Comment 15: Deferred foreign exchange losses

[FR Doc. 01–30605 Filed 12–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–831]

Stainless Steel Plate in Coils From the Republic of Korea; Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On June 19, 2001, the Department of Commerce published in the **Federal Register** (66 FR 32934) a notice announcing the initiation of an administrative review of the antidumping duty order on stainless steel plate in coils from the Republic of Korea for one producer/exporter of the subject merchandise, Pohang Iron & Steel, Co., Ltd. (''POSCO'') covering the period of review (''POR''), which is May 1, 2000 through April 30, 2001. The Department of Commerce is rescinding this review with respect to POSCO pursuant to a timely request under 19 CFR 351.213(d)(1) from POSCO, the only party that requested the review. Petitioners did not request a review of POSCO.

EFFECTIVE DATE: December 11, 2001.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Laurel LaCivita, Office 9, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0182, or (202) 482–4243, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department) regulations are to the regulations codified at 19 CFR part 351 (2000).

Background

The Department published in the **Federal Register** on May 1, 2001 (66 FR 21740), a ''Notice of Opportunity to Request Administrative Review'' of the antidumping duty order on stainless steel plate in coils from the Republic of Korea. On May 31, 2001, POSCO requested that the Department conduct an administrative review of this order with respect to its sales of the subject merchandise. On June 19, 2001, the Department of Commerce initiated an administrative review for the period May 1, 2000 through April 30, 2001 (66 FR 32934). On July 5, 2001, POSCO, the only interested party to request a review in this case, withdrew its request for review. Since POSCO withdrew its request for review within 90 days of the date of publication of the notice of initiation, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding the review for the period May 1, 2000 through April 30, 2001.

This notice is issued and published in accordance with 19 C.F.R. 351.213(d)(4).

Dated: December 5, 2001.

Richard O. Weible,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 01–30606 Filed 12–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Massachusetts Institute of Technology; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5 PM in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Docket Number: 01–020. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02139. *Instrument:* Impact Module for Nano Indentor. *Manufacturer:* Micro Materials Ltd., United Kingdom. *Intended Use:* See notice at 66 FR 55914, November 5, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant.

The accessory is pertinent to the intended uses and we know of no domestic accessory which can be readily adapted to the previously imported instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–30607 Filed 12–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–508–605]

Industrial Phosphoric Acid From Israel; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On August 31, 2001, the Department of Commerce (''the Department'') published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on industrial phosphoric acid from Israel for the period January 1, 1999 through December 31, 1999 (66 FR 45965). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (''the Act''). For information on the subsidy rate for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice. We will instruct the U.S. Customs Service (''Customs'') to assess countervailing duties as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: December 11, 2001.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Sean Carey, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1391 or (202) 482–3964, respectively.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 CFR 351.213(b), this review covers only those producers or exporters of the subject merchandise for

which a review was specifically requested. Accordingly, this review covers Rotem-Amfert Negev Ltd. (''Rotem''). We published the preliminary results on August 31, 2001 (66 FR 45965). We invited interested parties to comment on the preliminary results. We received no comments from any of the parties.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended (''the Act''). All citations to the Department's regulations reference 19 CFR part 351 (2000), unless otherwise indicated.

Scope of the Review

Imports covered by this review are shipments of industrial phosphoric acid (IPA) from Israel. Such merchandise is classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and U.S. Customs Service purposes. The written description of the scope remains dispositive.

Subsidies Valuation Information

Period of Review

The period for which we are measuring subsidies is calendar year 1999.

Allocation Period

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 the allocation period methodology for non-recurring subsidies that the Department had employed for the past decade, as it was articulated in the *General Issues Appendix* appended to the *Final Countervailing Duty Determination; Certain Steel Products from Austria,* 58 FR 37225 (July 9, 1993) (GIA). In accordance with the Court's decision, on remand, the Department determined that the most reasonable method of deriving the allocation period for non-recurring subsides is a company-specific average useful life (AUL). 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*).

However, in administrative reviews in which the Department examines non-recurring subsidies received prior to the POR which have been countervailed based on an allocation period established in an earlier segment of the proceeding, it is not practicable to reallocate those subsidies over a different period of time. When a countervailing duty rate in earlier segments of a proceeding was calculated based on a certain allocation period and resulted in a certain benefit stream, redefining the allocation period in later segments of the proceeding would entail taking the original grant amount and creating an entirely new benefit stream for that grant. (*See, e.g., Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review,* 62 FR 16549 (April 7, 1997)).

In this administrative review, the Department has considered non-recurring subsidies previously allocated in earlier administrative reviews under the old practice, non-recurring subsidies also previously allocated in recent administrative reviews under the new practice, and non-recurring subsidies received during the POR to which the current countervailing duty regulations apply. Under these circumstances, and as discussed below, the Department has used different allocation periods depending upon the date of receipt of the non-recurring subsidy. For non-recurring subsidies received prior to the 1995 administrative review (the first review for which the Department implemented the *British Steel I* decision), the Department is using the original allocation period of 10 years. For non-recurring subsidies received since 1995, Rotem has submitted in each subsequent administrative review, including this one, AUL calculations based on depreciation and values of productive assets reported in its financial statements. In accordance with the Department's practice, we derived Rotem's company-specific AUL for each respective administrative review since 1995 by dividing the aggregate of the annual average gross book values of the firm's depreciable productive fixed assets by the firm's aggregated annual charge to depreciation for a 10-year period. In the current review, this methodology resulted in an AUL of 23 years. Pursuant to section 351.524(d)(2) of the Department's regulations, this company-specific AUL rebuts the presumptive use of the IRS tables. Therefore, for the purposes of this review, non-recurring subsidies received during the POR have been allocated over 23 years.

Privatization

Israel Chemicals Limited (ICL), the parent company which owns 100 percent of Rotem's shares, was partially privatized in 1992, 1993, 1994, 1995, 1997 and 1998. In this administrative review, the Government of Israel (GOI) and Rotem reported that additional shares of ICL were sold in 1999. We have previously determined that the partial privatization of ICL represents a partial privatization of each of the companies in which ICL holds an ownership interest. *See Final Results of Countervailing Duty Administrative Review; Industrial Phosphoric Acid from Israel,* 61 FR 53351, 53352 (October 11, 1996) (*1994 Final Results*). In this review and prior reviews of this order, the Department found that Rotem and/or its predecessor, Negev Phosphates Ltd., received non-recurring countervailable subsidies prior to these partial privatizations.

On December 4, 2000, the Department announced a new privatization approach in a remand determination following the decision of the U.S. Court of Appeals for the Federal Circuit (CAFC) in *Delverde Srl* v. *United States,* 202 F.3d 1360, 1365 (Fed. Cir. 2000), *reh'g en banc denied* (June 20, 2000) (*Delverde III*). The Department applied this new approach in the final results of the prior administrative review of this order. *See Final Results of Countervailing Duty Administrative Review; Industrial Phosphoric Acid from Israel,* 66 FR 15839 (March 21, 2001) (*1998 Final Results*). Under this approach, the first requirement is to determine whether the person to which the subsidies were given is, in fact, distinct from the person that produced the subject merchandise exported to the United States. If the two persons are distinct, the original subsidies may not be attributed to the new producer/exporter. The Department would, however, consider whether any subsidy had been bestowed upon that producer/exporter as a result of the change-in-ownership transaction. On the other hand, if the original subsidy recipient and the current producer/exporter are considered to be the same person, that person benefits from the original subsidies, and its exports are subject to countervailing duties to offset those subsidies. In other words, we will determine that a ''financial contribution'' and a ''benefit'' have been received by the ''person'' that is the firm under investigation or review. Assuming that the original subsidy had not been fully amortized under the Department's normal allocation methodology as of the POR, the Department would then continue to countervail the remaining benefits of that subsidy.

In making the ''person'' determination, where appropriate and applicable, we analyze factors such as (1) continuity of general business operations, including whether the successor represents itself as the continuation of the previous enterprise,

as may be indicated, for example, by use of the same name, (2) continuity of production facilities, (3) continuity of assets and liabilities, and (4) retention of personnel. No single factor will necessarily provide a dispositive indication of any change in the entity under analysis. Instead, the Department will generally consider the post-sale entity to be the same person as the pre-sale entity if, based on the totality of the factors considered, we determine that the entity in question can be considered a continuous business entity because it was operated in substantially the same manner before and after the change in ownership.

Using the approach described above, we have analyzed the information provided by the GOI and Rotem to determine whether the subsidies received by Rotem continued to benefit Rotem during the POR. By applying this approach to the facts and circumstances of the instant countervailing duty administrative review of industrial phosphoric acid from Israel and the relevant privatization of ICL and its subsidiary, Rotem, we find that the pre-sale and post-sale entities are not distinct persons. Specifically, Rotem maintains the same plants and uses the same production facilities to manufacture and sell the same products; continues to rely on the same suppliers and customer base; and employs largely the same personnel and management. *See* the Department's June 13, 2001, letter to Rotem (with attached Change in Ownership Analysis Memorandum from the 1998 administrative review) and the *1998 Final Results* and accompanying Decision Memorandum (section entitled Change in Ownership), for a complete discussion of our analysis of ICL's and Rotem's privatization. Therefore, we determine that the subsidies provided to Rotem, prior to the privatization of ICL, continue to benefit Rotem after ICL's privatization.

Grant Benefit Calculations

To calculate the benefit for the POR, we followed the same methodology used in the final results of prior administrative reviews. We converted Rotem's shekel-denominated grants into U.S. dollars, using the exchange rate in effect on the dates the grants were received. We then applied the grant methodology to determine the benefit for the POR. *See e.g., Industrial Phosphoric Acid from Israel; Final Results of Countervailing Duty Administrative Review,* 63 FR 13626, 13633 (March 20, 1998) (*1995 Final Results*).

As a result of our privatization approach and our determination that Rotem continues to benefit from subsidies received prior to the privatization of ICL, the full value of the benefit allocable to the 1999 POR from non-recurring subsidies is being used in the calculation of Rotem's subsidy rate.

Discount Rates

We considered Rotem's cost of long-term borrowing in U.S. dollars as reported in the company's financial statements for use as the discount rate used to allocate the countervailable benefit over time. However, this information includes Rotem's borrowing from its parent company, ICL, and thus does not provide an appropriate discount rate. Therefore, we followed the same methodology used in the final results of prior administrative reviews in using ICL's cost of long-term borrowing in U.S. dollars in each year from 1984 through 1999 as the most appropriate discount rate. ICL's interest rates are shown in the notes to the company's financial statements, public documents which are in the record of this review. *See Comment 9* in the *1995 Final Results.*

Analysis of Programs

There were no comments submitted to the Department with respect to our preliminary results of review; therefore, our preliminary results provide the basis for these final results of review. Accordingly, we determine the following:

I. Programs Conferring Subsidies

A. Encouragement of Capital Investments Law (ECIL)

In the preliminary results, we found that the ECIL grant program conferred countervailable subsidies on the subject merchandise. It is de jure specific because the program limits the availability of grants to enterprises located only in Development Zones A and B. Rotem is located in Development Zone A, and received ECIL investment and capital grants in disbursements over a period of years for several projects. Our review of the record has not led us to change any findings or calculations. Accordingly, the subsidy from ECIL grants is 4.57 percent ad valorem for the POR, which remains unchanged from the preliminary results.

B. Infrastructure Grant Program

In this review, we preliminarily determined that Rotem received an infrastructure grant to initiate and establish industrial areas, and that this grant conferred countervailable subsidies on the subject merchandise. Our review of the record has not led us to change any findings or calculations. Accordingly, the subsidy for this program is 0.21 percent ad valorem, which remains unchanged from the preliminary results.

C. Encouragement of Industrial Research and Development Grants (EIRD)

In the preliminary results, we found that three EIRD grant disbursements received by Rotem were tied to research related to the production of IPA. Our review of the record has not led us to change any findings or calculations. Accordingly, the subsidy for this program is 0.02 percent ad valorem, which remains unchanged from the preliminary results.

II. Programs Determined To Be Not Used

We examined the following programs and preliminarily determined that the producer and/or exporter of the subject merchandise did not apply for or receive benefits under these programs during the POR. Our review of the record has not led us to change our finding for these final results.

A. Environmental Grant Program
B. Reduced Tax Rates under ECIL
C. ECIL Section 24 loans
D. Dividends and Interest Tax Benefits under Section 46 of the ECIL
E. ECIL Preferential Accelerated Depreciation

III.Other Program Examined

Labor Training Grant

For purposes of this administrative review, we expensed this labor training grant and have found that any subsidy which could be calculated for this program would be so small (significantly less than 0.005 percent *ad valorem*) that there would be no impact on the overall subsidy rate. Our review of the record has not led us to change our finding. Therefore, we do not consider it necessary to address the issue of specificity for purposes of this administrative review and have not further considered this program. *See e.g., Final Results of Countervailing Duty Administrative Review: Live Swine from Canada,* 63 FR 2210, 2211 (January 14, 1998).

Final Results of Review

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual *ad valorem* subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1999 through December 31, 1999, we determine the subsidy rate for Rotem to be 4.80 percent *ad valorem.* We will instruct the U.S. Customs Service (Customs) to assess countervailing duties as indicated

above on all appropriate entries. Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate. Thus, for the period covered by this review, January 1, 1999, through December 31, 1999, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

As a result of the International Trade Commission's determination that revocation of this countervailing duty order would not likely lead to continuation or recurrence of material injury to an industry in the United States in the reasonably foreseeable future, the Department, pursuant to section 751(d)(2) of the Act, revoked the countervailing duty order on IPA from Israel. *See Revocation Countervailing Duty Order: Industrial Phosphoric Acid from Israel,* 65 FR 114 (June 13, 2000). Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), the effective date of revocation was January 1, 2000. Accordingly, the Department has instructed Customs to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: December 4, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–30604 Filed 12–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112601C]

Marine Mammals; File No. 87–1593–01

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Dr. Daniel Costa (Principal Investigator), Institute of Marine Sciences, Earth & Marine Sciences Bldg. A316, University of California, Santa Cruz, CA, 95064, has been issued an amendment to take marine mammals for scientific research Permit No. 87–1593–00.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980-4018.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Amy Sloan (301)713–2289.

SUPPLEMENTARY INFORMATION: On October 9, 2001, notice was published in the **Federal Register** (66 FR 51395) that an amendment of Permit No. 87–1593–00 February 21, 2001 (66 FR 12763), had been requested by the above-named individual. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: December 4, 2001.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–30598 Filed 12–10–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Transshipment Charges for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

December 7, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs charging transshipments to 2001 limits.

EFFECTIVE DATE: December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In a notice published in the **Federal Register** on September 11, 1996 (61 FR 47892), CITA announced that Customs would be conducting investigations of transshipments of textile products produced in China and exported to the United States. Based on investigations by the U.S. Customs Service (Customs), Customs has determined that textile products in certain categories, produced or manufactured in China and entered into the United States, were entered in circumvention of the bilateral agreement effected by the Memorandum of Understanding (MOU) of February 1, 1997, and extended October 31, 2000. Consultations were held between the Governments of the United States and the People's Republic of China on this matter on October 17–18, 2001 and on December 6–7, 2001. Pursuant to Paragraph 13(E) of the bilateral MOU, the United States may charge three times the amounts transshipped to China's negotiated quantitative limits under certain conditions. Certain shipments made in 1998 of categories 338–S/339–S, 348, 638, 639, and 648 are eligible for triple charging under these provisions. Accordingly, these shipments will be triple charged to China's quotas. In the letter published below, the Chairman of CITA directs the Commissioner of Customs to charge the amounts listed in the letter below to the 2001 quota levels.

A description of the textile and apparel categories in terms of HTS numbers is available in the