potential source of cash flow to them as a result of their investment.'' *Id.* In this way, the consolidated companies are tied together and may be appropriately treated as one for purposes of attributing untied subsidies provided to the holding company, including a parent company with its own operations. SAA, and has been upheld by the Federal Circuit on two occasions. *See, e.g., Saarstahl AG* v. *United States,* 78 F.3d 1539 (Fed. Cir. 1996); *British Steel plc* v. *United States,* 127 F.3d 1471 (Fed. Cir. 1997).

Comment 14: Restructuring Fund Provided to CAS is a Subsidy:

Petitioners argue that the restructuring fund given to CAS as part of the 1993 pre-privatization aid program provided an additional countervailable benefit that should be reflected in the final analysis. Petitioners contend that the fact that the negotiations for the sale of the company centered on how large the restructuring fund would be shows that it was necessary to ''sweeten the pot'' in order to sell the company. Further, Petitioners contend that even if commercial companies may sometimes provide this type of restructuring fund in order to sell a subsidiary company, the provision of such a fund by a government entity remains a countervailable subsidy. Petitioners state that the purpose of the fund was to sell the newly-created company by covering bad will, not to reduce the liabilities left in Cogne S.p.A., and is therefore, a separate subsidy event.

CAS states that the restructuring fund conferred no separate, countervailable benefit to the new company. CAS cites *OCTG from Canada* where the Department decided that special financing arrangements were consistent with commercial considerations because it allowed the government to recover some of the owed funds. CAS states that the restructuring fund is similar to a special financing arrangement and that private companies might provide this type of fund because it would be cheaper than the costs that would be incurred closing the facility. CAS states that the restructuring fund allowed for the best possible price for the sale of the shares, and thus was consistent with commercial considerations.

Department's Position: We are not countervailing the restructuring fund as a separate subsidy event because the amount of the restructuring fund was included in the benefit from the pre-privatization assistance and debt forgiveness program discussed above. While our calculation of the benefit from that program has changed slightly from what was used in the preliminary determination, it represents the total cost associated with the liquidation of Cogne as of year-end 1993. That cost was made up, in large part, of the liabilities in Cogne S.p.A. in Liquidazione as of that date, which included the cost of the restructuring fund. If Cogne S.p.A. had not given CAS a restructuring fund, the costs associated with its liquidation would have been approximately 148 billion lire, instead of the 253 billion that included the restructuring fund. Thus, the restructuring fund has been appropriately captured in calculating the benefit provided at the time of the privatization of CAS. Because the benefit from the pre-privatization assistance and debt forgiveness program includes any benefit provided by the restructuring fund, there is no need to examine the restructuring fund separately.

Comment 15: Price Paid for CAS Should be Adjusted: Petitioners argue that the price paid for CAS in 1993 should be reduced by the amount deducted from the purchase price for environmental damage when factored into the privatization calculation.

CAS argues that the deduction was the result of an obligation Cogne S.p.A. had with respect to clean up of the site that it did not carry out. This obligation was spelled out in the March 17, 1994, contract which also specified that CAS would receive a 2 billion lire payment to cover these costs in the event that Cogne S.p.A. did not undertake the clean up. Thus, the amount was deducted from the subsequent payments of the purchase price.

Department's Position: We disagree with Petitioners. We do not consider this post-sale agreement between CAS and ILVA relevant to the determination of the actual purchase price paid for the company, which was agreed upon in the March 7, 1994 contract and is the price factored into the privatization calculation. The information on the record indicates that this 2 billion lire payment was for an obligation not related to the purchase price. This obligation and payment were agreed to March 17, 1994, after the date of the sales contract. Therefore, we have not made an adjustment for purposes of this final determination.

Comment 16: Specificity of CAS Lease and Adjustment for Extraordinary Maintenance: CAS argues that the Aosta lease is not specific within the meaning of the law. CAS states that the Region's rental terms are generally available and have been used by numerous other entities. Further, CAS argues that the rental terms provided to other entities are the same or better than those provided to CAS.

CAS also argues that the Department overstated the benefit to CAS from the lease. CAS argues that in determining whether CAS received a countervailable benefit, the Department should consider the lease and provincial loans to be one program, and compare the benchmark rates to the sum of CAS's base rent, interest, and payments, plus its cost of extraordinary maintenance expenses and the extraordinary cost of moving its plant to the premises subject to the lease. CAS further states that there is no evidence on the record that would support a finding that the lease confers a countervailable benefit on CAS.

Petitioners argue that verification confirms the Department's preliminary finding that the CAS lease provides a countervailable benefit. Petitioners further argue that the Department's benchmark for evaluating the rate of return on the investment understates the actual benefit to CAS and that the Department, instead, should use the interest rate for a long-term loan in calculating the benefit. Petitioners argue that the Department should not make an adjustment for extraordinary maintenance costs in measuring the benefit from the lease. Petitioners also argue that the transfer loans and lease should be treated as separate programs as they were provided under separate laws. Petitioners also state that the 30-year length of the lease is unusual based on the facts of the record.

CAS counters that the size of the property is irrelevant to the determination of whether the lease provides a subsidy. Further, CAS argues that the 30-year term of the lease is also irrelevant in the determination of whether the lease provides a subsidy. CAS states that the fact that the regional government is interested in promoting employment has no relevance in the determination of whether the lease provides a countervailable benefit. CAS further argues that the maximum rate of return benchmark that the Department may use in evaluating whether the lease provides a benefit is the 5.7 percent figure suggested by the real estate analysts. Respondent argues that the 5.7 percent rate is lower than that of commercial lending rates because of the effect of inflation on property values. CAS also states that Petitioners' statement that the facts demonstrate that it would be ''unusual'' for a landlord to pay for extraordinary maintenance is inaccurate because this assignment of obligation is required by law.

Department's Position: We agree with Respondent, in part, and Petitioners, in part. The Department has recognized that where the government holds many leases with different parties, the terms of the lease must be analyzed to determine whether the lease is specific within the meaning of the Act. *See German Wire Rod,* 62 FR at 54994 and *Steel Wire Rod from Trinidad and Tobago,* 62 FR at 55008. The CAS lease has a different length, different terms, and the property is of a much larger size than other leases with the Region. Further, the CAS lease is contractually different than the other leases because it is between Structure and CAS instead of being held directly by the Region. The lease was the subject of almost year-long negotiations between the two parties and reflects the individual needs of each

party in this particular landlord-tenant relationship. These specific circumstances demonstrate that the CAS lease is distinguishable from other leases negotiated and entered into by the Region. Contrary to CAS's arguments otherwise, the size of the property and the length of the lease are significant factors in determining whether the lease was selectively provided to CAS. On this basis, we determine that the terms of this lease are unique to CAS, which makes the provision of the CAS lease specific under section 771(5A)(D)(i) of the Act.

We agree with Petitioners that it is inappropriate to consider the lease and loans as a single program, because the measures were authorized under separate laws. Thus, CAS's suggested methodology of comparing the benchmark to the sum of CAS's rent, interest and payments for the loan, cost of extraordinary maintenance, and cost of moving the plant is inappropriate. Thus, we have examined the lease and loan programs separately.

As discussed above, we do not consider the loan to be an indemnity. The Region and CAS agreed from the beginning, as evidenced by the Protocols of Agreement, that CAS would move its property. Thus, we must only consider whether the provision of the loan is specific and whether it provides a benefit within the meaning of the Act. Accounting for CAS's moving expenses would contravene the Department's long-standing policy of not examining the subsequent use or effect of subsidies. This policy is articulated at the *GIA* at 37261, ''[i]n practice this means, for example, if a government were to provide a specific producer with a smokestack scrubber in order to reduce air pollution, the Department would countervail the amount that the company would have had to pay on the market, notwithstanding that the scrubber may actually reduce the company's output or raise its cost of production.'' Thus, we also have not included the expenses incurred from relocating the plant in the calculation of the benefit from the loan.

We have not included the cost of extraordinary maintenance in the calculation of the benefit from the lease. Petitioners and Respondent have both provided arguments as to whether the record evidence shows that the assignment of the extraordinary maintenance obligation to the tenant is unusual or usual, respectively. However, the record evidence demonstrates that the assignment of terms such as extraordinary maintenance is negotiable under Italian law. In a commercial transaction, the long-term cost of extraordinary maintenance would be factored into the negotiated rate. The selected benchmark, the average rate of return, accounts for such particularities in the negotiated rate.

As discussed in the lease section above, we have modified our calculation of the benchmark from the preliminary determination. Based on information collected at verification from a commercial real estate company, we believe that the appropriate rate of return is 5.7 percent. We consider this rate to reflect an average rate of return for leases of different sizes, lengths, terms, and locations in Italy. As such, it is a fair reflection of the normal commercial value and does not require highly complex and speculative adjustments for maintenance, depreciation, or increased land values over time. Thus, we disagree with Petitioners that we should use a long-term commercial loan rate to calculate the benefit.

We agree with Respondents that the 5.7 percent figure is the maximum rate of return benchmark appropriate for this calculation without undertaking complex and speculative adjustments. However, we disagree that the record contains no evidence that would support a finding that the lease confers a countervailable benefit to CAS. We verified that in Italy the commercial practice with respect to maintenance terms is negotiable and that the average rate of return is 5.7 percent. We compared the rate of return on the CAS lease (3.5 percent) to the average rate of return in Italy and calculated the benefit based on the difference.

In sum, in our review of the terms of the lease, we found that the Region's interest is different from that of commercial landlords. We compared the rate of return under the lease to the average rate of return on commercial leased property and found that the Region of Valle d'Aosta leases the property for less than adequate remuneration. We also found that the lease is specific within the meaning of the Act. Therefore, we found that the lease provides a countervailable subsidy to CAS.

Comment 17: Benefit from Waste Plant: Petitioners argue that CAS is receiving a benefit from the waste plant. Petitioners contend that the waste plant will be completed in a matter of months. Petitioners state that CAS is incurring costs for waste disposal and there is no evidence that CAS is actually paying them. Thus, a service is being provided by the regional government free of charge. CAS states that the waste plant provides no benefit to CAS because construction has not even begun and the plant is not operational. Further, CAS states that it pays for its own waste storage in the interim, and has received no funds from the Region to date for that purpose.

Department's Position: We agree with CAS. The Department verified that this program does not yet exist because the Region has not yet started construction of the waste plant, and therefore, CAS is not benefitting from the provision of waste disposal services. CAS has not received any payments from the Region for waste disposal. Therefore, there is no benefit during the POI. However, in the event this investigation results in a countervailing duty order we will continue to review this allegation in any subsequent administrative review to determine whether a benefit is provided to CAS through the provision of waste disposal services for less than adequate remuneration.

Comment 18: Program Discovered at Verification: Petitioners argue that the Department should countervail assistance received by CAS under law 10/91 because CAS did not report the receipt of benefits under this law in the questionnaire responses and the Department should use ''facts available.'' Petitioners also argue that even if the Department does not rely on ''facts available'' to make a determination, the law is specific because it limits assistance to large consumers of electricity who are few in number.

CAS argues that the law is available to companies in many different industries and that the company did not report the program because it did not meet the definition of countervailable subsidy.

Department's Position: The Department discovered the existence of this program during verification and determined that there was insufficient time to consider the countervailability of the program for this final determination. Therefore, pursuant to section 351.311(c) of the Department's regulations, we are deferring examination of Law 10/91. If the Commission's injury determination is affirmative and this investigation becomes an order and an administrative review is requested, we will examine this law during the course of that segment of the proceeding to determine whether the program is countervailable.

Comment 19: Countervailability of Law 227/77: Valbruna/Bolzano argues that export loans given under Law 227/77 are covered by an OECD agreement which requires that export credits be provided at market conditions. Further, Valbruna/Bolzano states that the

European Council expanded the applicability of the OECD guidelines to export credits with terms between 18 and 24 months. Thus, Respondent argues that the fixed interest rate provided under the program does not represent a countervailable subsidy. Valbruna/Bolzano states that the allowable rate under the program is a monthly average interbank interest rate published by the GOI and is thus a market rate. If the Department finds a countervailable benefit, the calculation of the benefit should be based on the spread above the interbank rate. Valbruna/Bolzano states that it normally pays LIBOR plus a spread for short term loans and we should compare the rate provided under the program to the rate plus the normal spread in order to calculate the benefit. Further Respondent argues that there is no other benefit besides the lack of a commercial spread and that the details of the agreement between the Mediocredito and San Paolo Bank do not benefit Valbruna.

Petitioners argue that the Department's preliminary determination correctly determined that the program is countervailable and correctly determined the benefit. Petitioners state that the Department's finding was based on the fact that the applicant must have obtained the loan before applying to the Mediocredito for the interest contribution which was confirmed at verification. Thus, the Department must continue to treat the interest contributions as grants.

Department's Response: We agree, in part, with Petitioners. The OECD Guidelines apply to export credits with terms of two years or more. The Valmix loan under which the Mediocredito made interest contributions has a term of 18 months and thus, does not fall under the OECD Guidelines. Therefore, we need not examine the applicability of the item (k) exemption. *See Carbon Steel Products from Austria*, 50 FR at 33374. Our review of the European Council's decision cited by CAS indicates that this decision implemented the OECD Guidelines in 1992 but does not support the Respondent's claim that the decision extended the Guidelines' applicability to 18-month loans. On this basis, we continue to find that interest contributions made under Law 227/77 are countervailable.

At verification, we learned that it was understood by all parties that the Valmix application for assistance under the program would be approved at the time that the contract between Valmix and the commercial bank was signed. Therefore, in accordance with the Department's practice, we consider the interest contributions to provide reduced-rate loans. *See, e.g., Certain Steel from Italy*, 58 FR at 37332. However, the GOI explained that in the event that the application was rejected, then the company would become responsible for the full rate guaranteed to the commercial bank. Valbruna's claim that the contract does not specify these terms is not persuasive. The payment arrangement between the lending bank and the Mediocredito provided a benefit to Valmix because, absent approval of the application, Valmix would be responsible for the full rate guaranteed to the commercial bank. *See* GOI Questionnaire Response dated February 13, 1998, public version on file in the CRU. Respondent's claim that this arrangement is merely a management decision by the Mediocredito is unpersuasive because these interest contributions are the incentives provided under Law 227/77 to offset the buyer's cost of credit in export financing arrangements. Thus, Valmix receives the benefit of a fixed, low-interest rate loan because the commercial lender is guaranteed payments for any shortfall between the fixed rate and the variable market rate.

We agree with Respondent that the interest contributions should be treated as loans. However, we disagree with Respondent's proposal that this benefit should be measured based upon the difference between Valbruna's payments under the loan and the spread above the interbank rate. In the absence of the Mediocredito's intervention, Valbruna would be responsible for the full variable rate to the commercial bank. Thus, we compared what Valmix paid under the fixed program rate and what it would have paid for the loan absent the interest contributions and found that the program provided a countervailable benefit.

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 the government and company officials, and examination of 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 public version form in the CRU.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we have calculated an individual subsidy rate for each company investigated. For companies not investigated, we have determined an all-others rate by weighting individual company subsidy rates by each company's exports of the subject merchandise to the United States.

In accordance with our affirmative preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of SSWR which were entered, or withdrawn from warehouse, for consumption on or after January 7, 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 terminate the suspension of liquidation for merchandise entered on or after May 7, 1998, but to continue the suspension of liquidation of entries made between January 7, 1998, and May 6, 1998. 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 below. 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:

AD VALOREM RATE

Producer/exporter	Net subsidy rate (percent)
CAS	22.2
Valbruna/Bolzano	1.28
All Others	13.85

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 field 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 Deputy Assistant Secretary for AD/CVD Enforcement, Group II. If the ITC determines that material injury, or threat of material injury, does not exists, these proceedings 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

This notice serves 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 section 705(d) of the Act.

Dated: July 20, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–20015 Filed 7–28–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a closed meeting of the Judges Panel of the Malcolm Baldrige National Quality Award on Tuesday, August 11, 1998. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to review the stage I process and selection of applicants for the consensus stage of the evaluation. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene August 11, 1998, at 8:00 a.m. and adjourn at 5:00 p.m. on August 11, 1998. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administrative Building, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on May 22, 1998, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409. The meeting which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: July 23, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–20252 Filed 7–28–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of a Meeting to Discuss an Opportunity To Join a Cooperative Research and Development Consortium on Sprinkler System Performance Prediction

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on September 1, 1998 to discuss the possibility of setting up a cooperative research consortium on Sprinkler System Performance Prediction. The goal of the consortium is to produce with industrial partners a fire simulation system capable of quantifying the performance of existing and planned fire sprinkler systems in industrial spaces.

DATES: The meeting will take place on September 1, 1998 at 9:00 a.m. Interested parties should contact NIST to confirm their interest at the address, telephone number or FAX number shown below.

ADDRESSES: The meeting will take place in Polymers Building (224), Room B245, National Institute of Standards and Technology, Gaithersburg, MD 20899–0001.

FOR FURTHER INFORMATION CONTACT: Dr. Glenn P. Forney, Chemistry Building (222), Room A255, National Institute of Standards and Technology, Gaithersburg, MD 20899–0001. Telephone: 301–975–2313; FAX: 301–975–4052; e-mail: gforney@nist.gov.

SUPPLEMENTARY INFORMATION: Any program undertaken will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Public Law 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may contribute personnel, equipment, and facilities but no funds to the cooperative research program. This is not a grant program.

The R&D staff of each industrial partner in the Consortium will be able to interact with NIST researchers to produce with industrial partners a fire simulation system capable of quantifying the performance of existing and planned fire sprinkler systems in industrial spaces. The system consists of a computational firm model, sprinkler hardware measurements, and methods to exchange input data and calculated results to facilitate its use by industry.

Dated: July 23, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–20251 Filed 7–28–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041598A]

Taking and Importing of Marine Mammals; Offshore Seismic Activities in the Beaufort Sea

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

ACTION: Notice of withdrawal of an application for an incidental harassment authorization.

SUMMARY: On July 6, 1998, NMFS was notified by BP Exploration (Alaska) (BPXA) that BPXA would not be conducting seismic surveys for oil and gas exploration in the U.S. Beaufort Sea during the 1998 open-water season. As a result, BPXA has requested NMFS to withdraw its application for an incidental harassment authorization under the Marine Mammal Protection Act (MMPA) and, by this document, NMFS is noting that withdrawal.