comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue, and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations and cases cited. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

In addition, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments raised in the case and rebuttal briefs. Any hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice, containing: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in case and rebuttal briefs.

The Department will publish the final results of this administrative review with respect to subject merchandise exports by Liyang, including the results of its analysis of issues raised in any case or rebuttal briefs or at a hearing, not later than 120 days after the date of publication of these preliminary results.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sale to the total entered value of that sale. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.50 percent). The Department will issue appropriate appraisement instructions for the companies subject to this review directly to the Customs Service upon completion of this review. For entries of the subject merchandise during the POR from companies not subject to this review, we will instruct the Customs Service to liquidate them at the cash deposit rate in effect at the time of entry.

Cash Deposit Instructions

Upon completion of this review, for entries from Liyang, we will require a cash deposit at the rate established in the final results as further described below.

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of synthetic indigo from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Liyang will be the rate determined in the final results of review (except that if the rate is *de minimis*, *i.e.*, less than 0.50 percent within the meaning of 19 CFR 351.106(c)(1), a cash deposit rate of zero will be required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity will continue to be 129.60 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213.

Dated: March 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5632 Filed 3–7–03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–846 and C–122–848]

Preliminary Affirmative Countervailing Duty Determinations and Alignment of Final Countervailing Duty Determinations With Final Antidumping Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat From Canada

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

ACTION: Notice of preliminary affirmative countervailing duty determinations

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers or exporters of certain durum wheat and hard red spring wheat from Canada. For information on the estimated countervailing duty rates, *see infra* section on ''Suspension of Liquidation.''

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Craig Matney, Audrey Twyman, Stephen Cho, or Geoffrey Craig, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1778, (202) 482–3534, (202) 482–3798 and (202) 482–5256, respectively.

Petitioners

The petitioners in these investigations are the North Dakota Wheat Commission (hard red spring wheat), United States Durum Growers Association (durum wheat), and the Durum Growers Trade Action Committee (durum wheat) (collectively, the ''petitioners'').

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Durum Wheat and Hard Red Spring Wheat from Canada*, 67 FR 65951 (October 29, 2002) (''*Initiation Notice*'')), the following events have occurred:

On November 4, 2002, the Department of Commerce (''Department'') issued the countervailing duty (''CVD'') questionnaire to the Government of Canada (''GOC''). The questionnaire informed the GOC that it was responsible for forwarding the questionnaire to the appropriate provincial governments (*e.g.*, the Government of Alberta (''GOA'') and the Government of Saskatchewan (''GOS'')) and to producers/exporters (*e.g.*, the Canadian Wheat Board (''CWB'')) of the hard red spring wheat and durum wheat (collectively, ''subject merchandise''). The Department also provided courtesy copies of the questionnaire to the GOA, GOS, and CWB on the same day.

On November 18, 2002, the GOC submitted two scope exclusion requests. See ''Scope Comments'' section, below.

On December 3, 2002, the Department postponed the preliminary determinations of these investigations until March 3, 2003. *See Certain Durum Wheat and Hard Red Spring Wheat: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations*, 67 FR 72918.

The Department received responses to its countervailing duty questionnaires from the GOC, GOA, GOS and CWB on January 13, 2003. On January 31, 2003, we issued supplemental questionnaires to the GOC, GOA, GOS and CWB. On February 6, 2003, we issued a second supplemental questionnaire to the GOC, GOA and GOS. Responses to these supplemental questionnaires were received between February 11 and February 14, 2003.

On December 23, 2002, the petitioners submitted a new subsidy allegation regarding the GOC's guarantee of the CWB's initial payment to producers. On February 11, 2003, we initiated on this alleged program. *See* February 11, 2003, Memorandum to Acting Deputy Assistant Secretary Susan H. Kuhbach (''*New Subsidy Allegation Memo*'') on file in the Central Records Unit (''CRU'') in room B–099 of the main Department building. We issued questionnaires to the GOC and CWB regarding this program on February 13, 2003, and received their responses on February 25, 2003.

Alignment With Final Antidumping Duty Determinations

On February 24, 2003, the petitioners submitted a letter requesting alignment of the final determinations in these investigations with the final determinations in the companion antidumping duty (''AD'') investigations. *See Notice of Initiation of Antidumping Duty Investigations: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 67 FR 65947 (October 29, 2002). Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determinations in these investigations with the final determinations in the antidumping investigations of certain durum wheat and hard red spring wheat from Canada.

Period of Investigation (''POI'')

The period for which we are measuring subsidies is August 1, 2001 to July 31, 2002, which coincides with the fiscal year of the CWB, the sole responding exporter. *See* 19 CFR 351.204(b)(2).

Scope of Investigation

For purposes of these investigations, the products covered are (1) durum wheat and (2) hard red spring wheat.

A. Durum Wheat

Imports covered by this investigation are all varieties of durum wheat from Canada. This includes, but is not limited to, a variety commonly referred to as Canada Western Amber Durum. The merchandise subject to this investigation is typically classified in the following Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 1001.10.00.10, 1001.10.00.91, 1001.10.00.92, 1001.10.00.95, 1001.10.00.96, and 1001.10.00.99.

B. Hard Red Spring Wheat

Imports covered by this investigation are all varieties of hard red spring wheat from Canada. This includes, but is not limited to, varieties commonly referred to as Canada Western Red Spring, Canada Western Extra Strong, and Canada Prairie Spring Red. The merchandise subject to this investigation is typically classified in the following HTSUS subheadings: 1001.90.10.00, 1001.90.20.05, 1001.90.20.11, 1001.90.20.12, 1001.90.20.13, 1001.90.20.14, 1001.90.20.16, 1001.90.20.19, 1001.90.20.21, 1001.90.20.22, 1001.90.20.23, 1001.90.20.24, 1001.90.20.26, 1001.90.20.29, 1001.90.20.35, and 1001.90.20.96.

Although the HTSUS subheadings provided for durum wheat and hard red spring wheat are for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Scope Comments

In the *Initiation Notice*, we invited comments on the scope of these proceedings. On November 18, 2002, we received a request from the GOC to amend the scope of these investigations and the companion AD investigations of hard red spring wheat and durum wheat. Specifically, the GOC requested that the scope be amended to exclude those areas of Canada where the CWB does not have jurisdiction, and to remove Harmonized Tariff Schedule number 1001.90.20.96 from the scope of the AD and CVD investigations of certain hard red spring wheat.

On December 12, 2002, the petitioners submitted their rebuttal comments. On February 4, 2003, the GOC responded to those comments, and on February 11, 2003, the petitioners commented on the GOC's February 4, 2003 comments.

The Department preliminarily determines that the requested exclusions are not warranted. For further discussion, *see* March 3, 2003 memorandum to Acting Deputy Assistant Secretary Susan H. Kuhbach, ''Scope Exclusion Requests: Non-Canadian Wheat Board Areas and HTSUS 1001.90.20.96'' on file in the CRU.

Injury Test

Because Canada is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Tariff Act of 1930, as amended (''the Act''), the International Trade Commission (''ITC'') is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On November 25, 2002, the ITC transmitted to the Department its preliminary determinations finding that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Canada of hard red spring wheat and durum wheat. *See Durum and Hard Red Spring Wheat from Canada*, 67 FR 71589 (December 2, 2002).

Subsidies Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life (''AUL'') of the renewable physical assets used to produce the subject merchandise. 19 CFR 351.524(d)(2) creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (the ''IRS Tables''). For the wheat products industry, the IRS Tables prescribe an AUL of 10 years.

In order to rebut the presumption in favor of the IRS tables, the Department must find that the IRS tables do not reasonably reflect the company-specific

AUL or the country-wide AUL for the industry in question, and that the difference between the company-specific or country-wide AUL and the IRS tables is significant. *See* 19 CFR 351.524(d)(2)(i). For this difference to be considered significant, it must be one year or greater. *See* 19 CFR 351.524(d)(2)(ii).

Neither the petitioners, CWB, GOC, GOA, or GOS have contested using the AUL reported for the wheat products industry in the IRS tables. Therefore, we preliminarily determine that any non-recurring benefits should be allocated over 10 years.

Attribution of Subsidies

19 CFR 351.525(b)(6)(ii) states that the Department will attribute subsidies received by corporations with ''cross-ownership'' that produce the subject merchandise to the combined sales of those companies. Based on our review of the responses, we preliminarily find no ''cross-ownership'' between the CWB and any other parties, and we have attributed countervailable subsidies received by the CWB to the CWB's sales.

Benchmark Interest Rates

Pursuant to 19 CFR 351.505(a) and 19 CFR 351.524(d)(3)(i), the Department will use as a long-term loan benchmark and as a discount rate the actual cost of comparable long-term borrowing by the company, when available. 19 CFR 351.505(a)(2) defines a comparable commercial loan as one that, when compared to the government-provided loan in question, has similarities in the structure of the loan (*e.g.*, fixed interest rate v. variable interest rate), the maturity of the loan (*e.g.*, short-term v. long-term), and the currency in which the loan is denominated. In instances where no applicable company-specific comparable commercial loans are available, 19 CFR 351.505(a)(3)(ii) permits the Department to use a national average interest rate for comparable commercial loans.

In 1999, the Red Coat Road and Rail Ltd. short line railway was approved for and received a long-term loan from the GOS under the Short Line Financial Assistance Program, described in the ''Analysis of Programs'' section, below. The petitioners have alleged that any railways receiving benefits under this program were entrusted and/or directed to provide a financial contribution to the CWB through this program. There is no information on the record as to whether the Red Coat Road and Rail Ltd. had comparable long-term borrowings of its own during 1999. Accordingly, we compared the effective interest rate on the loan received by the Red Coat and Rail Ltd. to the 1999 national average annual long-term interest rate, represented by the weighted average yield on long-term bonds.

A. CWB Borrowing

The CWB had a large quantity of outstanding short-term borrowing during the POI, all of which was guaranteed by the GOC. The CWB borrowed using four different instrument types: (1) Commercial paper issued in the United States in U.S. dollars (''USCP program''); (2) notes issued in Canada in Canadian dollars (''WBN program''); (3) commercial paper issued in the euromarkets (*i.e.*, international markets) in U.S. dollars and certain other foreign currencies (however, all foreign currency borrowings were swapped to U.S. dollar debts) (''ECP program''); and (4) Euro Medium Term Notes issued in U.S. dollars and Japanese Yen (however, all the Japanese Yen borrowings were swapped to U.S. dollar debts and all the borrowings swapped to variable rates) (''EMTN program''). 19 CFR 351.505(a)(2) states that the Department normally will select a benchmark interest rate reflecting the structure, maturity and currency in which a firm's loans are denominated. However, for purposes of these preliminary determinations, for the non-U.S. or Canadian dollar borrowings under the ECP and EMTN programs, we have used the U.S. dollar, variable rate terms applicable under the swap agreements (rather than on the underlying loans) in determining whether a benefit exists. We intend to examine these borrowings further, including any additional possible benchmarks, to determine whether there is another, more appropriate methodology for the final determinations.

19 CFR 351.506(a) states that ''{i}n the case of a loan guarantee, a benefit exists to the extent that the total amount a firm pays for the loan with the government-provided guarantee is less than the total amount the firm would pay for a comparable commercial loan that the firm could actually obtain on the market absent the government-provided guarantee,'' and that the Department ''will select a comparable commercial loan in accordance with section 351.505(a) {of the Department's regulations}.'' 19 CFR 351.505(a)(3)(i) states that in selecting a benchmark loan, the Department ''normally will rely on the actual experience of the firm in question in obtaining comparable commercial loans,'' but 19 CFR 351.505(a)(3)(ii) explains that ''if the firm did not take out any comparable commercial loans * * * {the Department} may use a national average interest rate for comparable commercial loans.'' Because all of the CWB's borrowings are guaranteed by the GOC, no company-specific benchmark exists for ''a comparable commercial loan that the firm could actually obtain on the market absent the government-provided guarantee.'' Accordingly, we reviewed the information on the record to determine the appropriate national average interest rates, both for U.S. dollar and Canadian dollar borrowings.

B. Comparable Short-Term Borrowing

The GOC and CWB argue that the U.S. and Canadian dollar prime rates are inappropriate benchmarks for the CWB's commercial paper [1] borrowings because the prime rate ''is not relevant to the CWB or any similar-size corporation operating in the same business segments and international markets as the CWB.'' As an alternative to the prime rates, the GOC provided interest rate information on the Canadian Bankers' Acceptance rates (CBA rates) for 1 and 3 month borrowings (for Canadian dollars), and the U.S. dollar LIBOR rate for 1, 3, and 6 month borrowings, as these rates typically serve as a reference rate for top-rated commercial paper borrowing. Furthermore, in response to the Department's inquiry about why the LIBOR/CBA rates would be appropriate benchmarks for CWB borrowings in the absence of the guarantee, the CWB stated that its borrowing terms ''are not materially different from the borrowing terms * * * that apply to highly rated, non-guaranteed issuers in the United States and Canada.''

We do not believe that this response addresses the crucial question of what interest rate the CWB would pay on its borrowings in the absence of the GOC's guarantee. Based on our research, the interest rate the CWB would pay would depend on whether the CWB had access to the commercial paper market, which, in turn, would depend on the CWB's credit rating in the absence of the GOC guarantee. For example, according to Fabozzi and Modigliani, in *Capital Markets: Institutions and Instruments*, ''commercial paper is an alternative * * * for large corporations *with strong credit ratings*,'' (emphasis added). Similarly, according to the U.S. Federal Reserve, ''the overwhelming majority of

[1] ''Commercial paper'' is a short-term unsecured promissory note representing the obligation of the issuing corporation that is issued in the open market and sold at a discount from its face value. This discount represents the effective interest rate on the notes. Commercial paper is typically purchased by money market mutual funds.

{commercial paper} issuers are extremely creditworthy.'' *See The Commercial Paper Market: Who's Minding the Shop* at *www.stls.frb.org/publications/re/1998/b/re1998b3.html.*

Based on the CWB's own statement, its credit rating would be less favorable in the absence of the GOC's guarantee. This is reflected in the CWB's 2000–2001 Annual Report, at 31, which states that ''{a} borrowings of the {CWB} are unconditionally and irrevocably guaranteed by the Minister of Finance, *resulting in the top credit ratings from Moody's* * * *, Standard and Poor's * * *, and Dominion Bond * * *'' (emphasis added).

Indeed, it may be the case that the CWB's ability to borrow in the commercial paper market is due entirely to the GOC's guarantee. Sources show that companies with lower credit ratings can still have access to the commercial paper market, so long as their borrowings are supported or guaranteed by parties with higher credit ratings. Fabozzi and Modigliani, at 473–4, describe how companies with lower credit ratings have been able to issue commercial paper ''by means of credit support from a firm with a high credit rating,'' issuing so-called ''credit supported commercial paper'' or ''letter of credit paper.'' Clearly, the GOC's backing is an important feature of the GOC's borrowing. In reviewing the sample placement documents submitted by the CWB, all place great emphasis on the fact that underlying debt instruments are guaranteed by the GOC, in essence making these issues credit supported commercial paper-supported by the full faith and credit of the GOC. *See* Exhibit 3 of the February 13, 2003 CWB supplemental response. Furthermore, a search on the Moody's internet site reveals that this credit rating agency considers the CWB to be a ''sovereign'' borrower.

While this evidence leads us to question whether the CWB would have access to the commercial paper market in the absence of the GOC's guarantee, we do not believe it is sufficient to support a preliminary determination that the CWB could not access that market. Instead, the evidence currently on the record supports the conclusion that the GOC's guarantee ensures that the CWB has the top credit rating. Thus, the issue is what rate the CWB would pay without the top credit rating it currently enjoys by virtue of the GOC's guarantee.

Based on our research, companies with the highest credit rating (*i.e.*, P–1 (Moody's), A–1/A–1+ (S&P)) are able to borrow in the commercial paper market at LIBOR/CBA. Because the evidence indicates that the CWB's high credit rating is due to the GOC guarantee, we preliminarily determine that in the absence of the guarantee, the CWB would have a credit rating less favorable than P–1/A–1 and, therefore, the LIBOR/CBA rates are not the appropriate benchmark.

Fabozzi and Modigliani, at 474–5, indicate that there are two tiers of investment grade commercial paper. To be able to use the first tier, the borrower must have a credit rating of P–1/A–1, as described above. The second tier is available to issuers with P–2/A–2 credit ratings. Commercial paper is sold in this market at a greater discount (*i.e.*, it has a higher effective interest rate). Thus, the second tier commercial paper market might be a source of funds for the CWB in the absence of the GOC's guarantee.

A second alternative would be for the CWB to borrow from banks at the prime rate. According to Fabozzi and Modigliani, at 471–2, borrowing from a bank is an alternative to the commercial paper markets, albeit a higher cost alternative, and one that would be used by firms with lower credit ratings. Also, according to the U.S. Federal Reserve, the prime rate is ''one of several base rates used by banks to price short-term business loans.'' *See http://www.federalreserve.gov/ releases/h15/update/.*

In reviewing the record, we find no information that clearly indicates, based on a presumed credit rating of P–2/A–2 or below, whether the CWB would be able to borrow in the second-tier commercial paper market or whether it would be required to raise funds through banks. Accordingly, lacking such information for these preliminary determinations, we have calculated an average of the rates applicable to second-tier commercial paper and the prime rates in order to derive a benchmark rate. For purposes of the final determinations, we encourage parties to submit further information that would allow us to more accurately estimate the credit rating of the CWB in the absence of the GOC guarantee, and the benchmark rates that would be applicable to the CWB with such a credit rating.

19 CFR 351.505(a)(2)(iv) states that the Department ''normally will use an annual average of the interest rates on comparable commercial loans.'' However, if the Department ''finds that interest rates fluctuated significantly during the period of investigation or review, the {Department} will use the most appropriate interest rate based on the circumstances presented.'' A review of the interest rates on the underlying loans and the benchmarks selected indicate that there was a substantial and sustained decrease in interest rates over the POI. For example, the prime rate went from 5.95 percent in August 2001, to a low of 3.75 percent in February and March, and then to 4.4 percent in July 2002. A similar pattern exists on the CWB's actual loans. Accordingly, we have used monthly average benchmark interest rates in our benefit calculations.

Analysis of Programs

Unless otherwise specified, these programs encompass both hard red spring wheat and durum wheat. Accordingly, the countervailable subsidy rate applies equally to both products.

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Programs Preliminarily Determined To Be Countervailable

A. Provision of Government-Owned and Leased Railcars

The GOC, GOA, and GOS purchased railway hopper cars (''hopper cars'') and provided them to the Canadian Pacific Railway (''CP'') and the Canadian National Railway (''CN'') (collectively referred to as the ''railway companies'') for the transportation of grain, including subject merchandise. During the POI, the GOC, GOA, and GOS provided a total of 14,414 hopper cars to the railway companies for transporting grain. The provision of these railcars to the railway companies is governed by operating and alternate use agreements between the federal and provincial governments and the railway companies. The GOC provided 12,510 hopper cars and the GOA and GOS provided 951 and 953 hopper cars, respectively.

Under the operating agreement, the railway companies are permitted to use and operate the hopper cars as part of the railway companies' common railcar fleet, subject to certain specified alternate use restrictions. The railway companies, in turn, have to repair, maintain, and service the hopper cars and to transport Western Division grain included in Schedule II of the Canada Transportation Act (''Schedule II''). Hard red spring wheat and durum wheat are included in Schedule II. According to the Canada Transportation Act, Western Division means the part of Canada lying west of the meridian passing through the eastern boundary of the City of Thunder Bay, including the whole of the Province of Manitoba.

The agreements also permit alternate uses of the cars. Specifically, the railway companies may use the government hopper cars to transport any grain not listed in Schedule II or for transporting other commodities. Also, the railway companies may use the cars to move grain into eastern Canada, through eastern Canada into the United States, and southbound for export into the United States. For any of these alternate uses, the railway companies must pay a fixed rate per day, the ''alternate use'' fee.

In addition to the government-owned hopper cars provided to the railway companies by the federal and provincial governments, the GOC also provided 1,675 leased hopper cars to the CP through the CWB during the POI. Specifically, in March 1981, the GOC entered into a contribution agreement with the CWB directing the CWB to lease, on behalf of the GOC, hopper cars designed for the transportation of grain, including subject merchandise. The agreement also directs the CWB to provide the leased hopper cars to the railway companies for the transportation of Western Division grain. Pursuant to the terms of the contribution agreement, the CWB is obliged to make lease payments for the leased hopper cars in a timely manner and to invoice the GOC for costs that the CWB incurs. The GOC, in turn, fully reimburses the CWB for the lease costs.

Similar to the various operating agreements for the government-owned hopper cars, the operating agreement between the CWB and the CP provides the CP with the day-to-day operation and use of the hopper cars. The CP, in turn, has to repair, maintain, and service the hopper cars and to transport grain as listed in Schedule II. The CP is also required to pay alternate use fees for transporting grain not listed in Schedule II or for transporting other commodities, and for transporting grain to destination ports other than Vancouver, Prince Rupert, Churchill, Thunder Bay, and Armstrong, including the transportation of grain to the United States. Under the alternate use agreement, the CP is required to pay a fixed alternate use fee to the CWB. The CWB reduces the reimbursement amount it requests from the GOC by the amount of alternate use fees it collected.

According to the GOC, it acquired hopper cars ''to cover the railways'' inability to make the investment with their own resources.'' The GOC also stated that the regulated railway rates in effect at the time ''did not fully compensate the railways for all of their costs.'' The GOA and GOS stated that they acquired their hopper cars because, at the time, the railway companies were not willing to invest in hopper cars because the regulated railway rates were not compensatory.

For these preliminary determinations, we are treating the railcars provided by the CWB to the CP as if they were provided directly by the government. This is because, with respect to these railcars, the CWB is acting as an agent of the GOC, leasing the cars on GOC's behalf and receiving full reimbursement of the lease fees. Therefore, for both the CWB- and government-provided railcars we have analyzed whether the railway companies have been entrusted or directed (within the meaning of section 771(5)(B)(iii) of the Act) to make a financial contribution (provision of services under section 771(5)(D)(iii) of the Act) by means of the provision of railway services to the CWB for less than adequate remuneration (within the meaning of section 771(5)(E)(iv) of the Act).

First, we preliminarily determine that the operating and alternate use agreements entered into between the governments (including the CWB) and railway companies, require the railway companies to transport Western Grain.[2] Through the operating and alternate use agreements, the governments are directing the railway companies to provide transport services for Western Grain. Therefore, we preliminarily determine that the CP and CN have been entrusted or directed to provide rail service for the movement of Western Division grain, including grain shipped by the CWB.

Second, we preliminarily determine that the provision of this rail service is a financial contribution within the meaning of section 771(5)(D)(iii) of the Act, that is, provision of services other than general infrastructure. Moreover, the services are being provided to a specific group, the CWB and other users of hopper car services, within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Finally, we preliminarily determine that the CN and CP are providing these rail services for less than adequate remuneration within the meaning of section 771(5)(E)(iv) of the Act. Pursuant to the Canada Transportation Act, the railway companies determine the prices they charge for railway services by way of published tariffs, confidential contracts negotiated between the railway company and the shipper, or by a combination of the two. The CWB negotiates with the railway companies with respect to the published tariffs and other factors affecting freight rates.

In determining whether adequate remuneration has been paid, § 351.511(a)(2)(i) of the Department's regulations states that the Department will normally compare the prices in question to market-determined prices in the country where the service is being provided. There is no information on the record of these investigations about prices charged by other railways in Canada for hopper car service. Section 351.511(a)(2)(ii) directs that where no market-determined prices are available in the country where the service is being provided, the Department should look to world market prices as a measure of adequate remuneration, if such prices are available to the purchasers of the service. There is no information about world market prices for hopper car service, or the availability of such prices to Canadian hopper car users. Therefore, to determine whether the CN and CP have received adequate remuneration for their provision of hopper car services, we have examined whether their prices are consistent with market principles. *See* section 351.511(a)(2)(iii).

In 2000, a study was prepared for Transport Canada, the government agency that administers the GOC-owned hopper cars, by the Sparks Company Inc. (the ''Sparks Study''). This study concluded that disposal of the government-owned hopper cars and termination of the provision of these hopper cars by the federal and provincial governments to the railway companies would have the effect of adding ownership costs for these cars to the railway companies' and/or shippers' costs. The Sparks Study estimated the ownership costs for these cars to be between C$2.00 and C$3.00 per ton of grain transported.

Based on the conclusions of the Sparks Study, we preliminarily determine that the rates charged by the CN and CP for hopper car service do not reflect the ownership costs of these cars and, consequently, the rates are not consistent with market principles. As a result, we preliminarily determine that the CN and CP are providing these railcar services for less than adequate remuneration.

To calculate the benefit to the CWB, we multiplied the total volume of grain the CWB shipped during the POI by the added ownership costs (modified as described below) to arrive at the total benefit the CWB received from the subsidy. As a starting point, we used the mid-point (*i.e.*, C$2.50 per tonne) of the Sparks Study's estimate of C$2.00 to

[2] *See* Memorandum to Susan H. Kuhbach, dated March 3, 2003, ''Analysis of Provision of Government-Owned and Leased Railcars as Indirect Subsidies,'' which is on file in the CRU.

C$3.00 per tonne. However, the GOC provided information to support its claim that the lease rates used in the Sparks Study to calculate estimated ownership costs were substantially higher than the range of lease rates quoted by Canadian hopper car leasing companies during the POI. Thus, we have preliminarily reduced the $2.50 per tonne estimate of ownership costs by the percentage difference between the average lease rate used in the Sparks Study and the average of the lease rates quoted by Canadian hopper car leasing companies during the POI.

Finally, we divided the benefit received by the CWB in the POI by CWB's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy from the federal and provincial governments' provision of railway hopper cars to be 0.35 percent *ad valorem* for the CWB.

The GOC, GOA and GOS have argued that the benefit from the governments' provision of railcars, if any, is tied to east/west shipments of grain because for other shipments, including shipments to the United States, the railway companies must pay commercially determined alternate use fees. We have not adopted this position in our preliminary determinations because we have focused our analysis on whether the railway companies receive adequate remuneration when they provide hopper car service. No information has been provided to show that the rates charged by the railway companies for service to particular destinations varies because they pay (or don't pay) an alternate use fee for the government-provided hopper cars.

B. GOC Guarantee of CWB Borrowing

Until 1998, the CWB was an agent Crown Corporation of Canada, and CWB borrowings were guaranteed by virtue of this agency relationship. At the end of 1998, the CWB lost its agency status, and the Canadian Wheat Board Act was amended to its current form, which requires the CWB to submit an annual borrowing plan to the Minister of Finance, and seek approval of terms and conditions of the proposed borrowing plans. Section 19(5) of the Canadian Wheat Board Act provides that borrowings under an approved borrowing plan are guaranteed by the GOC. All CWB borrowings must be consistent with the time, terms and conditions authorized pursuant to the borrowing plan and, accordingly, all CWB borrowings are guaranteed by the GOC.

During the POI, the CWB engaged in short-term borrowing by accessing the money markets in Canada, the United States, and the global money market. The CWB also had outstanding borrowings using Euro Medium Term Notes (''EMTNs''). The CWB has issued a variety of EMTNs in different currencies, having maturities ranging from 5 to 15 years. However, the CWB has swapped all of these EMTNs to U.S. dollars and floating rates of interest.

The CWB borrows to finance its initial payments to farmers, operating expenses, and credit sales to sovereign and private buyers (*see, also, GOC Guarantee of CWB Lending* section, below). The CWB opened the POI with approximately C$7.6 billion in outstanding borrowings.

We preliminarily determine that the GOC's guarantee of the CWB's borrowing is a countervailable subsidy. By providing this guarantee, the GOC has provided a financial contribution in the form of a potential direct transfer of funds, within the meaning of section 771(5)(D)(i) of the Act. This guarantee is limited to the CWB and, therefore, specific within the meaning of section 771(5A)(D)(iii)(I) of the Act. We calculated the benefit to the CWB by comparing the amounts that the CWB paid on its borrowings with what it would have paid absent the government guarantee. *See,* ''Subsidies Valuation Information, Benchmark Interest Rates'' section, above, for further discussion of the benchmark rates used in this calculation. To calculate the countervailable subsidy, we divided the total benefit received by the CWB on all its borrowings by the CWB's total sales in the POI. On this basis, we preliminarily determine the countervailable subsidy from the GOC's guarantee of CWB borrowing to be 3.59 percent *ad valorem.*

II. Programs Preliminarily Determined To Be Not Countervailable

A. GOC Guarantee of CWB Lending

The CWB has two types of credit grain sales programs which are guaranteed by GOC, the Credit Grain Sales Program (''CGSP'') and the Agri-Food Credit Facility (''ACF''). The CGSP was established in 1952, and allows the CWB to sell grain on credit to customers who can provide a sovereign guarantee of repayment. Repayment terms under the CGSP cannot exceed 36 months. As of the beginning of the POI, the CWB had approximately C$7.1 billion in outstanding credit under the CGSP. Approximately 84 percent of this total consisted of debt that had been rescheduled or subject to rescheduling pursuant to Paris Club agreements,[3] and an additional 12 percent represents overdue debt from the Government of Iraq. The ACF was established in 1995 to support sales of grain on credit to private sector customers. CWB lendings under the ACF are short-term, with repayment periods of one year or less. At the start of the POI, the CWB had approximately C$85 million in outstanding credit under the ACF. All of the debts under this program are current.

The CWB states that neither of these programs has been used to support sales to the United States, and that the United States is not on the GOC-approved list of countries to which export credits can be extended under the CGSP. In addition, the CWB states that all of its credit customers, with the exception of Iraq, are paying the CWB according to the terms of their most recent lending agreement (original or restructured), and that the net cash flows to the CWB on restructured debt are the same both before and after the rescheduling. However, the CWB and GOC have stated that the GOC made portions of the rescheduled payments for Poland, Ethiopia, Zambia, Egypt and Haiti.

The petitioners allege that this program provides a benefit to the CWB because the CWB is able to earn interest income (*i.e.*, the difference between the rate at which it lends to its customers and the rate at which it borrows in order to disburse this revenue to producers) on debts that are uncollectible. However, as stated above, all the debts, with the exception of Iraq, are, in fact, performing in accordance with their debt agreements. While a benefit arises as a result of the fact that the CWB is borrowing at a rate less than it would otherwise be able to borrow but for its borrowing guarantee, we have already countervailed this benefit on all of the CWB's borrowings. (*See* ''GOC Guarantee of CWB Borrowing'' section, above.)

However, although we have preliminarily found that the benefit alleged by petitioners under this program is already countervailable under the GOC guarantee of CWB borrowing program, we note that the GOC payments to the CWB may give rise to an additional or alternative benefit in the amount of these payments. We preliminarily determine that such payments would be export subsidies. 19 CFR 351.514(a) states that the Department will consider a subsidy to be an export subsidy if ''eligibility for, approval of, or the amount of, a

[3] The Paris Club is a forum where the GOC and other sovereign creditors have periodically agreed to extend repayment terms beyond original maturity dates and/or reduce the principal owed by a debtor country.

subsidy is contingent upon export performance.'' The GOC payments under this guarantee are contingent upon sales to the eligible foreign markets.

We further preliminarily determine that any subsidies conferred as a result of these lending guarantees are tied to the markets that received the guarantees. Consequently, in accordance with 19 CFR 351.525(b)(5)(i), any benefits would be attributed to export sales to those markets. Because sales to the United States do not benefit from these guarantees, we find no countervailable subsidies on the subject merchandise under this program.

B. Rail Freight Revenue Cap

In August 2000, the GOC implemented an annual cap on the revenues (the ''revenue cap'') that the CN and CP can earn from the transportation of certain Western Division grains. The grains subject to the revenue cap are set out in Schedule II and include the subject merchandise. The revenue cap only applies to grain movements on CN or CP lines from ''a point on any line west of Thunder Bay or Armstrong, Ontario, to (a) Thunder Bay or Armstrong, Ontario, or (b) Churchill, Manitoba, or a port in British Columbia for export, but does not include the carriage of grain to a port in British Columbia for export to the United States for consumption in that country (the ''capped routes'').'' (*See* Canada Transportation Act, Division VI, Transportation of Western Grain, Section 147.)

The revenue cap is calculated using a formula that takes into consideration the following: the railway's revenue for the movement of grain in the base year (crop year 2000–2001); the number of tons of grain moved in the base year and the actual year; the average length of haul in miles for the base year and actual year; and the volume-related composite price index. (*See* Canada Transportation Act, Division VI, Transportation of Western Grain, Section 151.) If CN's or CP's revenues for the movement of grain on capped routes in a crop year exceed the railway's maximum revenue cap entitlement, the railway must pay refunds according to a specified formula.

Under section 771(5)(B)(iii) of the Act, a subsidy exists when, *inter alia,* a government entrusts or directs a private entity to make a financial contribution that confers a benefit. As discussed in the ''Provision of Government-Owned and Leased Railcars'' section, above, we preliminarily find that the GOC is entrusting or directing the railways to provide a financial contribution, specifically rail transportation services, to the CWB. *See* sections 771(5)(B)(iii) and 771(5)(D)(iii) of the Act.

Further, we find that the revenue cap is limited to the transportation of Western Division grain and, therefore, specific within the meaning of section 771(5A)(D)(i) of the Act.

We preliminarily determine, however, that the CWB did not receive any benefits from the revenue cap within the meaning of section 771(5)(E)(iv) of the Act. This is because, as discussed below, there is no evidence that, as a result of the revenue cap, the railways are providing the rail services to the CWB for less than adequate remuneration. Accordingly, we preliminarily determine that the rail freight revenue cap is not a countervailable subsidy.

Our reasons for preliminarily determining that the revenue cap does not confer a benefit to the CWB are threefold. First, in the two crop years that the revenue cap has been in place, CN's and CP's earnings subject to the revenue cap have fallen significantly short of their respective revenue caps. In 2000/01 and 2001/02, respectively, CN earned C$3 million and C$13.5 million less than the cap, while CP earned C$2.6 million and C$8.7 million less. Second, the railways are allowed to increase or create fees for services that are not subject to the revenue cap. This allows the railways to increase revenue from Western grain movements, irrespective of the revenue cap. Examples of these exempted service fees are demurrage, storage, performance penalties, additional switching and staging. Lastly, on behalf of the GOC, the Canadian Transportation Agency (''CTA'') conducted a study to compare per ton revenue for capped and non-capped movements. In the study, the CTA used three methods to compare non-revenue cap to revenue cap movements. The CTA compared revenue per ton mile for (1) Eastern Canada non-cap movements versus Western Canada revenue cap movements, (2) Western Canada non-cap movements versus Western Canada revenue cap movements, and (3) Eastern Canada versus Western Canada movements which originate as a revenue cap movement, but continue east and become non-cap movements. This generated nine different comparisons, eight of which showed that the revenue cap did not affect the rates per ton mile that CP and CN charged for the transportation of grain.

The petitioners have asserted that the revenue cap conferred a benefit on the CWB based on two sources which state that the August 1, 2000 revenue cap would be set at a level leading to ''an estimated 18 per cent reduction in grain freight rates from 2000–2001 levels,'' and an ''immediate 18 per cent reduction in railway revenues.'' Petitioners acknowledge that the actual rail rates did not decrease by the full 18 percent. Even if they did, we preliminarily find that the 18 percent figure is not a useful measure of whether the revenue cap constituted a countervailable benefit. The pre-revenue cap freight rates were regulated by the GOC and, therefore, do not provide an accurate benchmark for adequate remuneration. Also, the comparison cited by the petitioners predates our POI. For these reasons, and in light of the CTA study, we do not believe the 18 percent reduction is a useful benchmark for determining whether the revenue cap conferred a benefit upon the CWB.

C. Maintenance of Uneconomic Branch Lines

Effective August 2000, under the Canada Transportation Act, as amended, a railway company that discontinues a grain-dependent branch line must provide compensation to the municipality or district through whose territory the grain-dependent branch line passes in the amount of C$10,000 per mile for each mile of line within the municipality or district, for three years.

We preliminarily determine that the payment for discontinuance of a grain-dependent branch line (''GDBL payment'') does not constitute a countervailable subsidy. Under section 771(5)(B)(iii) of the Act, a subsidy exists when, *inter alia,* a government entrusts or directs a private entity to make a financial contribution that confers a benefit. With respect to GDBL payments, evidence provided by the GOC, as discussed below, indicates that the cost of maintaining a grain-dependent branch line far outweighs the cost of closure. Decisions on whether to maintain or close such lines are made irrespective of GDBL payments. Hence, we find that the GOC is not directing and/or entrusting the railways to provide continued rail transportation services over grain-dependent branch lines.

The GOC cites to the 1999 Branch Line Review that studied the economic costs to the grain handling and transportation system of discontinuing the operation of 22 branch lines totaling 698.9 miles and affecting the delivery of 1,367,560 tons of grain. The study examined several grain handling and transportation scenarios and, ''[i]n each of the twenty-two cases substantial savings will result when the operation of all of these lines are discontinued and

the grain is transferred to the alternative delivery points.'' While this review did not consider the income the railways earned from transporting grain over the grain-dependent branch lines, the GOC claims that the railways would experience very little loss of revenue, if any, from the closure of a branch line because the farmer will truck the grain to the next closest elevator and the railway would still receive payment for the transportation of the grain to the final destination, only on a slightly different route.

The GOC also explains that the reason for grain-dependent branch lines' closures is the rationalization of grain elevators and the move to multi-car block loading, which is dependent on high volume, larger elevators. This has led to a closure of older, smaller capacity wooden elevators on branch lines as large capacity non-wooden elevators have been built on main lines to take advantage of multi-car discounts.

The petitioners argue that the payment is causing the railways to keep open grain-dependent branch lines that were slated for closure and cite to an article reporting that CN imposed a moratorium on grain-dependent branch lines' closures. However, the Department notes that CN closed two grain-dependent branch lines in Saskatchewan after the GDBL payments were initiated and before the moratorium was announced. This suggests that the GDBL payments were not the reason for CN issuing the moratorium. As further proof that the GDBL payments did not deter the railways from closing grain-dependent branch lines, the GOC has reported that 78.1 miles of grain-dependent branch lines were closed in crop year 1999/00; 33.8 miles were closed and 75.4 miles were transferred in crop year 2000/01; and 97 miles were closed in crop year 2001/02 (the POI). These statistics demonstrate that the railways continued to close grain-dependent branch lines after the GDBL payments went into effect. Further, the Quorum Corporation, the third party entity appointed by the GOC to monitor the Grain Handling and Transportation System, issued a report which states that ''of the 384.3 route-miles of infrastructure abandoned in the 2000–01 crop year, 289.9 (or 75.4 percent) were grain dependent branch lines.'' These closures were in the crop year just after the GDBL payments came into effect.

As the evidence supports the finding that the GDBL payments did not deter the railways from abandoning grain-dependent branch lines, we preliminarily find that the GOC is not directing and/or entrusting CP and CN to continue to provide rail service on grain-dependent branch lines that would normally be abandoned.

D. Short Line Financial Assistance Program

Under the Short Line Financial Assistance Program, short line operators are eligible to receive a percentage of the capital required to purchase rail lines slated for abandonment within Saskatchewan. Funding for the program was provided by the GOC, through the Canadian Agri-Infrastructure Program (CAIP), and the GOS. The program was in effect from July 2, 1996, to December 31, 2001, during which time only one application was presented and approved, all within 1999. For the one project, a 15-year loan from the GOS was disbursed on May 1, 1999 and a one-time non-repayable cash grant from the GOC was disbursed on July 20, 1999. (*See* ''Program Preliminarily Determined to be Not Used During the POI,'' below, for a discussion of the grant.)

a. GOS Loan

We preliminarily determine that the 15-year loan from the GOS as part of the Short Line Financial Assistance Program is not a countervailable subsidy.

Consistent with section 771(5)(E)(ii) of the Act there is no benefit conferred by this loan, because the benchmark interest rate, the 1999 national average annual long-term interest rate represented by the weighted average yield on long-term industrial bonds, is lower than the interest rate charged on the underlying loan.

Both the CWB and the GOC further argue that since no subject merchandise was shipped to the United States on this short line, any benefit would be tied to non-U.S. sales. Because we found no benefit conferred by the GOS loan, the Department did not reach this question.

III. Program Preliminarily Determined To Be Not Used During the POI

Based on the information provided in the responses, we preliminarily determine that no benefits were applied for or received under the following program during the POI:

Short Line Financial Assistance Program

For a general description of this program, please see the description under ''Programs Preliminarily Determined to be Not Countervailable.''

a. GOC Grant

For non-recurring subsidies, we apply the ''0.5 percent expense test,'' described in section 351.524(b)(2) of the Department's regulations, in which we compare the amount of subsidies approved under a given program in a particular year to sales (total or export, as appropriate) in that year. If the amount of subsidies is less than 0.5 percent of sales, the benefits are expensed in their entirety in the year of receipt rather than allocated over the AUL period. In the case of this GOC grant made under the Short Line Financial Assistance Program, the resulting percentage was significantly below 0.5 percent. Accordingly, any countervailable benefit from this grant would be completely expensed in 1999 and would not provide a benefit to the CWB during the POI.

IV. Program for Which We Need More Information

Guarantee of the Initial Payment

The Canadian Wheat Board Act requires that the GOC cover any shortfall if the CWB's initial payment to producers (plus operating costs) exceeds the total pool receipts during the pool period. The petitioners maintain that this guarantee effectively provides an insurance policy against losses, for which the CWB does not pay. The petitioners state that payments under this guarantee have been made seven times during the history of the CWB, the last time for the 1990–91 marketing year. The petitioners argue that a commercial firm would need to buy insurance (in the form of a put option) to guarantee against losses in a similar fashion, and there would be an identifiable cost in all years for such insurance, not just those in which the CWB receipts fell short of the initial payments. The petitioners estimated the value of such put options using the Black-Scholes options valuation formula.

As described above, the Department initiated on this program on February 11, sent out its questionnaires on February 13, and received responses on February 25, 2003. The Department has not had the opportunity to analyze thoroughly the information received or issue any necessary supplemental questionnaires. Accordingly, we are not making preliminary determinations with regard to this program at this time. After we collect, review and analyze the necessary information, we will prepare an analysis memorandum addressing the countervailability of this program, and provide all parties an opportunity to comment on our analysis.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted in these investigations prior to making our final determinations.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each exporter/manufacturer of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/manufacturer	Net subsidy rate (hard red spring wheat) (percent)	Net subsidy rate (durum wheat) (percent)
Canadian Wheat Board	3.94	3.94
All Others	3.94	3.94

In accordance with sections 777A(e)(2)(B) and 705(c)(5)(A) of the Act, we have set the ''all others'' rate as CWB's rate because it is the only exporter/manufacturer investigated.

In accordance with section 703(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of certain durum wheat and hard red spring wheat from Canada which are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above.

ITC Notification

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

In accordance with section 705(b)(2) of the Act, if our final determinations are affirmative, the ITC will make its final determinations within 45 days after the Department makes its final determinations.

Public Comment

Case briefs for these investigations must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

These determinations are published pursuant to sections 703(f) and 777(i) of the Act.

Dated: March 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5633 Filed 3–7–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 021224331–3049–02]

RIN 0693–AB52

Establishment of a Team Under the National Construction Safety Team Act

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

ACTION: Notice.

SUMMARY: The Director of the National Institute of Standards and Technology (NIST), Technology Administration, United States Department of Commerce, announces the establishment of a National Construction Safety Team pursuant to the National Construction Safety Team Act. The Team was established to investigate the building failure at The Station nightclub in West Warwick, Rhode Island.

DATES: The Team was established on February 27, 2003.

ADDRESSES: Dr. James E. Hill, Deputy Director, Building and Fire Research Laboratory, National Institute of Standards and Technology, Mail Stop 8600, Gaithersburg, MD 20899–8600, telephone number (301) 975–5900. Members of the public are encouraged to submit to the Team non-privileged evidence that is relevant to the subject matter of the NIST investigation described in this notice. Such evidence may be submitted to the address contained in this section. Confidential information will only be accepted pursuant to an appropriate nondisclosure agreement.

FOR FURTHER INFORMATION CONTACT: Dr. James E. Hill, Deputy Director, Building and Fire Research Laboratory, National Institute of Standards and Technology, Mail Stop 8600, Gaithersburg, MD 20899–8600, telephone number (301) 975–5900.

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 7301 *et seq.*, 15 CFR part 270.

Background

The National Construction Safety Team Act (''Act''), Pub. L. 107–231, codified at 15 U.S.C. 7301 *et seq.*, was enacted to provide for the establishment of investigative teams (''Teams'') to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life. The purpose of investigations by Teams is to improve the safety and structural integrity of buildings in the United States. As stated in the statute, a Team will (1) Establish the likely technical cause or causes of the building failure; (2) evaluate the technical aspects of evacuation and emergency response procedures; (3) recommend, as necessary, specific improvements to building standards, codes, and practices based on the findings made pursuant to (1) and (2); and recommend any research and other appropriate actions needed to improve the structural safety of buildings, and improve evacuation and emergency response procedures, based on the findings of the investigation.