

preliminary determination of sales at less than fair value in the above-cited investigation (60 FR 438, January 4, 1995).

On January 11, 1995, the petitioner alleged that the Department made a significant ministerial error in the preliminary determination in the above-mentioned investigation and requested that the Department correct this ministerial error accordingly.

In its submission, the petitioner alleged that the Department made a ministerial error in its calculation of the foreign market value (FMV) for SC Vanadium-Tulachermet (Tulachermet). This FMV was used for comparison to sales made by both Tulachermet and Odermet, Ltd. The petitioner's allegation deals with the valuation of vanadium slag, the principal raw material used to produce the subject merchandise.

On January 19, 1995, the Department received comments from Odermet, Ltd. and Tulachermet in response to the petitioner's January 11, 1995 letter regarding a ministerial error. Odermet submitted additional comments on January 26, 1995. However, standard Department practice with respect to preliminary determinations, does "not permit parties to comment on another party's allegations of significant ministerial errors". (See the Department's Proposed Rules 57 FR 1133 (January 10, 1992). Any party objecting to the Department's amendment, will have the opportunity to present its arguments in its administrative case briefs and at the hearing.

On January 23, 1995, the Department determined that the petitioner's allegation regarding the ministerial error in our calculation of FMV for Tulachermet, requires correction in an amended preliminary determination (See January 23, 1995, Memorandum from Gary Taverman to Barbara R. Stafford).

Amendment of Preliminary Determination

The Department does not normally amend preliminary determinations since these determinations are only estimated margins subject to verification and may change for the final determination. It is, however, the Department's practice to amend preliminary determinations in those instances involving a significant ministerial error. (See Amendment to Preliminary Determination of Sales at Less Than Fair Value: Fresh Cut Roses From Columbia, 59 FR 51554, 51555 (October 12, 1994) (Roses); and Amendment to Preliminary

Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong, 55 FR 19289-90 (May 9, 1990)).

The Department has defined "significant ministerial errors" as those unintentional errors which result in a change of the estimated margin of at least 5 absolute percentage points but not less than 25 percent of the calculated margin. See *Roses*. In this case, these criteria have been met.

In its questionnaire response, Tulachermet reported its consumption of vanadium slag, the principal input used to produce the intermediate product vanadium pentoxide, on the basis of net vanadium content. The Department used as a surrogate value a price quote for vanadium slag expressed in terms of net vanadium pentoxide content. The petitioner alleges that the Department made a significant ministerial error in not converting the consumption factor or surrogate value to reflect the different basis of the surrogate value to the factor consumed.

The Department agrees with petitioner that the reported factor should have been adjusted to a vanadium pentoxide basis. The Department did not intend to apply a surrogate value to consumption factor expressed in an incompatible unit of measure. Furthermore, correcting this ministerial error will result in a change in the estimated margin of greater than 5 absolute percentage points and greater than 25 percent of the original estimated margin. Therefore, pursuant to the Department's practice, the error constitutes a significant ministerial error and the Department is amending the preliminary determination accordingly. The calculations have been corrected by applying the methodology from the petition for converting the consumption factor for vanadium slag from units of net vanadium content to units of net vanadium pentoxide content. The recalculation affects the margin percentage for Tulachermet, Odermet, and the all others rate for non-Russian exporters.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct the U.S. Customs Service to continue to require cash deposit or posting of bond on all entries of subject merchandise from the Russian Federation at the newly calculated rates, that are entered, or withdrawn from warehouse, for consumption on or after the date of the original preliminary determination publication notice in the Federal Register (60 FR 438, January 4, 1995).

The suspension-of-liquidation will remain in effect until further notice.

The revised estimated margins are as follows:

Manufacturer/Producer/Exporter	Weighted average margin percent
All exporters located in Russia including SC Vanadium-Tulachermet	94.92
Galt Alloys, Inc.	40.46
Gesellschaft für Elektrometallurgie m.b.H./Shieldalloy Metallurgical Corporation/Metallurg, Inc.	49.18
Marc Rich Co., AG/Glencore International AG	108.00
Odermet, Ltd.	60.09
Wogan Resources, Ltd.	108.00
All others not located in Russia ...	82.29

ITC Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission (ITC) of the amended preliminary determination. If our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry, before the later of 120 days after the date of the original preliminary determination (December 27, 1995) or 45 days after our final determination.

Public Comment

Public hearings in this proceeding will be held to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The tentative schedule for the case briefs, rebuttal briefs, and hearings for this proceeding is described in the preliminary determination. We will make our final determination by May 19, 1995.

Dated: February 17, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-4728 Filed 2-24-95; 8:45 am]

BILLING CODE 3510-DS-P

[C-533-812]

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

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Susan M. Strumbel, Office of

Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-1442.

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 India of certain carbon steel butt-weld pipe fittings. For information on the estimated net subsidies, please see the *Suspension of Liquidation* section of this notice.

Case History

Since the publication of the preliminary determination in the Federal Register, 59 FR 28337 (June 1, 1994), the following events have occurred.

On June 27, 1994, at petitioner's request, we extended the final determination in this investigation to coincide with the final determination in the companion antidumping investigation (59 FR 32955).

On June 30, 1994, petitioner requested that the Department postpone its preliminary determination in the antidumping investigation. Therefore, on July 26, 1994, the Department published in the Federal Register a notice postponing the preliminary antidumping determination and, therefore, also the final countervailing duty determination (59 FR 37961).

On October 5, 1994, respondents 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 on behalf of the Government of India (GOI), Karmen Steels of India (Karmen) and Sivanandha Pipe Fittings Ltd. (Sivanandha) from November 4 through November 7, 1994. We received case briefs on January 24 from petitioner and respondents, and received rebuttal briefs from petitioner on January 31, 1995.

Scope of Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings ("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 India is a "country under the Agreement" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission ("ITC") is required to determine whether imports of pipe fittings from India materially injure, or threaten material injury to, a U.S. industry. On April 20, 1994, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from India 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 ("POI")) is the respondents' fiscal year: April 1, 1993 to March 31, 1994.

Non-Responding Company

Since Tata did not respond to our countervailing duty questionnaire, we have used best information available ("BIA") in accordance with section 355.37(a) of the Department's regulations. As BIA, we have used information provided in the petition except where we have calculated a rate for a given program in a previous countervailing duty investigation or administrative review for India which is higher than that provided in the petition. We did not include in the BIA subsidy rate for Tata programs for which we have no basis to calculate a benefit (i.e., programs for which rates are not calculated in the petition, programs not previously investigated, or programs previously found not used). Based on this approach, we calculated a BIA rate for Tata of 61.56 percent *ad valorem*.

Calculation of Country-Wide Rate

In determining the benefits to the subject merchandise from the various programs described below, we used the following calculation methodology. We first calculated a country-wide rate for each program. This rate comprised the *ad valorem* benefit received by each firm weighted by each firm's share of exports of the subject merchandise to the United States. The program rates were then added together to arrive at the country-wide rate.

Pursuant to 19 CFR 355.20(d) of the Department's regulations, we compared the total *ad valorem* benefit received by each firm to the country-wide rate for all programs. The rates for Karmen, Sivanandha and Tata were significantly different from the country-wide rate. Therefore, all three companies received company-specific rates. The country-wide rate will be assigned to all other manufacturers, producers and exporters.

Karmen's Exports of Refurbished Pipe Fittings

Karmen has an arrangement with a Singaporean company, under which the Singaporean company supplies Karmen with rusty pipe fittings. Karmen reconditions and refurbishes these pipe fittings and ships them directly to the Singaporean company's U.S. customer. For purposes of the preliminary determination, we considered this refurbished merchandise to be covered by this proceeding. However, we stated

that we would seek additional information concerning: (1) The nature and extent of the processing operation, and (2) the extent to which the refurbished pipe fittings are being subsidized.

For purposes of this final determination, we are treating the "sales" of Singaporean pipe as outside of the scope of our investigation and, hence, not subject to any potential countervailing duty order on butt-weld pipe fittings from India. Karmen essentially performs a tolling service for its Singaporean customer. Moreover, Karmen does not "substantially transform" these pipe fittings. Substantial transformation generally refers to a degree of processing or manufacturing resulting in a new and different article. Through that transformation, the new article becomes a product of the country in which it was processed or manufactured. See *Cold-Rolled Steel from Argentina*, 58 FR 37062, 37065 (1993) (Appendix I). The Department makes these determinations on a case-by-case-basis. See, e.g., *Certain Fresh Cut Flowers from Colombia*, 55 FR 20491, 20299 (1990); *Limousines from Canada*, 55 FR 11036, 11040 (1990).

In determining whether Karmen substantially transformed these pipe fittings, we examined whether the degree of processing or manufacturing resulted in a new and different article. Karmen receives rusty pipe fittings from Singapore, it removes the rust, paints the fitting, and forwards it to the Singaporean company's customer. We do not consider this refurbishing process as substantially transforming the subject merchandise because it remains a pipe fitting after refurbishment. Therefore, because Karmen does not substantially transform the merchandise, we do not consider it as falling within the scope of this investigation.

However, we have also determined that the benefits received by Karmen under two of the countervailable export subsidy programs discussed below (pre-shipment financing and income tax deductions under 80HHC) cannot be limited exclusively to Karmen's export sales of new pipe fittings (*i.e.*, all Karmen's export sales excluding the Singaporean transactions). In neither instance is there any indication that Karmen is precluded from receiving these benefits on its refurbishing operations. Therefore, we have included the fee Karmen receives for refurbishing the Singaporean pipe fittings as part of the denominator for calculating the *ad valorem* subsidy rate. This is consistent with past practice. When we cannot

specifically tie the receipt of an export subsidy to a subset of export sales, such as exports of the subject merchandise, we divide the total value of the export subsidy received by the total value of exports. (See, e.g., *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings from India*, 56 FR 52521, (October 21, 1991), *Final Affirmative Countervailing Duty Determination; Certain Electrical Conductor Aluminum Redraw Rod from Venezuela*, 53 FR 24763, 24767 (June 30, 1988) (*Redraw Rod*)). (For a further discussion of this issue, please refer to the Interested Party Comments section of this notice).

Analysis of Programs

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

A. Programs Determined To Be Countervailable

1. Preferential Pre-shipment Financing

Pre-shipment financing is extended to exporters prior to shipment as working capital for purchasing raw materials, processing, packing, warehousing, transporting and shipping. Any exporter showing a confirmed export order or a letter of credit is eligible for this program. Generally, the loans are extended for 180 days. We verified that both Karmen and Sivanandha had loans on which interest was paid during the POI under this program.

Because only exporters are eligible for loans under this program, we determine that they are countervailable to the extent they are provided at a preferential interest rate. See, e.g., *Redraw Rod*. As our commercial benchmark interest rate, we used 16.50 percent, which is the rate reported by the GOI as the annual average commercial interest rate on short-term financing during the POI. We compared this benchmark rate to the interest rate charged on pre-shipment loans and found that the interest rate charged was lower than the benchmark rate. Therefore, we determine that loans provided under this program are countervailable.

To calculate the benefit, we followed the short-term loan methodology which has been applied consistently in our past determinations and is described in more detail in the Subsidies Appendix accompanying *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 49 FR 18006 (April 26, 1984); see

also, *Alhambra Foundry v. United States*, 626 F. Supp. 402 (CIT 1985).

We compared the amount of interest paid during the POI to the amount of interest that would have been paid at the benchmark rate. The difference between these two amounts is the benefit. We then divided the benefit by total exports. On this basis, we determine the estimated net subsidy from this program to be 0.47 percent *ad valorem* for Karmen, 0.44 percent *ad valorem* for Sivanandha and 5.27 percent *ad valorem* for Tata.

2. Income Tax Deductions Under Section 80HHC

Income tax benefits are available to exporters in India under Section 80HHC of the Income Tax Act of 1961. This program allows exporters to reduce their taxable income by the profits or export subsidies earned on exports. Both Karmen and Sivanandha claimed deductions under this program on their income tax returns filed in the POI.

Since tax deductions under Section 80HHC are available only to exporters, we determine that this program is countervailable. To calculate the benefit, we multiplied the amount of the deduction claimed by each company by the corporate income tax rate and divided the result by total exports. On this basis, we determine the estimated net subsidy from this program to be 2.10 percent *ad valorem* for Karmen, 2.73 percent *ad valorem* Sivanandha and 15.82 percent *ad valorem* for Tata.

3. International Price Reimbursement Scheme

The International Price Reimbursement Scheme ("IPRS") was established to compensate Indian exporters for the difference between the domestic price of inputs and their world market price. We verified that, as of April 1, 1993, the input product used in the production of pipe fittings (seamless carbon steel pipe), was no longer eligible for IPRS benefits. However, residual benefits could be received after that date and, in fact, Karmen received residual benefits under this program during the POI for exports of pipe fittings shipped prior to the POI.

Respondents maintain that the IPRS program is permissible within the framework of Item (d) of the Illustrative List of Export Subsidies annexed to the Agreement on the Interpretation and Application of Article VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code), (1979). Pursuant to the remand determination in *Final Results of Redetermination Pursuant to Court Remand, Creswell Trading Company, Inc., et al. v. United*

States, Slip. Op. 94-65 (Creswell Trading), the IPRS program must be examined in light of Item (d).

To conduct the analysis with respect to Item (d) of the Illustrative List, we examined whether the IPRS program involves a consistently applied calculation methodology for determining the difference between the higher domestic and lower international price of a product available to exporters and whether the pricing and other data used in this methodology are regularly updated to reflect accurately the price differential at the time of the purchase of the product.

We verified that India's IPRS program utilizes a clearly defined and consistently applied methodology for calculating the difference between the higher domestic and lower international price of seamless carbon steel pipe available to their exporters. We also verified that the price schedules for both domestic and international prices are updated periodically. Therefore, we determine that the basic terms and conditions of the provision of carbon steel pipe under the IPRS program are not "more favourable than those commercially available on world markets" to Indian exporters. However, we have also determined that the IPRS rebate is "excessive," because the government failed to include ocean freight in its calculation of the world market price.

Item (d) is concerned with the government's provision of goods to exporters on terms more favorable than those "commercially available on world markets to their exporters." Indian exporters who purchase seamless carbon steel pipe on the world market would necessarily also incur the cost of delivering the pipe to India. Therefore, the commercially available alternative is the price of seamless carbon steel pipe itself, from sources outside of India, plus a delivery charge to India.

The international prices used by the GOI in its calculations of IPRS rebates are stated in F.O.B. (port of origination) terms and, thus, do not reflect the delivery of foreign seamless carbon steel pipe to India. Consequently, we added delivery costs to the price of foreign-sourced seamless carbon steel pipe and compared the delivered domestic price to a delivered world market price. On this basis, we determine that the IPRS rebates received by the Indian pipe fittings producers are excessive in the amount of the delivery charges necessary to transport carbon steel pipe to India. The excess amount is a countervailable subsidy because the rebate enabled the pipe fittings exporters to pay a lower price for carbon

steel pipe than that commercially available on world markets.

To calculate Karmen's benefit, we divided the amount of ocean freight necessary to ship seamless carbon steel pipe to India by Karmen's total exports of pipe fittings. We did not include in the denominator the fees Karmen receives for refurbishing Singaporean pipe because refurbished pipe fittings are not eligible for the IPRS. On this basis, we determine the estimated net subsidy from this program to be 7.05 percent *ad valorem* for Karmen, 0.00 percent *ad valorem* for Sivanandha and 32.66 percent *ad valorem* for Tata.

B. Programs Determined not to Provide Benefits During the POI Advance Licenses and Advance Customs Clearance Permits ("ACCP's")

Under the GOI's Duty Exemption Scheme, inputs used in the production of exports may enter the country duty-free. Two mechanisms under the Duty Exemption Scheme are Advance Licenses and Advance Custom Clearance Permits ("ACCP's"). Sivanandha used Advance Licenses to import seamless carbon steel pipes in the POI. Advance Licenses permit the importation of goods duty free provided that the imports are used in the production of merchandise subsequently exported.

Karmen used ACCPs during the POI. ACCPs allow exporters to import merchandise duty free for the purpose of jobbing, restoration, reconditioning and other servicing, provided that such merchandise is re-exported. Karmen used its ACCPs to import the aforementioned pipe fittings from Singapore.

We consider the use of Advance Licenses and ACCP's to be the equivalent of a duty-drawback program (see Final Affirmative Countervailing Duty Determination: Steel Wire Rope from India, 56 FR 46292 (September 11, 1991)). Under § 355.44(i)(4)(1) of the Department's proposed regulations (see Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989), the non-excessive drawback of import duties is not countervailable if the imported products are physically incorporated into exported products. According to the questionnaire responses and verification, the products imported under Advance Licenses are physically incorporated into pipe fittings which are subsequently re-exported. The products imported under the ACCP's were refurbished and also re-exported. Therefore, we determine that Advance Licenses and ACCP's did

not provide a countervailable benefit in the POI.

C. Programs Determined To Be Not Used

We established at verification that the following programs were not used during the POI.

- A. Preferential Post-Shipment Financing
- B. Additional and Replenishment Licenses
- C. Market Development Assistance
- D. Export Promotion, Capital Goods Scheme
- E. Benefits for 100 Percent Export-Oriented Units
- F. Benefits Provided to Export Processing Zones

Interested Party Comments

Comment 1: Karmen argues that it would be inappropriate to subtract the fees received for its refurbishing operations from the denominator but to leave the subsidies resulting from the refurbishing in the numerator. Karmen argues that the job-working fees received for the Singaporean transactions must be included in the denominator to calculate its subsidy rate. Karmen contends that the benefits from the two subsidies we preliminarily found countervailable, the 80HHC tax program and the pre-shipment export financing, resulted significantly from the transactions involving Singaporean pipe.

Petitioner argues that the transactions involving the refurbished pipe fittings do not constitute a sale for the purposes of this investigation. Furthermore, petitioner disagrees that the refurbished pipe fittings contributed to Karmen's benefits under either of the above-mentioned programs.

DOC's Position: As noted above, we have determined that the benefits from the pre-shipment export financing and 80HHC programs cannot be tied solely to Karmen's export sales, exclusive of the income received for refurbishing Singaporean pipe. During verification, we were told by Karmen officials that they did not use pre-shipment export financing for shipments of refurbished pipe fittings, but based on our analysis of the information submitted regarding this program, there is no reason to believe that Karmen could not have used the financing for these shipments. We do not typically narrow our export subsidy denominator to less than total exports unless the benefits provided can be exclusively linked to a smaller subset of export sales. Therefore, consistent with our past practice, we divided the benefit amount by the value of Karmen's total exports, including the fees it received for refurbishing.

With respect to the 80HHC program, our past practice has been to divide the value of the benefits by total exports in the POI. Pursuant to our general tax methodology, we consider tax benefits to be "received" when a company files the return. Consequently, the benefit used in our calculation usually relates to sales activity in the year prior to the POI. As a result, the sales denominator we use in our subsidy calculation is rarely, if ever, the sales from the same fiscal year covered by the tax return. The only basis to exclude sales from the denominator is to determine that they are incapable of generating the tax benefit in question. The only issue then, in this investigation, is whether the fees Karmen receives for its refurbishing operations can generate 80HHC benefits.

The 80HHC benefits Karmen claimed on the tax return filed during the POI (covering a pre-POI period) were not generated by Karmen's refurbishing operations because Karmen did not refurbish any Singaporean pipe during the fiscal year covered by the tax return. However, we verified that the fees received by Karmen for its refurbishing operations during the POI did generate 80HHC benefits on the tax return which covers the POI. It is clear that the refurbishing fees received by Karmen qualify for 80HHC benefits. The only reason 80HHC benefits generated by the refurbishing operations are not in the 80HHC subsidy calculation in this investigation is the Department's tax methodology which mandates the use of the tax return filed during the POI.

Comment 2: Respondents argue that the benchmark interest rate of 16.5 percent used in the Department's preliminary determination is the appropriate benchmark rate and should also be used in the Department's final determination. They state that this interest rate is the national average commercial rate for comparable loans. They contend that the 18.75 percent interest rate listed in the Department's verification reports is a company-specific rate and therefore should not be used. They further state that the 18.75 percent interest rate is for a loan that has a one year term while pre-shipment financing has a much shorter term. Finally, they argue that pre-shipment export financing is a low risk form of credit because the exporter has to show a purchase order prior to receiving financing.

DOC's Position: We agree that the 18.75 percent interest rate is a company-specific rate. When selecting a short-term interest rate benchmark the Department's first choice is a national average rate rather than a company-specific rate. See, Subsidies Appendix.

The questionnaire response of the GOI stated that the annual average interest rate on short-term financing in India during the POI was 16.5 percent. According to the Reserve Bank of India, the minimum commercial short-term rate on loans above 200,000 rupees in India during the POI was 15.00 percent. Information from the May 1994 edition of International Financial Statistics indicates that the average short- and medium-term interest rate in India during the POI was approximately 15.59 percent. Given the information on the record, we used as our benchmark the rate provided by the GOI.

Comment 3: Respondents argue that the Department should uphold its preliminary finding that the IPRS program is non-countervailable.

DOC's Position: Based on verification and the recent remand determination in Creswell Trading, we have determined that the IPRS program provided a countervailable benefit during the POI.

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, examination of relevant accounting records and examination of 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-99 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 butt-weld pipe fittings from India, 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.

After the preliminary determination, this final countervailing duty determination was aligned with the final antidumping duty determination on certain carbon steel butt-weld pipe fittings from India, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act).

Under article 5, paragraph 3 of the *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 the suspension of liquidation on the subject

merchandise on or after September 30, 1994, but to continue the suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise entered between June 1, 1994, and September 29, 1994.

We will reinstate the 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 in the amounts indicated below:

Karmen Steels of India: 9.62 percent *ad valorem*
 Sivanandha Pipe Fittings Ltd.: 3.16 percent *ad valorem*
 Tata Iron & Steel Limited: 61.56 percent *ad valorem*
 All-Others: 29.40 percent *ad valorem*

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, pursuant to section 705(c) 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 an 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 cancelled. 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 butt-weld pipe fittings from India.

Return of 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 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 preliminary 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.