DEPARTMENT OF COMMERCE

International Trade Administration

[C–428–812]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Germany: Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products from Germany for the period January 1, 1997 through December 31, 1997. For information on the net subsidy for the reviewed company as well as for non-reviewed companies, please see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review* section of this notice. Interested parties are invited to comment on these preliminary results. (See the Public Comment section of this notice.)

EFFECTIVE DATE: April 7, 1999.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds or Robert Copyak, Group II, Office of AD/CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1993, the Department published in the **Federal Register** (58 FR 15325) the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products from Germany. On March 11, 1998, the Department published a notice of ''Opportunity to Request an Administrative Review'' (63 FR 11868) of this countervailing duty order. We received a timely request for review from Saarstahl AG (Saarstahl), the respondent company to this proceeding. On April 24, 1998, we initiated the review, covering the period January 1, 1997 through December 31, 1997, (63 FR 20378). On April 28, 1999, Inland Steel Bar Company and USS/KOBE Steel Co. (petitioners) requested that the Department conduct verification of information submitted on the record in all questionnaire responses.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. Accordingly, this review covers Saarstahl AG (Saarstahl). This review also covers five programs. On November 19, 1998, we extended the period for completion of the preliminary results pursuant to section 751(a)(3) of the Tariff Act of 1930, as amended. *See Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany: Extension of the Time Limit for Preliminary Results of Countervailing Duty Administrative Review* (63 FR 64235). The deadline for the final results of this review is no later than 120 days from the date on which these preliminary results are published in the **Federal Register**.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act. All citations to the Department's regulations reference 19 CFR Part 351(April 1998), unless otherwise indicated.

Scope of the Review

The products covered by this investigation are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reasons of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00; 7213.31.60.00; 7213.39.00.30; 7213.39.00.60; 7213.39.00.90; 7213.91.30.00; 7213.91.45.00; 7213.91.60.00; 7213.99.00; 7214.40.00.10, 7214.40.00.30, 7214.40.00.50; 7214.50.00.10; 7214.50.00.30, 7214.50.00.50; 7214.60.00.10; 7214.60.00.30; 7214.60.00.50; 7214.91.00; 7214.99.00; 7228.30.80.00; and 7228.30.80.50. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Duty Absorption

On April 28, 1998, the Department received a request from petitioners to conduct a duty absorption review to determine whether Saarstahl absorbed countervailing duties. The issue of whether it is appropriate to examine duty absorption in the context of a countervailing duty review was considered in the 1997 administrative review of the countervailing duty order on lead and bismuth carbon steel products from the United Kingdom. The Department concluded that, because there is no relationship between the amount of duties absorbed and the extent of government subsidization that will take place in the future, it is not appropriate to examine duty absorption in a countervailing duty reviews. Therefore, we are not conducting a duty absorption review in this administrative review. A copy of the decision memorandum which elaborates the Department's rationale with regard to this issue (*see* memorandum through Holly A. Kuga, Acting Deputy Assistant Secretary for Group II, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated March 18, 1999, a public document on file in the Central Records Unit, Room B–099 of the Main Commerce Building) has been placed on the record of this administrative review as a public document from the team to the file, dated March 25, 1999.

Subsidies Valuation Information

Allocation Period

In *British Steel plc.* v. *United States*, 879 F.Supp. 1254 (February 9, 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) ruled against the allocation period methodology for non-recurring subsidies that the Department had employed for the past decade, a methodology that was articulated in the *General Issues Appendix* appended to *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria;* 58 FR 37217 (July 9, 1993) (*GIA*). In accordance with the Court's decision on remand, the Department determined that the most reasonable

method of deriving the allocation period for nonrecurring subsidies is a company-specific AUL of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *British Steel plc.* v. *United States,* 929 F.Supp 426, 439 (CIT 1996) (*British Steel II*).

However, in administrative reviews where the Department examines non-recurring subsidies received prior to the POR which have been countervailed based on an allocation period established in an earlier segment of the proceeding, it is not practicable to reallocate those subsidies over a different period of time. Since the countervailing duty rate in earlier segments of the proceeding was calculated based on a certain allocation period and resulted in a certain benefit stream, redefining the allocation period in later segments of the proceeding would entail taking the original grant amount and creating an entirely new benefit stream for that grant. Such a practice may lead to an increase or decrease in the total amount countervailed and, thus, would result in the possibility of over-or under-countervailing the actual benefit. In this administrative review, the Department is considering non-recurring subsidies previously allocated in the initial investigation. Therefore, for purposes of these final results, the Department is using the original allocation period assigned to each non-recurring subsidy received prior to the POR. *See, e.g., Final Results of Countervailing Duty Administrative Review: Industrial Phosphoric Acid from Israel,* 64 FR 2879 (January 19, 1999) and *Final Results of Countervailing Duty Administrative Review: Certain Carbon Steel Products from Sweden,* 62 FR 16549 (April 7, 1997).

Discount Rates

Pursuant to the *Final Results of Redetermination Pursuant to Court Remand Regarding The Privatization in Germany: Saarstahl Ag* v. *United States,* Consol. Ct. No. 93–04–00219 (June 30, 1997) (*Remand Determination*), we find that Saarstahl was uncreditworthy in 1989 and, therefore, have applied the uncreditworthy discount rate from the *Remand Determination* for Saarstahl's calculations.

Change in Ownership

(I) Background

In the investigation of this proceeding, we examined Saarstahl's changes in ownership prior to 1991. Specifically, in 1986, Arbed, a company owned by the Government of Luxemburg, transferred 76 percent of Saarstahl's shares to the Government of Saarland (GOS), making Saarstahl a majority state-owned company. The GOS then began a search for a new investor for Saarstahl. Usinor-Sacilor, a company owned by the Government of France, expressed interest in Saarstahl. In 1989, the GOS and Usinor-Sacilor reached an agreement in which: (1) the two steel companies in Saarland, Saarstahl Volingen Gmbh. (Saarstahl) and Dillinger Hüttenwerke (Dillinger) would merge to form DHS Dillinger Hütte Saarstahl AG (DHS); (2) Usinor-Sacilor would buy the newly created DHS; and (3) in return for Usinor-Sacilor's purchase of DHS, the GOS and the Government of Germany (GOG) would forgive Saarstahl's debt obligations, also known as Rückzahlungsverpflichtungen (RZVs), to the regional and federal governments and release the company from any obligation to repay Saarstahl's guaranteed loans. The last step of the change in ownership took place in 1989 with the transfer of the long products business from DHS to a newly-formed company, Saarstahl AG.

In the investigation of this case, the Department found that the cancellation of Saarstahl's debts constituted countervailable subsidies. *See Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products from Germany,* 58 FR 6233, 6233 (January 27, 1993) (*Lead and Bismuth*). Further, the Department determined that the change in ownership transaction did not alter the effect of these previously bestowed subsidies. In the 1993 certain steel products investigations, the Department modified its position in *Lead and Bismuth* concerning changes in ownership. Specifically, the Department stated that it could no longer be assumed that the entire amount of subsidies passes through to the new owners after a change in ownership. Rather, when a company is sold, even partially, a portion of the sales price represents repayment of prior subsidies. *See GIA,* 58 FR at 37263. As a result of this change, the Department, pursuant to the *Remand Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products from Germany,* (October 12, 1993), altered its original determination regarding the effects of privatization on subsidies previously received by Saarstahl so that it conformed with the methodology described in the *GIA.* This change in ownership methodology was upheld in *Saarstahl AG* v. *United States,* 78 F. 3d 1539 (Fed. Cir. 1996) and *British Steel plc* v. *Untied States,* 127 F.3d 1471 (Fed. Cir. 1997).

In the recent investigation of steel wire rod from Germany, we included in our change of ownership calculations the 1994 transaction under which Usinor-Sacilor, via DHS, spun-off 100 percent of Saarstahl AG to the GOS for DM 1. *See Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Germany (German Wire Rod),* 62 FR 54990, (October 22, 1997) (*German Wire Rod*). Respondents have reported in this administrative review that, in 1997, the GOS transferred the majority of its shareholdings in Saarstahl to three parties: (1) Saarstahl Treuhand, (2) AG der Dillinger Huttenwerke (Dillinger), and (3) Kreditanstalt fur Wiederaufbau (Kreditanstalt). Prior to this transfer, the GOS held approximately 99.9 percent of Saarstahl's shares. After the share transfer, the GOS held approximately 32 percent of the company's shares. The remaining 68 percent was divided as follows: Saarstahl Treuhand—28.1 percent, Dillinger—19.9 percent, and Kreditanstalt—20 percent.

Regarding the 1997 privatization, petitioners argue in their March 11, 1999, submission that the new shareholders in Saarstahl should not be considered private entities. They argue that Saarstahl Treuhand is a trust that was set up and is controlled by the GOG because no private investor could be found for these shares. They argue that the GOS (through its ownership of Saarstahl) is an owner of the parent company of Dillinger and, therefore, Dillinger is government-controlled. They also argue that, because the Kreditanstalt is a development bank of the GOG, shares assigned to it represent no ultimate change in the ownership of Saarstahl. On this basis, petitioners argue that none of the three parties' purchase price can constitute repayment of Saarstahl's previously bestowed subsidies. In addition, petitioners argue that the Department should treat all of the purchase price as a grant to Saarstahl because none of the parties to the privatization made its purchase on terms consistent with those of a private investor.

In its March 22, 1999, submission, respondent rebuts petitioners' contention that the buyers of Saarstahl in 1997 were not private actors. Respondent argues that Saarstahl Treuhand is a private trust established under German law for the benefit of bankruptcy creditors and that it is not, in any way, controlled by the government. Regarding Dillinger, respondent states that approximately 5 percent is held by individual investors

and the remaining 95 percent is held by DHS. They then explain that the majority of DHS is owned by the private companies Usinor-Sacilor S.A. and ARBED S.A. Regarding Kreditanstalt, respondent argues that the administrative record of this proceeding clearly indicates that the development bank's decision to invest in Saarstahl was made on terms consistent with commercial considerations and, on this basis, its payment should be included as part of the purchase price. Thus, respondent argues that since all three parties made their decision to invest in Saarstahl independent of the GOG and the GOS, the Department should determine that 100 percent of the purchase price constitutes repayment of Saarstahl's previously bestowed subsidies.

In this administrative review, we are analyzing the privatization of Saarstahl in 1989, its subsequent spin-off in 1994, and the company's partial privatization in 1997. For purposes of this preliminary determination, we have applied the Department's change in ownership methodology for the 1989 privatization and the 1994 spin-off. However, we have not applied the change in ownership methodology for the 1997 reorganization. In light of petitioner's arguments that the new shareholders should not be considered private entities and that the purchase price constituted a countervailable grant, we are considering whether to treat contributions by the new shareholder as grants or as repayment of prior subsidies. We will gather further information regarding the 1997 change in ownership, and we will consider the comments submitted on the record by interested parties. We note that all information submitted on the record pertaining to this issue will be subject to verification and further analysis.

(II) Change in Ownership Calculation Methodology

Under the *Change in Ownership* methodology described in the GIA concerning the treatment of subsidies received prior to the sale of a company or the spinning-off of a productive unit, we estimate the portion of the purchase price attributable to prior subsidies. We compute this by first dividing the privatized company's subsidies by the company's net worth for each year during the period beginning with the earliest point at which nonrecurring subsidies would be attributable to the POR (in this case 1983) and ending one year prior to the change in ownership.

As in *German Wire Rod*, we have modified this methodology with respect to Saarstahl. *See* 62 FR 54991. Specifically, we calculated the ratios in question by including in the calculation the assistance that Saarstahl received prior to privatization in the year the assistance was received. We did so even though we do not consider this prior assistance, at the it was received, to be nonrecurring in nature, and, thus, allocable over time.

We then take the simple average of the ratios of subsidies to net worth. This simple average of the ratios serves as a reasonable surrogate for the portion subsidies constitute of the overall value of the company. Next, we multiply the average ratio by the purchase price to derive the portion of the purchase price attributable to repayment of prior subsidies. Finally, we reduce the benefit streams of the prior subsidies by the ratio of the repayment amount to the net present value of all remaining benefits at the time of privatization.

With respect to spin-offs, consistent with the Department's position regarding privatization, we analyze the spin-off of productive units to assess what portion of the sale price of the productive unit can be attributable to the repayment of prior subsidies. To perform this calculation, we first determine the amount of the seller's subsidies that the spun-off productive unit could potentially take with it. To calculate this amount, we divide the value of the assets of the spun-off unit by the value of the assets of the company selling the unit. We then apply this ratio to the net present value of the seller's remaining subsidies. We next estimate the portion of the purchase price going towards repayment of prior subsidies in accordance with the privatization methodology outlined above.

Analysis of Programs

I. Programs Conferring Subsidies

A. Government Forgiveness of Saarstahl Debt in 1989

During the period 1978 to 1989, Saarstahl and its predecessor companies received large amounts of assistance from the GOS and the GOG in the form of RZVs. Repayment of these RZVs became contingent upon Saarstahl returning to profitability and earning a profit above and beyond the losses accumulated after 1978.

In 1989, the GOS reached an agreement with Usinor-Sacilor to combine Saarstahl with Dillinger under a holding company, DHS. Pursuant to the combination agreement and as a condition for sale, in 1989 the GOG and GOS entered into a debt forgiveness contract (Entschuldungsvertrag, or EV) which effectively forgave all the outstanding repayment obligations owed by Saarstahl to the two Governments (*i.e.*, a total of DM 3.945 billion in debt was forgiven). The EV specified, however, that if Saarstahl went bankrupt, the GOG and GOS claims could be revived, but their claims would be subordinated to those of all other creditors.

After several years of unprofitable operation, Saarstahl filed for bankruptcy in 1993 under the German Bankruptcy Regulations (Konkursordnung). In 1994, the GOS bought Saarstahl back from Usinor-Sacilor for DM 1. At the time of its bankruptcy, Saarstahl's liabilities exceeded its assets by a factor of four, not including its liabilities to the GOG and GOS. Both Governments filed claims against the Saarstahl bankruptcy estate based on the RZV debt that was conditionally forgiven in 1989. These EV-related claims were rejected by the bankruptcy trustee as invalid in 1995 on the grounds that the degree of their subordination resulted in the fact that the GOG and GOS would never be repaid. The GOG and GOS chose not to appeal the rejection of their bankruptcy claims, on the grounds that the subordination of their claims made the likelihood of recovery very small, and not worth the high cost of litigating the matter.

In *Lead and Bismuth*, 58 FR at 6234, we found that Saarstahl's RZVs and similar related debt were forgiven by the 1989 EV, thus conferring a countervailable benefit on Saarstahl as of 1989. This was also the Department's finding in *Certain Steel* and *German Wire Rod*. No new information or evidence of changed circumstances was presented in this review to warrant any reconsideration of these findings.

To calculate the countervailable benefit in the POR, we used our standard declining balance grant methodology. We then divided the benefit attributable to the POR, adjusted to reflect the changes in ownership described above, by the total sales of Saarstahl during the same period. On this basis, we preliminarily determine the net subsidy for this program to be 11.61 percent *ad valorem* for Saarstahl.

B. *Debt Forgiveness by Private Banks in 1989*

Toward the end of 1985, the GOS presented a long-term restructuring plan for Saarstahl to Saarstahl's creditors and requested that they forgive loans in the amount of DM 350 million. In 1986, the private banks agreed to forgive DM 217.33 million of debt owed to them by Saarstahl (DM 216.82 of which was forgiven in 1989), if the GOG and GOS fulfilled certain prerequisites. Two of

the prerequisites were that the Governments forgive all debt owed to them by Saarstahl and that the GOS secure the future liquidity of Saarstahl. In 1986, the GOS agreed to forgive all debts owed to it by Saarstahl and to secure the liquidity of Saarstahl as it had in the past.

In the investigation of this case, we determined that the 1989 forgiveness of principal by private banks in the amount of DM 216.82 constituted a countervailable subsidy. *See Lead and Bismuth,* 58 FR 6233–34; *See also, German Wire Rod,* 62 FR at 54991. No new information or evidence of changed circumstances was presented in this review to warrant any reconsideration of that finding.

To calculate the countervailable subsidy, we followed the methodology described in the ''Government Forgiveness of Saarstahl's Debt in 1989'' section of the notice, above. We then divided the benefit attributable to the POR, adjusted to reflect the changes in ownership described above, by the total sales of Saarstahl during the same period. On this basis, we preliminarily determine the net subsidy for this program to be 0.64 percent *ad valorem* for Saarstahl.

C. *Worker Assistance Program (ECSC Redeployment Aid Under Article 56(2)(b)*

Under Article 56(2)(b) of the European Coal and Steel Community (ECSC) Treaty, persons employed in the iron, steel, and coal industries who lose their jobs may receive assistance for social adjustment. This assistance is provided to workers affected by restructuring measures, particularly workers withdrawing from the labor market into early retirement and workers forced into unemployment. The ECSC disburses assistance under this program on the condition that the affected country makes an equivalent contribution. During the POR, payments were made to Saarstahl, on behalf of its workers, under Article 56(2)(b).

In *Lead and Bismuth,* 58 FR at 6235, the Department determined that the portion of ECSC payments (*i.e.* 50 percent) made under this program during the POI, 1991, was not countervailable because the funds for this program came from the ECSC's operational budget, which is funded by levies on the companies. In *Lead and Bismuth,* the Department also previously found that the portion funded by the GOG was countervailable to the extent that the GOG's payments relieved Saarstahl of an obligation to its laid-off workers that the company would otherwise have incurred. *See Lead and Bismuth,* 58 FR at 6235.

In *German Wire Rod,* the Department determined this program to be countervailable but distinguished between GOG worker assistance payments relating to the social plan established in conjunction with Saarstahl's bankruptcy in 1993, and GOG worker assistance payments made pursuant to the company's pre-bankruptcy social plans. *See* 62 FR at 54993. In that investigation, the Department reasoned that Saarstahl's bankruptcy social plan provides the maximum allowable benefits to workers under German bankruptcy law and that, therefore, the knowledge of ECSC 56(2)(b) benefits did not affect the company's social plan obligations. Thus, the Department determined that GOG payments relating to Saarstahl's bankruptcy social plan are not countervailable. *Id.*

In this administrative review, we have followed the approach taken in *German Wire Rod* and, therefore, preliminarily determine that only the worker assistance payments received pursuant to Saarstahl's pre-bankruptcy social plans are countervailable. Because a company can expect to receive the benefits on an ongoing basis, we have limited our analysis to funds received during the POR, 1997. In situations where the company and its workers are aware at the time of their negotiations that the government will be making contributions to the workers' benefits, the Department's practice is to treat half of the amount paid by the government as benefitting the company. *See, GIA,* 58 FR at 37225. In the *GIA,* the Department stated that when the government's willingness to provide assistance is known at the time the contract is being negotiated, this assistance is likely to have an effect on the outcome of the negotiations. In these situations, the Department will assume that the differences between what the workers would have demanded and what the company would have preferred to have paid would have been split between the parties, with the result that one-half of the government payment goes to relieving the company of an obligation that would otherwise exist. *See, GIA,* 58 FR at 37256. This methodology was upheld in *LTV Steel Co.* v. *United States,* 985 F. Supp. 95, 116 (CIT 1997).

Consistent with Department's practice described above, the benefit to Saarstahl is one-half the amount paid to the workers by the GOG under the pre-bankruptcy social plan. To calculate the benefit under this program, we divided this amount by Saarstahl's total sales during the POR. On this basis, we preliminarily determine the net subsidy to Saarstahl under this program to be 0.06 percent *ad valorem*.

II. Program Preliminarily Determined to be Not Countervailable

A. *ECSC Research and Development Assistance Under Article 55*

Under Article 55 of the ECSC Treaty, assistance is available to promote technical and economic research relating to the production and increased use of coal and steel, and to occupational safety in the coal and steel industries. Since the end of 1986, this program has been funded solely through levies on steel producing companies.

During the POR, Saarstahl received research and development assistance related to calcium treated and aluminum deoxidized steels with high sulfur content under the ECSC Article 55 program.

In *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Belgium,* 58 FR 37273, 37285, (July 9, 1993), the Department found this program to be not countervailable because funding under this program was provided by levies on participating steel companies and because the program stipulates that the results of research conducted under Article 55 must be made publicly available.

No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination. Therefore, for purposes of this preliminary determination, we find this program not countervailable.

III. Other Program Examined

BRITE/EuRAM Research and Development Project (BRITE/EuRAM Project)

Under the BRITE/EuRAM Project, participants receive research and development assistance in the form of grants from the European Community (EC). In order to receive the assistance, participants must make a formal proposal to the EC for the funding of a specific research and development project. Applicants whose proposals have been accepted then enter into a contract with the EC in which such items as the scope of the project, project goals, applicant reporting requirements and EC payments are established.

During the POR, Saarstahl received grants from the EC under the BRITE/EuRAM Project for the development of a project entitled, ''World Class Performance for Wire Drawing through Improved Quality of the Manufacturing Process (WIREMAN).'' According to the

EC and Saarstahl, the objective of the WIREMAN project was to minimize waste and resource usage in the drawing process with the main focus of the project on the processing of steelcord for use in the manufacture of tires.

Because the research and development assistance related to this program is tied to merchandise other than subject merchandise, we preliminarily determine that this assistance did not benefit Saarstahl's production of subject merchandise during the POR. (For further discussion, *see* the Memorandum to the File, ''BRITE/EuRAM Project,'' dated March 31, 1999, on file in the Central Records Unit (CRU)). We note that we intend to verify the EC's and Saarstahl's statements as they relate to the tying of benefits under this program to merchandise other than subject merchandise.

IV. Programs About Which More Information Is Needed

Subsidies Leading Up to the 1997 Reorganization

In this administrative review, petitioners argue that information contained in Saarstahl's financial statements indicates that Saarstahl claimed large write-offs of loans and other liabilities both in 1996 and in 1997. They argue that the Department should analyze these write-offs within an overall context of Saarstahl's operation as a government-owned but bankrupt company and its reorganization out of bankruptcy in 1997.

In its original July 20, 1998, questionnaire response, Saarstahl explained that it was unable to submit the 1997 financial data requested by the Department because it had not yet completed its financial statements for 1997. Saarstahl submitted its financial statements for 1997 on the record on January 15, 1999. In a submission dated February 9, 1999, petitioners raised the issue of potentially large amounts of debt forgiveness and grants leading up to the 1997 reorganization. On February 26, 1999, Saarstahl submitted a questionnaire response containing further information regarding its large amounts of extraordinary income and writeoffs. On March 11, 1999, upon reviewing this new information, petitioners suggested that the Department should consider whether, as in the years leading up to the 1989 reorganization, massive debt forgiveness and additional government contributions allowed Saarstahl to remain an ongoing concern and emerge from its bankruptcy. Additionally, petitioners suggest that Saarstahl may have been forgiven value-added taxes that it owed. Saarstahl addressed petitioners claims in a submission dated March 22, 1999. In general, Saarstahl argues that its bankruptcy proceeding was handled in full accordance with German law and that the forgiveness of debts as a result of bankruptcy is not countervailable, in accordance with the Department's practice.

The issues raised by petitioners regarding Saarstahl's operation as a government-owned bankrupt company and the nature of its extraordinary income and write-offs leading up to its reorganization in 1997 merit further examination in this administrative review. Due to the delayed submission of Saarstahl's financial data for 1997, these issues were raised with very little time for the Department to collect all of the information needed to examine them fully. While the Department preliminarily concludes that the information on the record is insufficient to demonstrate the existence of a countervailable program, the Department will consider the issues further and gather additional information, which will be subject to verification. Among other things, we will examine: (1) the terms of Saarstahl's bankruptcy, (2) its operation as a going concern during bankruptcy, (3) the relationship between Saarstahl and its creditors, (4) the nature of its liabilities, (5) the terms of the 1997 reorganization, (6) the establishment of the purchase price, (7) the nature of Saarstahl debt writeoffs, and (8) the relationship between the new shareholders and the governments of Saarstahl and Germany. We will consider whether Saarstahl's writeoffs of liabilities leading up to the 1997 reorganization constitute countervailable subsidies, whether it received countervailable subsidies in the form of tax forgiveness, and whether the sale of Saarstahl provided the company with countervailable grants. After we collect additional information and conduct verification, we will prepare an analysis memorandum addressing all of the pertinent issues surrounding Saarstahl's reorganization in 1997. Prior to issuing our final determination, we intend to provide all parties the opportunity to comment on our analysis.

Verification

As provided in section 782(i) of the Act, we intend to verify the information submitted by the Governments of Germany and Saarland and Saarstahl. In addition, we will schedule our verification so that all parties to the proceeding will have ample time to comment on our findings prior to the publication of our final results of this administrative review.

Preliminary Results of Review

In accordance with 19 CFR 355.221(b)(4)(i), we have calculated an individual subsidy rate for Saarstahl, the producer/exporter subject to this administrative review. For the period January 1, 1997 through December 31, 1997, we preliminarily determine the net subsidy for Saarstahl to be 12.31 percent *ad valorem*. If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess countervailing duties for Saarstahl at 12.31 percent *ad valorem*. The Department also intends to instruct the U.S. Customs Service (Customs) to collect a cash deposit of 12.31 percent of the f.o.b. invoice price on all shipments of the subject merchandise from Saarstahl, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 355.22(b). Pursuant to 19 CFR 355.22(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent

company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. *See Lead Bar.* These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1997 through December 31, 1997, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written 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 argument in this proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, 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 to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, thirty-seven days after the date of publication of these preliminary results.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: March 31, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–8621 Filed 4–6–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–412–811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products (''lead bar'') from the United Kingdom for the period January 1, 1997 through December 31, 1997. For information on the net subsidy for each reviewed company, as well as for all non-reviewed companies, please see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review* section of this notice. Interested parties are invited to comment on these preliminary results. (*See Public Comment* section of this notice.)

EFFECTIVE DATE: April 7, 1999.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Christopher Cassel, Group II, Office 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.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1993, the Department published in the **Federal Register** (58 FR 15327) the countervailing duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom. On March 11, 1998, the Department published a notice of ''Opportunity to Request Administrative Review'' (63 FR 11868) of this countervailing duty order. We received a timely request for review, and we initiated the review, covering the period January 1, 1997 through December 31, 1997, on April 24, 1998, (63 FR 20378).

In accordance with 19 CFR 351.213(b) this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers British Steel plc./British Steel Engineering Steels Ltd. (formerly United Engineering Steels Limited). This review also covers nine programs.

On December 7, 1998, we extended the period for completion of the preliminary results pursuant to section 751(a)(3) of the Tariff Act of 1930, as amended. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Postponement of Preliminary Results of Countervailing Duty Administrative Review* (63 FR 67459). The deadline for the final results of this review is no later than 120 days from the date on which these preliminary results are published in the **Federal Register**.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''URAA'') effective January 1, 1995 (''the Act''). The Department is conducting this administrative review in accordance with section 751(a) of the Act. All citations to the Department's regulations reference 19 C.F.R. Part 351, (1998) unless otherwise indicated.

Scope of the Review

Imports covered by this review are hot-rolled bars and rods of non-alloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellarium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United