Dated: February 16, 1995.

Barbara S. Stafford,

Acting Assistant Secretary for Import Administration.

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[C–508–808]

Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings From Israel

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Gary Bettger or Jennifer Yeske, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2239 or 482–0189, respectively.

Final Determination

The Department of Commerce (''the Department'') determines that benefits which constitute subsidies within the meaning of Section 701 of the Tariff Act of 1930, as amended (''the Act''), are being provided to manufacturers, producers, or exporters in Israel of certain carbon steel butt-weld pipe fittings (''pipe fittings''). For information on the estimated net subsidy, please see the *Suspension of Liquidation* section of this notice.

Case History

Since the publication of the notice of the preliminary determination in the Federal Register (59 FR 28340, June 1, 1994), the following events have occurred.

On June 1, 1994, petitioner requested that the final determination in this investigation be postponed and aligned with the date for the final determination in the companion antidumping investigation of the same subject merchandise from Israel. On June 27, 1994, the Department published in the Federal Register a notice postponing and aligning the publication of the final determination in this investigation (59 FR 32955).

On October 5, 1994, Pipe Fittings Carmiel, Ltd. (''Carmiel''), the sole company respondent, requested that the Department postpone the final antidumping and countervailing duty determinations. Therefore, on November 14, 1994, the Department published in the Federal Register a notice postponing the final antidumping and countervailing duty determinations until no later than February 16, 1995 (59 FR 56461).

We conducted verification of the responses submitted by the Government of Israel (''GOI'') and Carmiel from November 27 through December 4, 1994. Both respondents and petitioner submitted case and rebuttal briefs on January 24 and January 31, 1995, respectively.

Scope of Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (*e.g.*, threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include ''elbows,'' ''tees,''''caps,'' and ''reducers.'' The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the ''bead'' of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. References to the *Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments,* 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's CVD practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. See 60 FR 80 (January 3, 1995).

Injury Test

Because Israel is a ''country under the Agreement'' within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (''ITC'') must determine whether imports of the subject merchandise from Israel materially injure, or threaten material injury to, a U.S. industry. On April 20, 1994, the ITC published its preliminarily determination that there is a reasonable indication that industries in the United States are being materially injured or threatened with material injury by reasons of imports from Israel of the subject merchandise (59 FR 18825).

Period of Investigation

For purposes of this final determination, the period for which we are measuring subsidies (the period of investigation (the ''POI'')) is calendar year 1993.

Analysis of Programs

Based upon our analysis of the petition, responses to our questionnaires, verifications and comments made by interested parties, we determine the following:

I. Programs Determined To Be Countervailable

A. Grants under the Encouragement of Capital Investments Law of 1959 (''ECIL'')

The ECIL program was established to develop the production capacity of the Israeli economy by providing investment grants for industrial projects. In order to be eligible to receive benefits under the ECIL, an applicant first must obtain ''Approved Enterprise'' status, which is granted by the Investment Center of the Israeli Ministry of Industry and Trade.

Among the benefits provided under ECIL are investment grants. The amount of an investment grant is calculated as a percentage of the total approved investment in fixed assets, and this percentage depends on the geographic location of the enterprise. For purposes of the ECIL program, Israel is divided into three zones—the Central Zone, Development Zone A and Development Zone B. The Central Zone comprises the geographic center of Israel, including its largest and most developed population centers. Companies in the Central Zone could not receive grants under this program at all in 1988, and only at a much lower rate than companies in Development Zones A and B in 1983, with Development Zone A companies receiving a higher level of funding than those in Development Zone B.

In the *Final Affirmative Countervailing Duty Determination: Industrial Phosphoric Acid from Israel (''IPA'')* (52 FR 25447; July 7, 1987), the Department found the investment grants program under the ECIL to be *de jure* specific and, therefore, countervailable because the grants are limited to enterprises located in specific regions (*i.e.*, Development Zones A and B). In the course of this proceeding, the GOI provided no new information indicating that the grants are not limited to particular regions. Therefore, we are continuing to find ECIL grants to be *de jure* specific.

Carmiel's production facility is located in Development Zone A. According to the responses and verification, the company received approval, in 1983 and 1988, for grants for two projects related to the production of subject merchandise. These grants were disbursed over the period 1983–1993.

At verification, we noted that for certain of the grant disbursements, the Israeli Ministry of Finance subtracted a small ''computer commission.'' Consistent with section 771(6) of the Act and section 355.46 of *Countervailing Duties; Notice of Proposed Regulations and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (''Proposed Regulations''), we have determined that this commission constitutes an allowable offset. Therefore, we have subtracted the commission in those instances in which Carmiel was able to document that a commission was subtracted from a grant amount.

It is our policy to allocate non-recurring grants over a period equal to the average useful life of assets in the industry, unless the sum of grants provided under a program in a particular year is less than 0.50 percent of a firm's total sales in that year. See Section 355.49(a) of the Department's Proposed Regulations and the General Issues Appendix to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products From Austria*, 58 FR 37217, July 9, 1993. In this instance, Carmiel has not provided sales information for years prior to 1989. Therefore, we have no reason to believe that grants made before 1989 were less than 0.50 percent of sales in the year of receipt for these years and, therefore, have determined that the yearly disbursements should be allocated over time. In 1990, the sum of grants disbursed under the ECIL program accounted for less than 0.5 percent of Carmiel's total sales in that year. Therefore, benefits for 1990 were allocated to that year and are not included in our calculations. For all other years after 1989, the sum of the grants disbursed under the ECIL program accounted for more than 0.5 percent of Carmiel's total sales each year. Therefore, these benefits were allocated over time.

For ECIL grants allocated over time, we used a twelve year allocation period (the average useful life of assets with respect to the manufacture of fabricated metal products, as determined by the U.S. Internal Revenue Service Asset Depreciation Range System). The formula described in Section 355.49(b)(3) of the Proposed Regulations for allocating grants relies on a fixed discount rate, which is based on the cost of long-term, fixed-rate debt of the firm or generally in the country under investigation. However, we confirmed at verification that no long-term loans with fixed interest rates (or other long-term fixed-rate debt) were available in Israel during the years 1983–1993. Instead, the only long-term loans (or other long-term debt) available to companies in Israel utilized variable interest rates, *i.e.*, a fixed real interest rate added to the Consumer Price Index (CPI) or the dollar/shekel exchange rate.

Therefore, we have determined to adapt the grant allocation method described in our proposed regulations to use variable rather than fixed interest rates as the discount rate, given the absence of long-term fixed interest rates in the years these grants were disbursed. This methodology reflects the actual long-term options open to Israeli firms (*i.e.*, that long-term financing was only available through variable rate loans) and also ensures that the net present value of amounts countervailed in the year of receipt does not exceed the face value of the grant.

In this determination, we have used as the discount rate the rate of return on CPI-indexed commercial bonds (the real rate of return, as published in the Bank of Israel Annual Reports, plus the CPI), as no actual borrowing rates for Carmiel were available.

We divided the benefit allocated to 1993 by Carmiel's 1993 total sales. On this basis, we determine the estimated net subsidy for this program to be 2.31 percent *ad valorem* for the POI.

B. Long-Term Industrial Development Loans

Prior to July 1985, companies in Israel were eligible to receive long-term industrial development loans funded by the GOI. This program was used in conjunction with ECIL; however, a company was not required to be an Approved Enterprise in order to receive a development loan.

We confirmed, as the GOI reported, that loans under this program were provided to a number of different industries in Israel. However, we also confirmed that the interest rates on these loans varied depending on the location of the borrower. The interest rates on loans to borrowers in Development Zone A were lowest, while those on loans to borrowers in the Central Zone were highest. In previous cases, the Department has found long-term industrial development loans in Israel to be regional subsidies and countervailable to the extent that the applicable interest rates are less than those on loans to companies in the Central Zone (see *IPA*). The GOI has provided no new information to warrant reconsideration of this finding.

Carmiel received loans for a project located in Zone A. These loans were received between the year 1983–1989. Under the terms of the program, the interest rates on these loans have two components—a fixed real interest rate and a variable interest rate, the latter of which is based on either the CPI or the dollar/shekel exchange rate. We confirmed at verification that Carmiel received some loans that were linked to the CPI and others linked to the dollar-shekel exchange rate.

Because the CPI and dollar-shekel exchange rate vary from year-to-year, we cannot calculate *a priori* the payments that will be made over the life of these loans and, hence, we cannot calculate the ''grant equivalent'' of the loans. Accordingly, we have compared the interest that would have been paid by a company in the Central Zone, as a benchmark, to the amount actually paid by Carmiel during the POI (see Section 355.49(d)(1) of the Proposed Regulations). We divided the interest savings by Carmiel's total sales in 1993.

On this basis, we determine the net subsidy from this program to be 0.36 percent *ad valorem* during the POI.

C. Exchange Rate Risk Insurance Scheme

Introduced in 1981, the Exchange Rate Risk Insurance Scheme (EIS), operated by the Israel Foreign Trade Insurance Corporation Inc. (IFTRIC), was designed to allow exporters to insure themselves against the risk of losses which might occur when the rate of devaluation of the Israeli shekel lagged behind the rate of inflation. The EIS was optional and open to exporters willing to pay a premium to IFTRIC.

Under this program, if the rate of inflation was greater than the rate of devaluation, the exporter was compensated by an amount equal to the difference between these two rates

multiplied by the value-added of the exports. If the rate of devaluation was higher than the change in the domestic price index, however, the exporter was required to compensate IFTRIC. Companies using EIS paid a premium, calculated for each exporter as a percentage of the insured value of exports.

In determining whether an export insurance program provides a countervailable benefit, we examine whether the premiums and other charges are adequate to cover the program's long-term operating costs and losses. See Section 355.44(d) of the Proposed Regulations and *IPA*. We have reviewed EIS data in this investigation which showed that EIS operated at a loss from 1981 through 1991. We believe that this 11 year history is more than adequate to establish that the premiums and other charges are ''manifestly inadequate'' to cover the long-term operating costs and losses of the program. The Department's determination that this program is countervailable is consistent with our determination in *IPA*.

We confirmed at verification that this program was terminated during our POI by the GOI. However, we also found at verification that the GOI will continue to honor outstanding claims for exports made prior to the date of termination, August 31, 1993, as long as the claims are made within three years of the date of export. Because of the possibility of residual benefits, we have not adjusted the cash deposit rate to reflect the termination of this program.

We have calculated the benefit during the POI as the net amount of compensation (compensation received less compensation and fees paid) Carmiel received during that period expressly for pipe fittings exported to the United States. We confirmed by reviewing company records that a certain portion of the total benefit reported by Carmiel as having been received during the POI was actually received by the company in 1992. Therefore, we have not included this amount in our calculations for purposes of this determination.

We divided the resulting net compensation amount by the value of the company's exports of pipe fittings to the United States during the POI. On this basis, we determine the estimated net subsidy from this program to be 0.19 percent *ad valorem* during the POI.

D. Exemption From Wharfage Fee

The Ports and Trains Authority administers all import/export operations and the train system in Israel. Wharfage fees represent 45–50 percent of the revenues of the Authority to cover its infrastructure and overhead costs.

We confirmed at verification that during the POI, importers were obligated to pay wharfage fees equal to 1.5 percent *ad valorem* of import value and exporters 0.2 percent *ad valorem* of export value. However, we also found that, during the POI, exporters were exempted by a Ports and Trains Authority decision from paying the wharfage fee altogether. The exemption of this fee does not relate to the imported input (see the *Rebate of Wharfage Fees* section below), but rather to the finished product. Government officials explained that an exemption for exporters was made possible by the Authority's sound financial position.

We determine that the exemption from the wharfage fee provides an export subsidy insofar as export are allowed an exemption (unlike the other users of the port, *i.e.*, importers) solely due to their status as exporters. *Cf. Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish From Canada*, 51 FR 10041 (Mar. 24, 1986).

In order to calculate the benefit resulting from this program, which provides recurring benefits, we multiplied the total value of the company's exports during the POI by the 1.5 percent *ad valorem* coefficient and divided this amount by the total value of the company's exports.

On this basis, we determined the estimated net subsidy from this program to be 1.50 percent *ad valorem* during the POI.

E. Rebate of Wharfage Fees

We confirmed at verification that an additional program allows exporters, upon export of the finished product, rebates of the wharfage fees paid on imports of physically incorporated inputs. We were informed at verification that since the Israeli Customs Service administers the drawback system, the GOI asked it to take responsibility for rebating wharfage fee under this program. Under the rebate program, a company can receive a rebate for up to 80 percent of the wharfage fees paid on imported inputs that are physically incorporated into exported products.

This program provides preferential treatment for exporters and does not qualify for non-countervailable treatment under section 355.44(i) of the *Proposed Regulations*, as wharfage fees do not constitute indirect taxes or import charges. (*See DOC Position* to *Comment 3* below.)

To calculate the benefit provided by this program, which provides recurring benefits, we divided the total amount of rebate received during the POI by the total value of the company's exports during the same period.

On this basis, we determine the estimated net subsidy from this program to be 0.34 percent *ad valorem*.

F. Fund for the Promotion of Marketing Abroad

During verification we learned that Carmiel received benefits in 1992 under the Fund for the Promotion of Marketing Abroad. GOI officials explained that under the Fund, companies apply for three-year financing for overseas market research projects. The company is obligated to repay the financing (in part) based on export earnings. We also learned that Carmiel has been informed that the funds approved in 1992 have been cancelled because the company did not timely submit its implementation report. Consequently, the Fund Director has asked the company to repay the previously received amount. As of the time of verification, Carmiel had not yet made any repayments.

Given the information we have received, we determine that this program provides benefits solely to exporters. Consequently, we determine that the assistance provided to Carmiel constitutes an export subsidy. Moreover, although Carmiel has been asked to repay the funds, the company has yet to repay anything. Consequently, we are treating the amount as a short-term, interest-free loan still outstanding as of the end of our POI.

In order to calculate the benefit received by Carmiel, we have used the 1992 rate for short-term financing as outlined in a Bank of Israel Annual Report on the record of this proceeding. We have divided the interest savings by Carmiel's total export sales in 1993.

On this basis, we determine the net subsidy from this program to be 0.23 percent *ad valorem* during the POI.

II. Programs Determined Not To Be Countervailable

A. Rebate of Peace of Galilee Levy

We confirmed that the Peace of Galilee (Shlom-Hagalil) Levy was instituted on imports to help the balance of payments problem in Israel caused by incessant war with its neighbors. We confirmed that since at least 1986 the GOI has allowed rebates on this levy in a manner similar to that on the Rebate of Wharfage Fee program. Under the rebate program, a company can receive a rebate for 100 percent of the levies paid on imported inputs that are physically incorporated into exported products.

We confirmed that the company is tasked to provide information to the GOI regarding which inputs are physically incorporated into its exported products, and this information does not give rise to an excessive rebate. We also found that the Customs Authority is tasked with verifying the claims made by companies such as Carmiel. Consequently, we find this program to provide a nonexcessive rebate of the levies. See *Proposed Regulations* at Section 355.44(i). Therefore, we have found this program to be not countervailable.

III. Programs Determined Not To Be Used

We determine that Carmiel did not receive benefits during the POI for exports of the subject merchandise to the United States under the following programs:

A. *Additional Incentives under the ECIL*
   1. *Preferential Accelerated Depreciation*
   2. *Tax Benefits*
   3. *Preferential Loans*
   4. *Industry Subsidy Payments*
B. *Labor Training Grants*
C. *Encouragement of Industrial Research and Development (EIRD) Grants*
D. Special Export Financing Loans
E. *Provision of Funds for Transportation to Eilat Harbor*

Interested Party Comments

Comment 1: With respect to the Exchange Rate Risk Insurance Scheme, petitioner argues that Carmiel originally reported that it received a certain amount during the POI based on IFTRIC records. At verification, however Carmiel claimed that the original figure incorrectly included a payment received in 1992. Petitioner argues that according to IFTRIC records verified by the Department, the disputed payment was received by Carmiel during the POI. Therefore, the Department should use the figure originally reported by Carmiel.

Carmiel notes that the disputed amount was actually received by the company in 1992. According to Carmiel, it is the date of receipt by the *company* that is controlling; hence, the benefit from the EIS should be adjusted to reflect only the amount received during the POI.

DOC Position

We agree with Carmiel. We confirmed at the verification of Carmiel that the company actually received the disputed amount in 1992, not during the POI. It is unclear why IFTRIC recorded a later date of payment. Nevertheless, we have countervailed only the amount received by the company under this program during the POI.

Comment 2: Carmiel argues that since the Department verified that the Exchange Rate Risk Insurance Scheme was terminated during the POI, the deposit rate should be set at zero.

Petitioner argues that the Department should reject Carmiel's claim. Petitioner notes that the Department found that, although this program was terminated during the POI, the GOI will continue to honor outstanding claims as long as they are made within three years of the date of export. Therefore, residual benefits from the program will continue to be available after the POI.

DOC Position

We agree with petitioner. The Department's practice, as outlined in Section 355.50(d)(1)(2) of the Proposed Regulations, is not to adjust the cash deposit rate when it determines that residual benefits may continue to be bestowed under a terminated program. As we verified that residual benefits are possible under this program, we have not made an adjustment to the cash deposit rate.

Comment 3: According to petitioner, the Department verified that wharfage fees, assessed in order to finance the Ports and Trains Authority, differ for importers and exporters, even though the costs associated with both activities do not differ. Moreover, for the last ten years, exporters have been exempt from paying a fee altogether. Since the Department was unable to verify the value of the wharfage fee exemption to Carmiel, it should as best information available (''BIA'') establish a 1.5 percent *ad valorem* countervailing duty for this program. Petitioner further argues that the record does not indicate that these fees cover costs that have nothing to do with the services suggested by the term ''wharfage,'' and, therefore, do not operate as a tax.

Respondent counters that the wharfage fee is, in fact, a general levy intended to cover myriad government activities that have nothing to do with the services suggested by the term ''wharfage.'' The fee is paid to a government agency and is not tied to any specific cost or service. It is a tax, and more particularly an indirect tax on exports. Therefore, it should not be considered a countervailable subsidy.

DOC Position

We agree with petitioner that wharfage fees represent fees rather than indirect taxes. Consistent with the concept of a fee, the wharfage fees here are paid only by users of the port facilities, and the funds raised are used to pay for the costs incurred by the Port Authority and the maintenance of those facilities.

We note that we have not used BIA, as petitioner suggests, to calculate the countervailable benefit provided by this program. Rather, as noted above, for the exemption of the fee, we have determined that the correct method by which to calculate the benefit received by Carmiel is to multiply the 1.5 percent exemption by total export sales during the POI, and divide the resulting amount by the same total export sales value.

Comment 4: Petitioner notes that, with respect to the Rebate of the Peace of Galilee Levy Program, the record does not provide enough information to determine the extent to which the rebate provided to Carmiel is excessive. Although remission of import duties for imports consumed as ''normal waste'' may not be excessive, the Israeli Customs has made no effort to identify ''normal waste'' in the production of butt-weld pipe fittings. Therefore, petitioner submits that, as BIA, the entire amount rebated under this program should be treated as a countervailable subsidy. Petitioner notes that in *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Israel* (52 FR 1649; January 15, 1987) *(''OCTG'')*, the Department found that this program did not provide an excessive rebate of duties paid on imported inputs physically incorporated into the exported product. However, in this investigation, unlike *OCTG*, Customs indicated that it makes no attempt to determine a value for the carbon steel pipe wasted in producing subject merchandise.

Respondent argues that this program does not provide a countervailable subsidy in that it is an indirect tax on items physically incorporated into the final exported product. In fact, in *OCTG*, the Department found this program to be not countervailable. Respondent also argues that there is absolutely nothing in the record of this case to suggest that, while the rebate was ''nonexcessive'' in *OCTG*, the rebate to Carmiel is excessive. Petitioner's attempt to make the rebate appear excessive by focusing on the Custom's official's statement about wastage is misplaced. Such percentages are not determined as they are not relevant to the payments. The rebate is based on the proportion of export sales to home market sales. No calculation for wastage is necessary; Customs simply compares the tonnage of finished product exported to the tonnage sold in the Israeli market.

DOC Position

We agree with respondent that this program is not countervailable because it provides a non-excessive rebate of the levies on imported inputs that are used in the production of subsequently exported finished products. We confirmed at the Israeli Customs Department that its personnel monitor company reports regarding which imports are physically incorporated into the end product and the total amount of levies paid on such inputs. We also note that a rebate is only given on physically incorporated inputs. Consequently, waste is not an issue here. For this reason, we do not find anything in the remarks of the Customs official at verification that is inconsistent with our finding here, or in *OCTG*.

Comment 5: With respect to the Fund for the Promotion of Marketing Abroad, Carmiel states that the record is clear that it received funds for this program in 1992 (which is outside the POI), and that the company must refund the money to the government since it did not fulfill its obligations under the program. Accordingly, Carmiel maintains the money it received does not constitute a countervailable subsidy during the POI.

DOC Position

We confirmed at verification that the company is obligated to repay the benefit, has not yet done so. Therefore, during the POI, Carmiel had use of money to which it would not have otherwise had access. Consequently, we have found that this amount constituted a countervailable interest-free loan during the POI.

Comment 6: Petitioner notes that according to the verification report, Carmiel receives ''certain advantages'' if 90 percent of its sales represent its own production. The exact nature of these advantages is not, unfortunately, further explained in the verification report. However, the fact that these otherwise undefined advantages are only available to a specific class of sellers in Israel demonstrates that the ''advantages'' are not generally available within the country.

Respondent argues that, as outlined in the verification report, producing companies in Israel are eligible for certain benefits while trading companies are not. Hence, in order to preserve its status as a producing company, Carmiel formed a trading company. There are, however, no additional subsidies available to production companies other than the ones already investigated in this case.

DOC Position

We agree with respondent. We found no evidence at verification to suggest that Carmiel received any additional benefits than those already noted above. The company explained that it formed a trading company in order to preserve its ''producing company status.'' Consequently, we find no reason to pursue this issue any further.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examination of relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with our affirmative preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of carbon steel butt-weld pipe fittings from Israel, which were entered or withdrawn from warehouse for consumption, on or after June 1, 1994, the date our preliminary determination was published in the Federal Register. This final countervailing duty determination was aligned with the final antidumping duty determination of certain carbon steel butt-weld pipe fittings from Israel, pursuant to section 705(a)(1) of the Act.

Under Article 5, paragraph 3 of the GATT Subsidies Code, provisional measures cannot be imposed for more than 120 days without final affirmative determinations of subsidization and injury. Therefore, we instructed the U.S. Customs Service to discontinue suspension of liquidation on the subject merchandise beginning September 30, 1994, but to continue suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise entered from June 1 through September 29, 1994. We will reinstate suspension of liquidation under section 703(d) of the Act, if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amount indicated below.

Certain Carbon Steel Butt-Weld Pipe Fittings

Country-Wide *Ad Valorem* Rate: 4.93 percent

ITC Notification

In accordance with section 705(c) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating 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 administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order directing Customs officers to assess countervailing duties on carbon steel butt-weld pipe fittings from Israel.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act and 19 CFR 355.20(a)(4).

Dated: February 16, 1995.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

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United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Notice of Decision of Panel

AGENCY: North American Free-Trade Agreement (NAFTA) Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Decision of Binational Panel.

SUMMARY: By a decision dated February 13, 1995, the Binational Panel reviewing the final affirmative injury determination made by the Canadian