DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–829]

Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil

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

EFFECTIVE DATE: July 19, 1999.

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Final Determination

The Department of Commerce (the Department) determines that countervailable subsidies are being provided to Companhia Siderugica Nacional (CSN), Usinas Siderugicas de Minas Gerais (USIMINAS) and Companhia Siderurgica Paulista (COSIPA) producers and exporters of certain hot-rolled flat-rolled carbon-quality steel products from Brazil. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, U.S. Steel Group, a unit of USX Corporation, Ispat Inland Steel, LTV Steel Company, Inc., National Steel Corporation, California Steel Industries, Gallatin Steel Company, Geneva Steel, Gulf States Steel Inc., IPSCO Steel Inc., Steel Dynamics, Weirton Steel Corporation, Independent Steelworkers Union, and United Steelworkers of America (the petitioners).

Case History

Since the publication of our preliminary determination in this investigation, the following events have occurred. *See Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil*, 64 FR 8313 (February 19, 1999) (*Preliminary Determination*).

Because the final determination of this countervailing duty investigation was aligned with the final antidumping duty determination (*see* 64 FR 8313), and the final antidumping duty determination was postponed, the Department extended the final determination of the countervailing duty investigation until no later than July 6, 1999. *See Postponement of Final Determination of Antidumping and Countervailing Duty Investigations of Hot-Rolled Flat-Rolled Carbon-Quality Steel from Brazil*, 64 FR 9474 (February 26, 1999) and *Postponement of Final Determination of Antidumping and Countervailing Duty Investigations of Hot-Rolled Flat-Rolled Carbon-Quality Steel from Brazil*, 64 FR 24321 (May 6, 1999).

We conducted verification of the countervailing duty questionnaire responses from April 5 through April 16, 1999. Petitioners, the Government of Brazil (GOB) and respondent companies filed case briefs on May 10, 1999, and rebuttal briefs on May 17, 1999.

On June 21, 1999, we terminated the suspension of liquidation of all entries of the subject merchandise entered or withdrawn from warehouse for consumption on or after that date, pursuant to section 703(d) of the Act. *See* the ''Suspension of Liquidation'' section of this notice.

On June 7, 1999, the GOB and the U.S. Government initialed a proposed suspension agreement. On July 6, 1999, the U.S. Government and the GOB signed a suspension agreement (*see Notice of Suspension of Countervailing Duty Investigation: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil*) which is being published concurrently with this notice in the **Federal Register**. On July 6, 1999, the petitioners also requested that the Department and the International Trade Commission (ITC) continue this investigation in accordance with section 704(g) of the Act. As such, this final determination is being issued pursuant to section 704(g) of the Act.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR part 351 (1998).

Scope of Investigation

For purposes of this investigation, the products covered are certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of these investigations.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (''IF'')) steels, high strength low alloy (''HSLA'') steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this investigation, regardless of HTSUS definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
1.50 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.012 percent of boron, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.41 percent of titanium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical

elements exceeds those listed above (including e.g., ASTM specifications A543, A387, A514, A517, and A506).

- SAE/AISI grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10–0.14%	0.90% Max	0.025% Max	0.005% Max	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max.

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches;
Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Mo
0.10–0.16% ..	0.70–0.90% ..	0.025% Max	0.006% Max	0.30–0.50% ..	0.50–0.70% ..	0.25% Max ...	0.20% Max ...	0.21% Max.

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum;
Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	V (wt.)	Cb
0.10–0.14%	1.30–1.80%	0.025% Max.	0.005% Max.	0.30–0.50%	0.50–0.70%	0.20–0.40%	0.20% Max	0.10 Max ...	0.08% Max.

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum;
Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

- Hot-rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni	Nb	Ca	Al
0.15% Max	1.40% Max.	0.025% Max.	0.010% Max.	0.50% Max.	1.00% Max.	0.50% Max.	0.20% Max.	0.005% Min.	Treated	0.01–0.07%

Width = 39.37 inches; Thickness = 0.181 inches maximum;
Yield Strength = 70,000 psi minimum for thicknesses ≤ 0.148 inches and 65,000 psi minimum for thicknesses > 0.148 inches;
Tensile Strength = 80,000 psi minimum.

- Hot-rolled dual phase steel, phase-hardened, primarily with a ferritic-martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm^2 and 640 N/mm^2 and an elongation percentage ≥ 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm^2 and 690 N/mm^2 and an elongation percentage ≥ 25 percent for thicknesses of 2mm and above.
- Hot-rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.
- Grade ASTM A570–50 hot-rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (.119 inch nominal), mill edge and skin passed, with a minimum copper content of 0.20%.

The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot-rolled flat-rolled carbon-quality steel covered by this investigation, including: Vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Injury Test

Because Brazil is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a U.S. industry.

Period of Investigation

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

Company History

USIMINAS was founded in 1956 as a venture between the Brazilian Government, various stockholders and Nippon Usiminas. In 1974, the majority interest in USIMINAS was transferred to SIDERBRAS, the government holding company for steel interests. The company underwent several expansions of capacity throughout the 1980s. In 1990, SIDERBRAS was put into liquidation and the GOB decided to include its operating companies, including USIMINAS, in its National Privatization Program (NPP). In 1991, USIMINAS was partially privatized; as a result of the initial auction, Companhia do Vale do Rio Doce (CVRD), a majority government-owned iron ore producer, acquired 15 percent of USIMINAS's common shares. In 1994, the Government disposed of additional holdings, amounting to 16.2 percent of the company's equity. USIMINAS is now owned by CVRD and a consortium of private investors, including Nippon Usiminas, Caixa de Previdencia dos Funcionarios do Banco do Brasil (Previ) and the USIMINAS Employee Investment Club. CVRD was partially privatized in 1997, when 31 percent of the company's shares were sold.

COSIPA was established in 1953 as a government-owned steel production company. In 1974, COSIPA was transferred to SIDERBRAS. Like USIMINAS, COSIPA was included in the NPP after SIDERBRAS was put into liquidation. In 1993, COSIPA was partially privatized, with the GOB retaining a minority of the preferred shares. Control of the company was acquired by a consortium of investors led by USIMINAS. In 1994, additional government-held shares were sold, but the GOB still maintained approximately 25 percent of COSIPA's preferred shares. During the POI, USIMINAS owned 49.8 percent of the voting capital stock of the company. Other principal owners include Bozano Simonsen Asset Management Ltd., the COSIPA Employee Investment Club and COSIPA's Pension Fund (FEMCO).

CSN was established in 1941 and commenced operations in 1946 as a government-owned steel company. In 1974, CSN was transferred to SIDERBRAS; only a very small amount of shares, a fraction of a percent, were held by private investors. In 1990, when SIDERBRAS was put into liquidation, the GOB included CSN, in its NPP. In 1991, 12 percent of the equity of the company was transferred to the CSN employee's pension fund. In 1993, CSN was partially privatized; CVRD, through its subsidiary Vale do Rio Doce Navegacao S.A. (Docenave), acquired 9.4 percent of the common shares. The GOB's remaining share of the firm was sold in 1994. CSN is now owned by Docenave/CVRD and a consortium of private investors, including Uniao Comercio e Partipacoes Ltda., Textilia S.A., Previ, the CSN Employee Investment Club, and the CSN employee pension fund. As discussed above, CVRD was partially privatized in 1997; CSN was part of the consortium that acquired control of CVRD through this partial privatization.

Affiliated Parties

In the present investigation, there are affiliated parties (within the meaning of section 771(33) of the Act) whose relationship is sufficient to warrant treatment as a single company. In the countervailing duty questionnaire, consistent with our past practice, the Department defined companies as sufficiently affiliated to warrant potential treatment as a single company where one company owns 20 percent or more of the other company, or where companies prepare consolidated financial statements. The Department also has stated that companies may be considered sufficiently affiliated where there are common directors or one company performs services for the other company. *See Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') From Italy,* 61 FR 30287 (June 14, 1996) (*Pasta*). Companies that are sufficiently affiliated to warrant potential treatment as a single company and either (1) produce the subject merchandise or (2) have engaged in certain financial transactions, are required by the Department to respond to the questionnaire. This standard is designed to identify instances where two companies interests have merged and either both produce subject merchandise or there is ''evidence of the transmittal of subsidies between the companies.'' *See Pasta,* 61 FR at 30308.

USIMINAS owns 49.79 percent of COSIPA. As such, the companies are affiliated within the meaning of section 771(33)(E) of the Act. Moreover, given the level of ownership and the fact that both companies produce the subject merchandise, we determine that it is appropriate to treat these two producers as a single company for purposes of this investigation. Accordingly, we calculated a single countervailing duty rate for these companies by dividing their combined subsidy benefits by their combined sales.

We also examined the relationship between USIMINAS and CSN in order to determine whether these two companies were affiliated and, if so, whether the level of affiliation between the two companies was sufficient to warrant treatment as a single company. As discussed in the *Preliminary Determination,* two entities, CVRD and Previ (the pension fund of the Bank of Brasil) have meaningful holdings in both USIMINAS and CSN. As these entities both have ownership interests in and elect members to the Boards of Directors of both companies, we examined whether CSN and USIMINAS could have merged interests through these investors.

CVRD holds 15.48 percent of USIMINAS and 10.3 percent of CSN (through Docenave) and holds two of the eight seats on each company's board of directors. Previ holds 15 percent of the common shares of USIMINAS and one seat on its board of directors and 13 percent of CSN and two seats on its board of directors. At verification, we learned more about the operations of the companies. Both companies are controlled through shareholders agreements, in which, the participating shareholders, who account for more than 50 percent of the shares of the company, pre-vote issues before the Board of Directors and vote as a block, in order to control the company. CVRD and Previ both participate in the CSN shareholders agreement, and therefore, exercise considerable control over the operations of the company. However, while both CVRD and Previ elect representatives to USIMINAS's Board of Directors, neither entity participates in the USIMINAS shareholders agreement, and therefore, neither is in a position to exercise control over the company's operations. *See* CSN and USIMINAS Verification Reports, dated April 29, 1999, and April 28, 1999, respectively, public versions on file in the CRU.

Thus, neither CVRD nor Previ exerts meaningful control over USIMINAS. There is no common control of USIMINAS and CSN which could lead to the interests of the companies being merged. Therefore, we do not consider that the record evidence supports a finding that USIMINAS and CSN are affiliated, and as a result, the record evidence is also not sufficient to warrant treating the two companies as a single entity. *See* Department's Position on Comment #8, below.

Changes in Ownership

In the *General Issues Appendix* (*GIA*), attached to the *Final Affirmative Countervailing Duty Determination; Certain Steel Products from Austria,* 58 FR 37217, 37226 (July 9, 1993), we applied a new methodology with respect to the treatment of subsidies received prior to the sale of the company (privatization).

Under this methodology, we estimate the portion of the company's purchase price which is attributable to prior subsidies. We compute this by first dividing the face value of the company's subsidies by the company's net worth for each of the years corresponding to the company's allocation period, ending one year prior to the privatization. We then take the simple average of these ratios, which serves as a reasonable surrogate for the percentage that subsidies constitute of the overall value, i.e., net worth, of the company. Next, we multiply the purchase price of the company by this average ratio to derive the portion of the purchase price that we estimate to reflect prior subsidies. Then, we reduce the benefit streams of the prior subsidies by the ratio of the repayment/reallocation amount to the net present value of all remaining benefits at the time of the change in ownership.

In the current investigation, we are analyzing the privatizations of USIMINAS, COSIPA and CSN, including the various partial privatizations. In conducting these analyses, to the extent that partially government-owned companies purchased shares, we have not applied our methodology to a percentage of the acquired shares equal to the percentage of government ownership in the partially government-owned purchaser. Further, we have determined that it is appropriate to make an additional adjustment to USIMINAS and CSN's calculations to account for CVRD's 1997 partial privatization. *See* Calculation Memo, dated July 6, 1999, public version on file in the CRU. In addition, we have adjusted certain figures included in the privatization calculations to account for inflationary accounting practices. *See* Department's Position on Comment #3, below.

In the *Preliminary Determination,* we noted that the use of privatization currencies, *i.e.*, certain existing government bonds, privatization certificates and frozen currencies, warranted additional examination in the context of our privatization methodology. Since the *Preliminary Determination,* we have obtained additional information about the use and valuation of the privatization currencies that were used in the NPP. At verification, we asked the GOB to explain how privatization currencies were valued in the context of the privatization auctions. Officials explained that the GOB accepted most of these currencies at their full redeemable value (face value discounted according to the time remaining until maturity); foreign debt and restructuring bonds (MYDFAs) were accepted at 75 percent of their redeemable value. Officials acknowledged that many of the government bonds that were accepted as privatization currencies traded at a discount on secondary markets, but the GOB officials were unable to provide any data or estimation of what discounts applied. *See* Verification Report of the Government of Brazil, dated April 28, 1999, public version on file in the Central Records Unit (CRU), Room B–099 of the Main Commerce Building (GOB Verification Report). In addition, the respondent companies were unable to provide any data on secondary market trading of currencies. *See* COSIPA, CSN and USIMINAS Verification Reports, dated April 29, 1999, April 29, 1999, and April 28, 1999, respectively, public versions on file in the CRU.

During verification we also met with an independent banker who provided information about how the bonds that were accepted as privatization currencies were valued in contemporary secondary markets. The banker said that it was common knowledge that these bonds traded at a fairly steep discount in these markets, and that investors actively traded to obtain the cheapest bonds in order to maximize their positions in the privatization auctions. The banker indicated that the value of the bonds varied depending on the instrument's yield and length to maturity and traded within a range of 40 percent to 90 percent of the redeemable value, *i.e.*, with a discount ranging from 10 percent to 60 percent. Because various issues of bonds were accepted as privatization currencies, with different yields and terms, precise valuation data was not available. However, the banker indicated that during the period 1991–1994 most bonds traded with discounts ranging from 40 to 60 percent. He also stated that Privatization Certificates (CPs), which banks were forced to purchase and could only be used in the privatization auctions, traded at a discount of approximately 60 percent, reflecting their low yield. See Independent Banker Report, a public document on file in the CRU. Prior to the *Preliminary Determination,* petitioners submitted information to the record indicating that the privatization currencies traded at a discount. For example, according to a press report submitted by petitioners, the market price for MYDFAs was about 30 percent of the face value, rather than the 75 percent accepted by the GOB. Thus, information submitted by petitioners and gathered by the Department prior to the preliminary determination from public sources corroborates the information provided by this banker. *See* Petitioners' October 22, 1998, submission, a public document on file in the CRU and attachments to Calculation Memo, dated February 12, 1999, public version on file in the CRU.

Record evidence supports the conclusion that some adjustment to the purchase price of the companies is warranted because of the use of privatization currencies in the auctions. In the *Preliminary Determination,* we discounted the MYDFAs based on the 30 percent value reported in the press article and then applied a ratio reflecting the percentage difference between the value assigned to the MYDFAs and accepted by the GOB and the actual market value of the MYDFAs to the other privatization currencies. Based on the information we gathered at verification, we have modified this approach in this final determination. We have continued to apply the discount reported in the press article to the MYDFAs. In addition, we have applied a 60 percent discount to the CPs, reflecting the information provided by the banker. For the remaining currencies, in accordance with section 776(a)(1) of the Act, we applied a 50 percent discount as facts available, reflecting the average of the range of discounts estimated by the banker. *See* Department's Position on Comment #3, below.

Subsidies Valuation Information

Discount Rates: In the years relevant to this investigation through 1994, Brazil has experienced persistent high inflation. There were no long-term fixed-rate commercial loans made in domestic currencies during those years that could be used as discount rates. As in the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Brazil,* 68 FR 37295, (July 9, 1993) (*Certain Steel from Brazil*), we have determined that the most reasonable way to account for the high inflation in the Brazilian economy through 1994, and the lack of an appropriate Brazilian discount rate, is to convert the non-recurring subsidies into U.S. dollars. If available, we applied the

exchange rate applicable on the day the subsidies were granted, or, if unavailable, the average exchange rate in the month the subsidies were granted. Then we applied, as the discount rate, a long-term dollar lending rate. Therefore, for our discount rate, we used data for U.S. dollar lending in Brazil for long-term non-guaranteed loans from private lenders, as published in the World Bank Debt Tables: External Finance for Developing Countries. This conforms with our practice in *Certain Steel from Brazil* (58 FR at 37298) and *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela* 62 FR 55014, 55019, 55023 (October 21, 1997) (*Steel Wire Rod from Venezuela*). Because we have determined CSN, COSIPA and USIMINAS to be uncreditworthy, as described below, we added to the discount rates a risk premium equal to 12 percent of the U.S. prime rate for each of the years the companies were determined to be uncreditworthy.

Allocation Period: In the past, the Department has relied upon information from the U.S. Internal Revenue Service on the industry-specific average useful life of assets (AUL) in determining the allocation period for non-recurring subsidies. *See GIA,* 58 FR at 37227. However, in *British Steel plc* v. *United States,* 879 F. Supp. 1254 (CIT 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) ruled against this allocation methodology. In accordance with the Court's remand order, the Department calculated a company-specific allocation period for non-recurring subsidies based on the AUL of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *See British Steel plc* v. *United States,* 929 F. Supp. 426, 439 (CIT 1996) (*British Steel II*). In accordance with our new practice following *British Steel II,* we intend to determine the allocation period for non-recurring subsidies using company-specific AUL data where reasonable and practicable. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Countervailing Duty Administrative Review,* 62 FR 16551, 16552 (April 7, 1997). When such data are not available (or are otherwise unusable), our practice is to rely upon the IRS depreciation tables.

In this investigation the Department, in accordance with *British Steel II,* requested that the respondents submit information relating to their average useful life of assets. However, as discussed in the *Preliminary Determination,* our analysis of the data submitted by COSIPA, CSN, and USIMINAS regarding the AUL of their assets revealed several problems related to the companies' changes in ownership which resulted in changes in investment patterns, asset revaluations, and in some cases, changed amortization periods. *See Preliminary Determination,* 64 FR at 8317. Our review of the record, findings at verification, and analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Determination.* Accordingly, we determine that the most appropriate allocation period is 15 years, as set out in the U.S. Internal Revenue Service (IRS) depreciation tables.

Equityworthiness

In analyzing whether a company is equityworthy, the Department considers whether that company could have attracted investment capital from a reasonable private investor in the year of the government equity infusion based on the information available at that time. In this regard, the Department has consistently stated that a key factor for a company in attracting investment capital is its ability to generate a reasonable return on investment within a reasonable period of time. In making an equityworthiness determination, the Department may examine the following factors, among others:

1. Current and past indicators of a firm's financial condition calculated from that firm's financial statements and accounts,
2. Future financial prospects of the firm including market studies, economic forecasts, and project or loan appraisals,
3. Rates of return on equity in the three years prior to the government equity infusion,
4. Equity investment in the firm by private investors, and
5. Prospects in the marketplace for the product under consideration.

For a more detailed discussion of the Department's equityworthiness criteria, see the *GIA,* 58 FR at 37244, and *Steel Wire Rod from Venezuela.*

The Department has examined the respondents' equityworthiness for each equity infusion covered by the initiation: For COSIPA, 1977 through 1989, and 1992 through 1993; USIMINAS, 1980 through 1988; and CSN, 1977 through 1992. We note that because the Department determined that it is appropriate to use a 15-year allocation period for non-recurring subsidies, equity infusions provided in the years 1977 through 1982 do not provide a benefit in the POI. In a prior investigation we found that COSIPA was unequityworthy in 1983–1989 and 1991, USIMINAS in 1983 through 1988, and CSN in 1983 through 1991. *See Certain Steel from Brazil,* 58 FR at 37296. No new information has been provided in this investigation that would cause us to reconsider these determinations.

As discussed in the *Preliminary Determination,* in considering whether COSIPA was equityworthy in 1992 and 1993, we examined information on the above-listed factors. *See,* 64 FR at 8318. Our review of the record, findings at verification, and analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Determination.* Accordingly, we find that COSIPA was unequityworthy in 1992 and 1993.

As discussed in the *Preliminary Determination,* in considering whether CSN was equityworthy in 1992, we examined information on the above-listed factors. *See,* 64 FR at 8318–19. Our review of the record, findings at verification, and analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Determination.* Accordingly, we find that CSN was unequityworthy in 1992.

Equity Methodology

In measuring the benefit from a government equity infusion to an unequityworthy company, the Department compares the price paid by the government for the equity to a market benchmark, if such a benchmark exists. A market benchmark can be obtained, for example, where the company's shares are publicly traded. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Spain,* 58 FR 37374, 37376 (July 9, 1993).

Where a market benchmark does not exist, the Department has determined in this investigation to continue to follow the methodology described in the *GIA. See* 58 FR at 37239. Following this methodology, equity infusions made to unequityworthy companies are treated as grants. Use of the grant methodology for equity infusions into an unequityworthy company is based on the premise that an unequityworthiness finding by the Department is tantamount to saying that the company could not have attracted investment capital from a reasonable investor in the infusion year. *See also* Department's Position on Comment #2, below.

Creditworthiness

When the Department examines whether a company is creditworthy, it is

attempting to determine if the company in question could obtain commercial financing at commonly available interest rates. To do so, the Department examines whether the company received long-term commercial loans in the year in question, and, if necessary, the overall financial health and future prospects of the company. If a company receives long-term financing from commercial sources without government guarantees, that company will normally be considered creditworthy. In the absence of commercial borrowings, the Department examines the following factors, among others, to determine whether or not a firm is creditworthy:

1. Current and past indicators of a firm's financial health calculated from the firm's financial statements and accounts,
2. The firm's recent past and present ability to meet its costs and fixed financial obligations with its cash flow, and
3. Future financial prospects of the firm including market studies, economic forecasts, and projects or loan appraisals.

For a more detailed discussion of the Department's creditworthiness criteria, *see, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from the United Kingdom*, 58 FR 37393 (July 9, 1993).

The Department has previously determined that respondents were uncreditworthy in the following years: USIMINAS, 1983–1988; COSIPA, 1983–1989 and 1991; and CSN 1983–1991. *See Certain Steel from Brazil*, 58 FR at 37297. No new information has been presented in this investigation that would lead us to reconsider these findings.

COSIPA received no long-term financing from commercial sources in the years in question. As discussed in the *Preliminary Determination*, to determine whether COSIPA was creditworthy in 1992 and 1993, in accordance with the Department's past practice, we analyzed financial ratios for each of the three years prior to the year under examination. *See*, 64 FR at 8319. Our review of the record, findings at verification, and analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Determination*. Thus, we find that COSIPA was uncreditworthy in 1992 and 1993.

As discussed in the *Preliminary Determination*, CSN received one small commercial loan in 1992. However, the terms and insignificant principal amount of this loan render it inconclusive in determining whether CSN was creditworthy in 1992. Therefore, to determine whether CSN was creditworthy in 1992, we also analyzed financial data for the prior three years. *See*, 64 FR 8319. Our review of the record, findings at verification, and analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the *Preliminary Determination*. Thus, we find that CSN was uncreditworthy in 1992.

I. Programs Determined To Be Countervailable

A. Pre-1992 Equity Infusions

The GOB, through SIDERBRAS, provided equity infusions to USIMINAS (1983 through 1988), COSIPA (1983 through 1989 and 1991) and CSN (1983 through 1991) that have previously been investigated by the Department. *See Certain Steel from Brazil*, 58 FR at 37298.

We determine that under section 771(5)(E)(i) of the Act, the equity infusions into USIMINAS, COSIPA and CSN were not consistent with the usual investment practices of private investors and confer a benefit in the amount of each infusion (*see* ''Equityworthiness'' section above). These equity infusions are specific within the meaning of section 771(5A)(D) of the Act because they were limited to each of the companies. Accordingly, we find that the pre-1992 equity infusions are countervailable subsidies within the meaning of section 771(5) of the Act.

As explained in the ''Equity Methodology'' section above, we have treated equity infusions into unequityworthy companies as grants given in the year the infusion was received because no market benchmark exists. We have further determined these infusions to be non-recurring subsidies because each required separate authorization from SIDERBRAS, the shareholder. Because USIMINAS, COSIPA and CSN were uncreditworthy in the year of receipt, we applied a discount rate that included a risk premium. Since USIMINAS, COSIPA and CSN have been privatized, we followed the methodology outlined in the ''Change in Ownership'' section above to determine the amount of each equity infusion attributable to the companies after privatization. For CSN, we summed the benefits allocable to the POI from all equity infusions and divided by CSN's total sales during the POI. For USIMINAS/COSIPA, we summed the benefits allocable to the POI from all of the equity infusions and divided this amount by the combined total sales of USIMINAS/COSIPA during the POI. On this basis, we determine the net subsidy to be 5.20 percent ad valorem for CSN and 5.55 percent ad valorem for USIMINAS/COSIPA.

B. GOB Debt-to-Equity Conversions Provided to COSIPA in 1992 and 1993

In 1990, the GOB decided to liquidate SIDERBRAS and to include the SIDERBRAS operating companies, including respondents, in its National Privatization Program. The NPP was a major initiative proposed by President Collor that was part of the GOB's larger strategy to liberalize the Brazilian economy. Under the NPP, approved in Law 8031 of April 12, 1990, a general framework was established to govern all privatizations. Two entities were charged with oversight of the process: the Privatization Committee and the Banco Nacionale de Desenvolvimento Economico e Social (BNDES), which acted as the general coordinator. The Privatization Committee, composed of government and private sector representatives, was responsible for approving the conditions of sale, guidelines and the minimum price for each privatization. BNDES commissioned three consultants to make recommendations with respect to each company undergoing privatization: two consultants to make an economic assessment of the company including its competitiveness and to recommend a minimum price and one consultant to act as an independent auditor.

One of the consultants who examined COSIPA's financial health and competitiveness recommended that financial adjustments be made to the company before privatization including debt-to-equity conversions and deferring certain tax liabilities (*see* ''Negotiated Deferrals of Tax Liabilities'' in the section ''Programs Determined to be Non-Countervailable'' below). In accordance with this consultant's recommendation, the GOB made two debt-to-equity conversions in 1992 and 1993 in preparation for COSIPA's privatization.

We determine that pursuant to section 771(5)(E)(i) of the Act, these debt-to-equity conversions were not consistent with the usual investment practices of private investors and confer a benefit in the amount of each conversion (*see* ''Equityworthiness'' section above). These debt-to-equity conversions are specific within the meaning of section 771(5A)(D) of the Act because they were limited to COSIPA. Accordingly, we find that the GOB debt-to-equity conversions provided to COSIPA in 1992 and 1993 are countervailable

subsidies within the meaning of section 771(5) of the Act.

As explained in the ''Equity Methodology'' section above, we have treated each debt-to-equity conversion as a grant given in the year the conversion was made. We have further determined that these conversions are non-recurring subsidies because they were specifically approved by the GOB. Because COSIPA was uncreditworthy in the years of receipt, we applied a discount rate that included a risk premium. Because COSIPA has been privatized, we followed the methodology outlined in the ''Change in Ownership'' section above to determine the amount of each debt-to-equity conversion attributable to the company after privatization. After accounting for the change in ownership, we divided the benefit allocable to the POI from these debt-to-equity conversions by the combined total sales of USIMINAS/COSIPA. On this basis, we determine the net subsidy to be 4.12 percent ad valorem for USIMINAS/COSIPA.

C. GOB Debt-to-Equity Conversion Provided to CSN in 1992

As discussed above, under the GOB's National Privatization program, companies were privatized under the supervision of BNDES and the Privatization Committee. In accordance with the established privatization procedures, BNDES commissioned three consultants with respect to the privatization of CSN: Two to analyze the firm's financial performance, make recommendations, and formulate the minimum price and one to act as an independent auditor. One of the consultants, after analysis of CSN's financial data, recommended that additional capital be provided to the firm in advance of its privatization. The GOB followed this recommendation and made a pre-privatization debt-to-equity conversion in 1992. We note that in the *Preliminary Determination,* we considered this program to be an ''equity infusion.'' At verification, we learned that the GOB converted debt into equity as opposed to providing new equity in the form of cash infusions. Thus, we have modified the description of this program accordingly.

We determine that, pursuant to section 771(5)(E)(i) of the Act, this debt-to-equity conversion was not consistent with the usual investment practices of private investors and confers a benefit in the amount of the conversion (*see* ''Equityworthiness'' section above). This conversion is specific within the meaning of section 771(5A)(D) of the Act because it was limited to CSN. Accordingly, we find that the GOB debt-to-equity conversion provided to CSN in 1992 is a countervailable subsidy within the meaning of section 771(5) of the Act.

As explained in the ''Equity Methodology'' section above, we have treated this debt-to-equity conversion as a grant given in the year the conversion was received. We have further determined that this infusion is a non-recurring subsidy because it required separate authorization from the GOB. Because CSN was uncreditworthy in the year of receipt, we applied a discount rate that included a risk premium. Because CSN was privatized, we followed the methodology outlined in the ''Change in Ownership'' section above to determine the amount of each equity infusion attributable to the company after privatization. After accounting for the change in ownership, we divided the benefit allocable to the POI from the debt conversion by CSN's total sales during the POI. On this basis, we determine the net subsidy to be 1.15 percent ad valorem for CSN.

II. Program Determined To Be Non-Countervailable

Negotiated Deferrals of Tax Liabilities

As discussed above, one of the privatization consultants recommended that COSIPA negotiate with the various tax authorities in order to arrange to pay its large tax arrears in deferred installments. COSIPA petitioned four different tax authorities in order to arrange for installment payments for ten different types of taxes owed. In addition, CSN petitioned to arrange for installment payments for one tax liability.

Each of the tax agencies, the Revenue Service, Social Security Authority, State of Sao Paulo, and City authority has established legal procedures for arranging installment payments for delinquent tax payers. The authorities established these rules in order to collect tax arrears without resorting to legal action. These procedures were contained in Law 8383/91, Law 8620/93 and Decree 612/92, Decree 33.118/91 and Law 1383/83, respectively, and specified penalties, interest rates, and in some cases, the maximum repayment term. For example, law 8383/91 that governs the Revenue Service's operations and applies to six of the ten types of taxes COSIPA deferred and the tax that CSN deferred, specifies that fines of 20 percent and interest of one per cent per month will be charged and that all amounts will be subject to monetary correction, i.e., adjustments for inflation. To the extent that terms, such as the maximum repayment period, were not covered in the agency's laws and regulations, they were negotiated by COSIPA or CSN and the relevant tax authority. Once the parties completed negotiations, the authority would endorse the petition and, in some cases, execute a separate agreement.

When determining whether a program is countervailable, we must ascertain whether it provides benefits to a specific enterprise, industry, or group thereof within the meaning of section 771(5A)(D) of the Act. By comparing the terms included in the agencies' laws and regulations and the terms provided to COSIPA and CSN, we were able to conclude that the respondent companies received the same terms as those specified in the laws and regulations. Therefore, as the GOB did not favor COSIPA or CSN over other companies, we turned to an examination of the general programs themselves in order to determine whether they are specific. We examined whether the programs are *de jure* specific and found that the laws do not limit eligibility to an enterprise, industry, or group thereof. We then analyzed whether the program meets the criteria for *de facto* specificity. The GOB indicated in its response that ''[d]eferred payment terms are generally available for all companies that have outstanding tax obligations to the underlying tax authority.'' *See* GOB Supplemental Questionnaire Response dated January 12, 1999, public version on file in the CRU. Further, at verification we saw that tax deferral petitions are automatically approved by the authorities as long as they conform with the establishing laws and regulations and, as stated above, neither the laws nor regulations provide differential or special treatment to any company or industry. Authorities explained that an extremely broad range of companies and industries have used the programs—from industrial firms to professional soccer clubs. Further, at verification we saw that tens of thousands of taxpayers have petitioned the tax authorities to arrange for these tax deferral agreements. *See* GOB Verification Report, public version on file in the CRU. While the number of companies that receive benefits under a program is not dispositive as to a program's non-specificity, the extremely large number of companies receiving deferrals indicates that a broad range of companies and industries received benefits under the program, as was indicated by the tax authorities. Further, since the authorities automatically approved all applicants that requested the terms and agreed to the conditions specified in the agencies' laws and regulations, there is no basis for

concluding that these tax deferrals are limited to a specific enterprise, industry or group thereof. Thus, we determine that these tax deferrals are not countervailable.

III. Program Determined Not To Exist

GOB Equity Infusions to COSIPA in 1992 and 1993

The Department included two programs in its initiation relating to benefits provided to COSIPA in advance of the company's privatization: debt assumptions and equity infusions. According to information provided by respondents, there were no equity infusions, *per se*. Instead, all benefits were in the form of debt assumptions that were converted into equity and have been addressed in the ''GOB Debt-to-Equity Conversions Provided to COSIPA in 1992 and 1993'' section above. Accordingly, we determine that the separate ''GOB Equity Infusions to COSIPA in 1992 and 1993'' program does not exist.

Interested Party Comments

Comment #1: Privatization

Respondents state that 19 U.S.C. 1677(5)(B) and Article 1.1 of the Agreement on Subsidies and Countervailing Measures (SCM) require that a financial contribution is made and a benefit is thereby conferred in order for the subsidy to exist and that both legal structures require a finding of a causal connection between the two on a continuing basis. Respondents hold that the Department is required to consider subsequent events and the Department's analysis only identifies a past financial contribution and presumes irrebuttably that the contribution continues to confer a benefit after the company has changed owners. They argue that the Department may not hide behind the fact that it is not required to conduct an ''effects test'' in explaining the lack of analysis of subsequent events. Respondents state that their position does not require analysis of the effects of a subsidy in all circumstances, rather only when a ''significant event'' occurs, such as privatization. This requirement, they explain, is the only justification for the inclusion of 19 U.S.C. 1677(5)(F), which directs the Department to consider that some privatizations do not eliminate the benefits of pre-privatization subsidies.

Respondents further argue that if the Department properly considered the impact of the subsequent event in this case, we would find that the arm's-length privatizations eliminated the pass-through of pre-privatization benefits. They state that unless there is some analytical basis to presume that subsidies have been passed through after an arm's-length privatization, the Department must conclude that the post-privatization owners do not benefit from pre-privatization subsidies. Respondents use a hypothetical example of a company purchasing a machine with government assistance, then selling that machine to another party for a market price to illustrate their point that the benefit from the original government assistance remains with the original company. Respondents further hold that the ownership of the company cannot be separated from consideration of the operating entity that uses the assets and liabilities. Thus, if the ownership of a company has changed, the company itself has changed. Respondents conclude that the Department's current methodology ignores the relevance of the new owners.

Respondents point to the Department's *Final Regulations,* 63 FR 65348, 65361, stating, ''where a firm does not pay less for its inputs than it would otherwise have to pay * * * as a result of a (government) financial contribution, it would be very difficult to contend that a benefit exists.'' Since the new owners of the respondent companies did not pay less than they otherwise would have had to acquire these companies, they conclude that no benefit exists.

In addition, respondents state that the GOB's residual and/or indirect interest in the companies during the POI does not undermine this conclusion. Respondents state that GOB-owned entities such as CVRD outbid private investors to acquire shares; thus, no benefit arises from or passes through in this transaction. Further, they state that the GOB's residual holding in COSIPA is irrelevant to COSIPA's production and sales since privatization.

Petitioners reject respondents' argument as without authority. Petitioners submit that this argument may be reduced to an effects test, expressly not required by the Act and which has been prohibited by the Courts. Petitioners state that the Department's repayment/change in ownership methodology does not represent an inquiry into whether subsidies continue to exist; instead it merely allocates the remaining benefit stream between the seller and the purchaser.

Petitioners state that 19 U.S.C. 1677(5)(F) was intended to make clear that the Department does not have any obligation to reevaluate the subsidy after a significant event. Petitioners state that this provision was added expressly to overrule findings in which the Court ruled that an arms-length sale extinguished subsidies. *See Saarstahl AG* v. *United States (Saarstahl I)* and *Inland Steel Bar Co.* v. *United States (Inland I).* These findings were subsequently reversed by the CAFC. *See Saarstahl AG* v. *United States,* 78 F.3d 1539 (Fed. Cir. 1996) (*Saarstahl II*) and *Inland Steel Bar Co.* v. *United States,* 86 F.3d 1174 (Fed. Cir. 1996) (*Inland II*). Petitioners further object to respondents' interpretation of SCM Article 1.1 and the virtually identical 19 U.S.C. 1677(5)(B). Petitioners state that the CIT has held that this language does not require a finding of a current competitive benefit during the POI.

Petitioners argue that respondents mischaracterize the Department's obligation to consider significant subsequent events, as respondents attempt to define all subsequent events as significant. Petitioners conclude that under this definition, all subsequent events would have to be considered and subsidy benefits would have to be traced, a proposition that is unworkable.

Finally, petitioners disagree with respondents' focus on the ownership of the company. Petitioners state that the inquiry must focus on the ''manufacture, production or export'' of subject merchandise. To support this position, petitioners cite *Delverde II,* in which the CIT stated that there are practical reasons for excluding ''the current owner of the goods at issue entirely from the determination of benefit * * *.'' *See Delverde SrL* v. *United States,* 24 F. Supp. 2d 314 (Ct. Int'l Trade 1998). In addition, petitioners state that the logical conclusion of respondents' arguments would require any change in ownership of shares on the open market to be examined, a result that the Department rejected as absurd in *Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils from* Italy, 64 FR 15508 (March 31, 1999). Petitioners conclude that focusing on production demonstrates that the benefits continue to exist after privatization.

Department's Position: We disagree with respondents. In accordance with the provisions of the statute (Sec. 771(5)(B) and 771(5)(E)), the Department has found that COSIPA, CSN and USIMINAS continue to benefit from pre-privatization equity infusions. We have examined the facts of this case in light of the above cited provisions and find that the methodology we follow is in accordance with the statute. As petitioners noted, the Departments' privatization/change-in-ownership methodology has been upheld by the

Courts both pre-and post-URAA. See *Saarstahl II, Inland II* and *Delverde II.*

The Department has satisfied both 19 U.S.C. 1677(5)(B) and Article 1.1. of the SCM in this investigation. We found that the GOB provided financial contributions to respondents, in the form of equity infusions and debt-to-equity conversions in the above-mentioned years which confer countervailable benefits through the POI. In accordance with the Department's standard methodology, the benefits from these subsidies were allocated over time. Neither of the above-mentioned provisions require the Department to revisit these determinations.

Under both the SCM and the Act, the Department has the discretion to determine the impact of a change in ownership on the countervailability of past subsidies. The Department has consistently applied its privatization/change in ownership methodology to determine the impact that a privatization/change in ownership has on pre-privatization subsidies. But, it has not done this by re-identifying or re-valuing the subsidy benefit based on events as of the time when the ownership of the subsidized company changed hands. The Department does not re-visit the determination identifying and valuing the subsidy event as of the time of the subsidy bestowal. As petitioners correctly note, the Department is not required to examine the effects of subsidies, *i.e.*, trace how benefits are used by companies and whether they provide competitive advantages. Instead, the Department's methodology addresses the impact of the change in ownership on the allocation of pre-privatization subsidies. The Department's methodology accounts for the impact that the change in ownership has on pre-privatization subsidies, by looking at how the Department already has allocated the subsidy benefit over time (based on events as of the time of the subsidy bestowal) under our normal allocation methodology and then allocating, or apportioning, that benefit between the buyer and the seller. As the Department said in *Stainless Steel Plate in Coils from Italy*, ''[o]ur methodology recognizes that a change in ownership has some impact on the allocation of previously-bestowed subsidies and, through an analysis based on the facts of each transaction, determine the extent to which the subsidies pass through to the buyer.'' 64 FR at 15518. Thus, our methodology is wholly consistent with 19 U.S.C. 1677(5)(F) and, contrary to respondents' argument, provides the analytical basis for determining whether and to what extent subsidies have passed through to the privatized company in a change in ownership or remain, in whole or in part, with the seller.

In addition, section 701(a)(1) of the Act directs the Department to determine whether a government-entity is providing a countervailable subsidy ''with respect to the manufacture, production, or export of a class or kind of merchandise.'' We note that the same terminology is also reflected in the SCM (footnote 34). Given this focus on the manufacture, production and/or exportation of merchandise, the focus of the inquiry here should not be on the new *owners* of the company and how they may or may not have benefitted from the privatization transaction. The Department has not separated the ownership of the company from its analysis. Rather we have, as directed by law, focused on the activities of the company, rather than its ownership structure. Our privatization methodology has accounted for the change in the ownership of the company conducting these activities. Thus, we have measured the amount of the benefit that passes through this transaction as respondent companies continued to manufacture, produce and export subject merchandise.

Respondents' reliance on the adequate remuneration standard is misplaced. This provision applies only to inquiries of whether government provided inputs are sold for adequate remuneration. The sale of an input and sale of an ongoing company are materially different.

Finally, we note that we have properly analyzed the GOB's residual and indirect interests in companies during the POI in the context of our standard privatization methodology. We have not considered shares bought by government-owned companies in privatization auctions as privatizations; these transactions do not reflect the change in ownership of the shares from government to private ownership, but rather a transfer from one government holding to another. However, when such companies were, themselves, privatized, we have made adjustments to reflect the change in ownership at that time.

Comment #2: Valuation of Equity Infusion Benefits

Respondents argue that the Department's policy of treating the benefit from equity infusions (into unequityworthy companies) as grants overstates the net benefits associated with the investments. Respondents hold that ignoring post-investment activities, such as the payment of dividends or privatizations, violates the principle contained in 19 U.S.C. 1671(a) specifying that the Department countervail the *net* subsidy. Respondents state that grants and equity infusions are different as equity infusions impose financial obligations on the firm, specifically, to pay dividends and the obligation to cede a claim on the company's assets to the investor.

Respondents point to the pre-1993 equity methodology, the so-called ''rate of return shortfall'' methodology, as recognition of the differences in benefits between grants and equity investments. Further, respondents state that the Department should recognize that paying dividends is, in a certain sense, the company's attempt to offset the benefits of a subsidy, and this is a result that the CVD law should encourage to eliminate subsidization. Respondents state that applying the grant methodology to equity infusions is tantamount to forming an irrebuttable presumption that unequityworthy companies incur absolutely no costs in connection with government investments.

Respondents state that the Department must accommodate all post-investment events in the calculation of the benefit to the company during the POI including the effects of privatization, increases in net worth, and the issuance of dividends to the investor.

Petitioners state that the Department has previously considered and rejected respondents' arguments with respect to treating equity infusions into unequityworthy companies as grants. Petitioners hold that this methodology correctly recognizes that a reasonable private investor would not invest in companies that are unable to generate a reasonable rate of return. Petitioners reject the notion that equity investments into unequityworthy companies impose costs on firms, citing *British Steel I*, in which the CIT stated that ''* * * the Court is unconvinced by the argument that equity infusions impose costs on recipient firms, costs that differentiate equity infusions into unequityworthy firms from grants.'' In addition, petitioners argue that the Court has further rejected consideration of subsequent dividends and retained earnings in measuring the benefit from equity infusions. Petitioners further state that the Department may not consider these events as they do not appear on the list of offsets contained in 19 U.S.C. 1677(6).

Department's Position: Respondents are basically arguing a return to the pre-1993 equity methodology, known as the

rate of ''return shortfall methodology'' (RORS). The Department rejected RORS in 1993 because, among other things, it relied on an *ex post facto* analysis of events and represented a cost-to-government analysis of the benefit. The Department instead determined that the grant methodology was the most appropriate for analyzing the benefit from an equity infusion into an unequityworthy company. As the Department said in the *GIA*, 58 FR at 37239:

> [u]sing the grant methodology for equity infusions into unequityworthy companies is based on the premise that an unequityworthiness finding by the Department is tantamount to saying that the company could not have attracted investment capital from a reasonable investor in the infusion year based on the available information. Thus, neither the benefit nor the equityworthiness determination should be reexamined *post hoc* since such information could not have been known to the investor at the time of the investment. Therefore, the grant methodology, when used for equity infusions into unequityworthy companies * * * should not be adjusted based on subsequent events (*e.g.*, dividends, profits).

The Department has consistently applied the grant methodology to measure the benefit from equity infusions into unequityworthy companies since 1993. *See, e.g., Certain Steel from Brazil; Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel from Italy*, 59 FR 18357 (March 18, 19994); *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela*, 62 FR 55014 (October 22, 1997); and *Final Affirmative Countervailing Duty Determination; Stainless Steel Plate in Coils from Belgium*, 64 FR 15567, 15569 (March 31, 1999). This methodology has been upheld by the Court, as discussed by petitioners, above. Respondents' argument that equity investments impose additional costs on companies is not relevant and has been rejected by the Court. We have found respondents to be unequityworthy as discussed in the ''Equityworthiness'' section above. This finding has not been disputed by respondents. Our finding of unequityworthiness is tantamount to saying that private investors would not have invested *any* capital in the firm. Therefore, we have applied the grant methodology to measure the benefit of equity infusions (and debt-to-equity conversions), as discussed in the ''Equity Methodology'' section above.

Comment #3: Repayment Calculations

Respondents argue that if the Department continues to apply its standard privatization methodology, it must revise these calculations because the gamma ratio does not properly reflect the proportion of the purchase price that reflects repayment of prior subsides because they hold that an average of infusion values to net worth ratios over time does not provide a meaningful ratio. Respondents instead suggest using the present value of the unamortized pre-privatization infusions (at the time of the infusion) to the total net worth of the company at the time of privatization. They argue that this approach more properly accounts for the difference between a company that received an infusion ten years prior to subsidization from a company that receives the same infusion the year before privatization.

Respondents further argue that the Department incorrectly deflated the purchase price in each privatization because of privatization currencies. Respondents argue that the relevant value of the currencies, in identifying the purchase price of the companies, is the present value of the currencies (face value, discounted to account for the time remaining until maturity), the amount at which the currencies were accepted by the GOB. Respondents hold that this value is correct because it represents the value of the debt that the GOB retired through the sales. Further, the GOB had a real liability equal to the present value of the instrument and the value to the GOB must be used in the calculation as it attempts to identify the amount of subsidy ''paid back'' to the government in the privatization. Respondents state that the value of the privatization currencies to the purchasers of the shares is irrelevant. Respondents use examples of different currency exchange rates and different bond values to illustrate the point that the value to the GOB remains the same in each scenario. Respondents also argue that the Department's valuation of the privatization currencies assumes that all currencies were acquired by the users at a discount. They point to the Privatization Certificates (CPs), which banks were forced to purchase under the Collor Plan for 100 percent of their value. Respondents state that many banks chose to use the CPs in privatization auctions, exchanging one-to-one for shares, despite secondary market discounts. They hold that if instruments were not traded on secondary markets, a secondary market discount cannot be applied, and to do so is to apply an adverse inference without justification.

In addition, respondents state that the Department did not make any adjustments to the purchase price in its examination of the 1991 USIMINAS privatization examined in *Certain Steel From Brazil.* Respondents argue that the Department has changed its analysis without explaining the reasons for the departure.

Finally, respondents disagree with the treatment of shares purchased by CVRD in the privatizations. Respondents state that CVRD's share purchases were made on commercial terms, and cannot be considered to provide a financial benefit to the companies. Respondents state they cannot be penalized for a GOB investment made on terms consistent with commercial considerations.

Petitioners argue that respondents' suggested change to the gamma calculation is ambiguous. Petitioners state that the Department has rejected similar changes to the gamma in prior cases, specifically *Industrial Phosphoric Acid from Israel* and *Stainless Steel Plate in Coils from Italy.* They also note that the current gamma calculation received Court approval in *Saarstahl II, British Steel II* and *Delverde II.*

Petitioners support the Department's preliminary adjustments to account for the market value of privatization currencies. Petitioners state that record evidence demonstrates that the currencies traded at deep discounts from their face values on secondary markets. Petitioners state that CVD law and practice reveal a strong preference for using market-determined prices to make valuation decisions. They hold that the GOB could purchase the securities on the secondary market, just like private investors, and thus the value to the GOB was exactly the same as the market value. Petitioners disagree with respondents' arguments with respect to the CPs, noting that the Department must seek the market value at the time the currency as exchanged for shares.

Petitioners state that respondents never provided specific information on the secondary market prices of privatization currencies. Petitioners state that the repayment methodology, in effecting a downward adjustment on the benefit stream, benefits respondents and respondents bear the burden of demonstrating their entitlement to this adjustment. Thus, petitioners argue that the Department should apply the steepest discount on the record, 70 percent, in valuing the privatization currencies.

Petitioners disagree with respondents' arguments with respect to the valuation of privatization currencies in *Certain Steel From Brazil.* Petitioners state that the parties in that investigation did not address this issue as the Department did not apply the current privatization methodology until the final

determination. Thus, *Certain Steel From Brazil* should not be seen as a precedent on this matter.

Petitioners support the Department's treatment of CVRD share purchases in the *Preliminary Determination,* arguing that the repayment methodology may not be applied to public-to-public sales. Petitioners hold that applying the privatization methodology to such sales would create a massive loophole in the law where a government could reduce benefit streams simply by rearranging the holdings of government-owned companies.

Department's Position: For this final determination, we have continued to calculate gamma using historical subsidy and net worth data. The gamma calculation serves as a reasonable estimate of the percent that subsidies constitute of the overall value of the company. This methodology has been upheld by the courts in *Saarstahl II* and *British Steel II.* Respondents' criticism of the Department's current methodology centers on the fact that the average of subsidies to net worth does not take into account the timing of the receipt of subsidies and the corresponding net present value of the subsidies. We note that while gamma itself does not factor in the net present value of the subsidies, the results of the gamma calculation are applied to the present value of the remaining benefit streams at the time of privatization. Thus, our current calculations, as a whole, do properly account for the present value of the remaining benefits at the time of privatization.

Respondents' arguments regarding the valuation of privatization currencies are also flawed. While we do not deny that the GOB's retired debts are equal to the present value of the currencies accepted in exchange for shares, the proper value used in the privatization calculation is the market selling price of the company, as indicated by the market selling price of the currencies. Since the currencies were discounted on secondary markets, the present value of the currencies overstates the cash, market value of the purchase price. As petitioners correctly point out, it is the Department's preference to use market values in calculations where possible.

Respondents' arguments with respect to CPs are also flawed. In discounting the CPs as described above, we have appropriately estimated their market values at the times of the privatization transactions.

We also agree with petitioners regarding the examination of the currencies in *Certain Steel From Brazil.* While the fact that privatization currencies were used to acquire USIMINAS shares was contained in the record of that case, parties did not have the opportunity to comment on the final privatization methodology applied and the implications that various facts in evidence may have had on this methodology. Furthermore, *Certain Steel From Brazil,* and the companion Certain Steel cases, were the first time that the Department applied this methodology. We have gained experience with the methodology since that time. In this investigation, we have properly determined that privatization currencies were overvalued by the GOB and that the discounted, market value should be used in the privatization calculation as discussed above. As discussed in the ''Subsidies Valuation'' section above, we have applied discounts to the various privatization currencies based on the record evidence.

Finally, we agree with petitioners with respect to the treatment of CVRD share purchases. Government purchases of government assets cannot be seen properly as a ''privatization'' or ''change in ownership'' that would give rise to a reallocation of subsidies between buyer and seller. Instead, these transactions represent a transfer of government funds from one account to another. Thus, we have continued to remove the CVRD purchases from the calculations as discussed above. In addition, we note that we have accounted for the 1997 partial privatization of CVRD in the calculations.

Comment #4: Asymmetrical Comparisons in Calculations

Respondents state that the Department must ensure that the ratios, such as gamma, used in the privatization calculations use symmetrical comparisons: both the numerator and denominator should be in either corrected values, or historical values. Respondents suggest that the Department apply historical values as the equity infusions were reported in historical terms; if historical values are unavailable, the Department should dollarize the net worth figure and the equity infusion amounts.

Petitioners argue that the Department must ensure that a symmetrical comparison is used in applying the 0.5 percent test. Because respondents have reported a mix of historical and corrected figures, petitioners state that the 0.5 percent test has been distorted.

In their reply brief, respondents agree with petitioners that symmetrical comparisons must be used in all calculations. In petitioners' reply brief, petitioners argue that the distortion identified by respondents was the result of a failure on the part of respondents to report consistent data. Petitioners disagree that dollarizing the net worth would correct the asymmetrical comparison problem and should not be applied as the problem arises from respondents' poor reporting and the correction should not benefit respondents. Petitioners further argue that if the Department does not have a historical value for total sales, the 0.5 percent test should not be applied in that year.

Department's Position: For the final determination, we have revised our calculations to include symmetrical comparisons in the numerator and denominator of the ratios used in the privatization calculation and 0.5 percent test where data on the record allows us to make this comparison. We used historical values for the subsidy to net worth ratios that are averaged to derive gamma. For the years in which historical values are not available for use in the gamma, we have continued to use corrected values. For the 0.5 percent test, in the instance where the asymmetrical comparison has a meaningful impact on the ratio, we used the historical sales value.

Comment #5: Application of New Risk Premium Methodology

Petitioners argue that the Department should apply the risk premium methodology contained in the *Final Regulations,* even though the *Final Regulations* do not govern this proceeding. Petitioners state that the Department has described the new methodology as ''more appropriate'' and ''more accurate'' and argues that the Court has reversed the Department when it has declined to apply a ''more accurate'' methodology. Finally, petitioners state that all parties have had ample notice as the new methodology was proposed in the 1997 Proposed Regulations and was applied in the petition.

Respondents reject petitioners' argument as they state there is no justification in departing from the current risk premium methodology at this stage. Respondents state that the *Final Regulations* do not apply to this investigation. Respondents argue that there would be procedural difficulties in applying this methodology as no parties have had the opportunity to comment and review its use. Respondents further state that the new methodology is complicated and requires the Department to consider default rates in the country if that information is submitted to the record and that the parties did not have the opportunity to submit such information in this case.

Finally, respondents reiterate their argument that the Department has improperly measured the benefit from the equity infusions by treating these amounts as grants.

Department's Position: We agree with respondents. The Department's *Final Regulations* do not govern this proceeding. While we have described the new risk premium methodology contained in the *Final Regulations* as ''more accurate,'' because of the logistical reasons identified by respondents, it is not appropriate to apply this methodology in this case. To do so, without having given parties sufficient opportunity to address the options contained in the regulation, would forestall the participation of the parties.

Comment #6: Verification Clarifications

Respondents argue that minor refinements clarified at verification should be changed in the calculations for the final determination. Specifically the amount of the 1988 CSN equity infusions, USIMINAS' total and subject merchandise sales values, and COSIPA's total sales value.

COSIPA explained at verification that an amount contained in its 1993 capital advance account was actually the repayment of a debt from Siderbras. *See* COSIPA Verification Report, public version on file in the CRU.

Petitioners argue that COSIPA's claim about the debt does not withstand scrutiny as COSIPA did not provide information about how the debt arose or what it represents. Petitioners further state that while COSIPA demonstrated to the Department that the debt existed, the company did not show that the debt *was* paid with amounts from the capital advances account; on the contrary, they argue that since the amount remained in the capital advances account, it was not utilized to cancel the outstanding debt. Petitioners conclude that this amount should be added to the amount of the debt-to-equity conversion countervailed for 1992.

Respondents reply that the existence of the Siderbras debt was verified to the Department's satisfaction, and thus, petitioners' arguments with regard to the bona fides of the debt are inappropriate. Respondents state that verification exhibits demonstrate that the Siderbras debt was deducted from the capital advances account.

In addition, Petitioners argue that COSIPA withheld information pertaining to the date each equity infusion was received despite repeated requests from the Department for this information. COSIPA provided the specific dates that the 1992 and 1993 debt-to-equity conversions were made at verification. Petitioners reason that COSIPA withheld the relevant information and that the Department should reject the information obtained at verification as untimely. Petitioners conclude that the Department should apply an adverse inference as facts available and treat all equity infusions as having been received on the first day of the month.

Respondents reply that COSIPA did not attempt to conceal information from the Department with respect to the actual dates that the conversions were granted. Respondents state that COSIPA relied on information that was verified in other cases as some of the equity infusions are from years that the company no longer maintains records and that COSIPA was not able to determine the actual dates of the infusions in these cases. COSIPA was able to determine the dates of the 1992 and 1993 infusions and these dates were discussed at verification and the 1993 dates were reported in the February 8, 1999, questionnaire response. Finally, respondents state that use of the actual dates favors COSIPA; thus, there was no attempt by the company to withhold this information.

Petitioners also dispute the accuracy of corrections made to CSN's 1988 equity infusion amount at verification. Petitioners argue that the amount of the infusion was verified in the 1993 *Certain Steel from Brazil* investigation, and that the Department should not accept any changes at this point.

Department's Position: We agree with respondents. The corrections identified by the parties—the amount of the CSN 1988 equity infusion, dates of the COSIPA infusions, and sales amounts—were verified to the Department's satisfaction and tied directly to the respective companies' accounting documents. Further, COSIPA did report the dates of the 1993 conversions in the February 8, 1999, response as identified by respondents. Finally, CSN demonstrated that the numbers verified in this proceeding were accurate irrespective of their difference from amounts countervailed in the *Certain Steel from Brazil* investigation. It is standard Department practice to accept minor corrections at verifications, and the opportunity to make minor corrections was included in the companies' verification outlines that were used to prepare for verification. None of the corrections at issue are significant in nature; thus it is entirely appropriate to use the corrected numbers in our final calculations.

Comment #7: Tax Deferral Programs

Petitioners argue that COSIPA received deferral terms more favorable than those granted to other taxpayers and that record evidence indicates that COSIPA was a predominant user of the IPI, Social Contribution and ICMS tax deferral programs. Petitioners state that respondents failed to provide information regarding the terms of tax deferrals granted to other taxpayers. They submit that the administering authorities granted COSIPA installment periods for the IPI and Social Contribution tax longer than provided for in the applicable regulation. Petitioners reject the explanation provided at verification—that the Minister could grant longer periods than provided for in the regulations. They argue that the fact that COSIPA received an extended term, demonstrates that the laws and regulations were not followed and that the program is specific. Petitioners state that because COSIPA needed such a long period to repay the large debts, it is likely that COSIPA received a disproportionate amount of the subsidy. They conclude that the GOB exercised discretion to favor COSIPA over others.

With respect to the IRPJ tax, Petitioners state that the record shows COSIPA applied for and received the deferral program after the statutorily-mandated guideline expired. Petitioners argue that respondents have not demonstrated that any other taxpayer received the program after the deadline expired; thus, the Department should find that the program is specific.

Petitioners argue that COSIPA received a repayment term longer than specified in the applicable law for the INSS tax. Petitioners state that law 8630/93 provides for a 240-month deferral period only for applications submitted in February 1993, and that record evidence demonstrates that COSIPA did not submit its application in that month. Since respondents have not provided any evidence indicating that other taxpayers also received this term under these circumstances, Petitioners conclude that the program is specific to COSIPA.

Finally, Petitioners argue that COSIPA was a predominant user of the Sao Paulo State ICMS tax deferral program. Relying on press articles which mentioned the company's upcoming privatization, petitioners state that COSIPA's massive ICMS debts and reported negotiations with federal and state authorities dispute claims made by the GOB at verification. Petitioners submit that if all parties receive the same treatment under the law, there

would have been no need for lengthy negotiations. They also state that the magnitude of the tax arrears demonstrates that COSIPA was a disproportionate user of the program—the size of the debt, viewed in the context of the large number of users of the tax deferral program suggests that program was specific to COSIPA.

Petitioners also argue that in measuring the benefit from the tax deferral programs, the Department should apply the monthly average overnight rate as the benchmark, which was applied in *Certain Steel from Brazil.*

Respondents reject petitioners arguments with respect to the tax deferral programs. Respondents state that the GOB provided the Department with all information requested, except for the proprietary information of companies not involved with this case.

With respect to the IPI and Social Contribution taxes, respondents state that petitioners mischaracterized the normative instruction cited by petitioners as this document does not apply to the Minister and does not limit the Minister's discretion to alter these instructions. Respondents state that record evidence demonstrates that more than 200 companies received terms other than those contained in the normative instruction in all sectors of the economy and that nothing points to the conclusion that these agreements are specific. Respondents also reject the argument that since COSIPA received a term of more than 60 months, the underlying debt must have been large and thus COSIPA was a disproportionate user of the program. Respondents instead state that the technical analysis required to receive a period longer than 60 months analyzed a number of factors, in particular cash flow and thus does not support Petitioners' assertion.

Respondents also characterize petitioners' arguments on the IRPJ program as innuendo. Respondents state that record evidence does not support the conclusion that COSIPA's IRPJ application was submitted after the deadline expired. Finally, respondents note that COSIPA did not make any IRPJ payments during the POI; thus, petitioners' arguments are moot.

Respondents also reject petitioners' argument that the INSS application was submitted after the deadline expired for receiving the maximum deferral. Respondents state that record evidence demonstrates that the petition was submitted within the relevant deadline.

With respect to the ICMS program, respondents reject the information contained in the press articles cited by petitioners. Respondents state that negotiations are a normal part of the deferral application process and that the fact that the authorities were aware of the company's upcoming privatization supports no conclusion one way or the other. They state that record evidence does not support the conclusion that COSIPA was a disproportionate user of the program.

Finally, respondents reject the petitioners' proposed benchmark, instead suggesting that the rate applied to other taxpayers should be applied. Alternatively, respondents suggest other long-term interest rates on the record.

Department's Position: We disagree with petitioners. As discussed in the ''Programs Determined to Be Non-Countervailable'' section above, we have found the negotiated tax deferral agreement programs to be non-countervailable because they are not specific within the meaning of the Act. Because of the nature of the programs, it was difficult for the GOB to provide the information required to address all of the questions addressing the *de facto* specificity criteria. At verification, we asked for and received sufficient information to determine that the programs are not specific including charts specifying the total number of applicants/users, regions of the applicants/users and amount of debts covered by the programs for the relevant years. *See,* GOB Verification Report, public version on file in the CRU. None of the GOB agencies collect information on an industry basis. However, we were able to determine from the record evidence that the programs are not *de facto* specific. Respondents demonstrated that tens of thousands of taxpayers applied for and received tax deferrals under these programs. Further, all applicants are automatically approved if they satisfy the eligibility criteria contained in the laws and regulations—basic criteria such as having a debt, not being delinquent on another tax deferral agreement, and willingness to pay within the specified period. The GOB not only did not exercise discretion to favor COSIPA over others, it exercised *no* discretion in the operation of the program.

The GOB explained at verification that applicants for deferral agreements of IPI and Social Contribution arrears could receive repayment periods longer than the 60 months specified in the normative instructions if the company demonstrated that it could not afford to repay the debt within the period. The GOB conducted a technical analysis of the cash-flow position of each applicant that requested longer than 60 months to repay and the Minister followed the recommendation of the technical experts in approving the more than 200 applicants that requested an extended period. Further, the companies that receive the extended period are required to pay the same amount of interest, penalty and monetary correction as the applicants that pay within 60 months. Thus, the record evidence does not support the conclusion that COSIPA was favored over other applicants with respect to its IPI and Social Contribution deferral agreements.

As respondents noted, COSIPA did not make any payments on its IRPJ agreement during the POI; thus, no benefit could arise from this tax deferral agreement in 1997. In addition, as respondents discuss in their reply brief, the tax consolidation table submitted in the response was dated February 19, 1993, within the time period specified in the regulations to receive the maximum deferral period.

With regard to the ICMS tax, officials demonstrated at verification that COSIPA applied for and received the tax deferral agreements because it satisfied the conditions contained in the laws and regulations. Further, petitioners misinterpret the significance of the ''negotiation'' for these agreements; as discussed with GOB officials during verification, COSIPA was automatically approved based on the analysis by the data processing system. In addition, the GOB officials explained that the only applicants that have been denied were due to the fact that the taxpayers have already exceeded the number of deferrals allowed by law. Thus, record evidence does not support petitioners' arguments regarding the IPRJ, INSS and ICMS tax deferral programs.

As we have found the programs non-countervailable on the basis that they are non-specific, both parties' comments regarding the benchmark are moot.

Comment #8: Affiliation of CSN and USIMINAS

Petitioners state that record evidence demonstrates that CSN and USIMINAS/COSIPA are sufficiently related to each other so as to find that their interests have merged. Petitioners state that respondents' reliance on the fact that neither CVRD nor Previ is a party to the USIMINAS shareholders agreement, and therefore, CSN does not exercise any control over USIMINAS, is incorrect. Petitioners argue that absolute control is not required for a finding of affiliation, merely that the companies are ''sufficiently related''—if one company owns 20 percent of the other, the companies prepare consolidated financial statements, there are common directors, or one company performs services for the other. Petitioners state

that CSN, through CVRD, and Previ have significant influence over USIMINAS through its substantial, albeit minority, presence on USIMINAS' Board of Directors. Petitioners conclude that record evidence supports a finding that USIMINAS and CSN are affiliated and should be treated as a single company for purposes of calculating the countervailing duty rate.

Respondents disagree with petitioners' arguments stating that the record indicates that CSN and USIMINAS are competitors. In addition, the record demonstrates that there is insufficient overlap in shareholder interests and/or directors to support a finding of affiliation and presumption that subsidy benefits could have been transferred between the companies. Respondents also state that the Department did not collapse the respondents when they were all owned and controlled by Siderbras, and thus, to do so now, when they have even less affinity of interests, would be inappropriate.

Department's Position: We disagree with petitioners. As discussed in the ''Affiliation'' section above, record evidence does not support a finding of affiliation between CSN and USIMINAS. We disagree with petitioners that the fact that CVRD and Previ do not participate in the USIMINAS shareholders agreement is not dispositive of a finding of no affiliation. The shareholders that participate in the shareholders agreements of USIMINAS are required to pre-vote all issues before the respective Boards of Directors and their representatives on the Boards are then required to vote as a block. *See* USIMINAS Verification Report at 2. Therefore, shareholders that do not participate in the shareholders agreement are effectively prevented from exercising any control over the operations of the company, irrespective of the size of their shareholdings. Neither CVRD nor Previ, on their own, are sufficiently related to satisfy the affiliation standard identified in the Department's countervailing duty questionnaire. CVRD and Previ are also not in the position to exercise joint control over USIMINAS since they do not participate in the shareholders agreement. There are no other connections between CSN and USIMINAS that could result in a finding of affiliation between the two companies. Therefore, no finding of affiliation is warranted and the issue of collapsing is moot.

Verification

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

Ad Valorem Rates

In accordance with section 705(c)(1)(B)(i) of the Act, we have calculated individual subsidy rates for each of the companies under investigation. As discussed in the ''Affiliated Parties'' section of this notice, we are treating USIMINAS/COSIPA as one company and have calculated a single rate for USIMINAS/COSIPA. To calculate the ''all others'' rate, we weight-averaged the company rates by each company's exports of the subject merchandise to the United States.

Producer/exporter	Net subsidy rate %
USIMINAS/COSIPA	9.67
CSN	6.35
All Others	7.81

Suspension of Liquidation

In accordance with our preliminary affirmative determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of hot-rolled flat-rolled carbon-quality steel from Brazil which were entered, or withdrawn from warehouse, for consumption on or after February 19, 1999, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after June 21, 1999, but to continue the suspension of liquidation of entries made between February 19, 1999, and June 20, 1999.

We have concluded a suspension agreement with the Government of Brazil which eliminates the injurious effects of imports from Brazil (*see, Notice of Suspension of Investigation: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil* being published concurrently with this notice). As indicated in the notice announcing the suspension agreement, pursuant to section 704(h)(3) of the Act, we are directing the U.S. Customs Service to continue the suspension of liquidation for entries of subject merchandise entered, or withdrawn from warehouse, for consumption between February 19, 1999, and June 21, 1999. This suspension will terminate 20 days after publication of the suspension agreement or, if a review is requested pursuant to section 704(h)(1) of the Act, at the completion of that review. Pursuant to section 704(f)(2)(B) of the Act, however, we are not applying the final determination rate to entries of subject merchandise from Brazil; rather, we have adjusted the rate to zero to reflect the effect of the agreement.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, the suspension agreement will have no force or effect, this investigation will be terminated, and the Department will instruct the U.S. Customs Service to refund or cancel all securities posted (*see*, section 704(f)(3)(A) of the Act). If the ITC's injury determination is affirmative, the Department will not issue a countervailing duty order as long as the suspension agreement remains in force, and the Department will instruct the U.S. Customs Service to refund or cancel all securities posted (*see*, section 704(f)(3)(B) of the Act).

Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 704(g) and 777(i) of the Act.

Dated: July 6, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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