

General Incentives Encouragement Program RUSF

a. *RUSF Vat Rebates of 15% for Domestically Sourced Machinery & Equipment*

b. *RUSF Payments of 15% of a Company's Investment*

c. *Payments to Exporters in the amount of 4% of FOB Value of Certain Export Receipts*

V. *Program Preliminarily Determined to Not Exist*

Based on the information provided in the responses, we preliminarily determine that the following program does not exist:

Advanced Refunds of Tax Savings

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

ITC Notification

In accordance with section 703(f) 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 an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(3) of the Act, if our preliminary determination is negative, the ITC will make its final determination within 75 days after the Department makes its final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is

requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

February 2, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

C-122-841

Preliminary Affirmative Countervailing Duty Determination: Carbon and Certain Alloy Steel Wire Rod From Canada.

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

ACTION: Notice of preliminary affirmative countervailing duty determination.

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers or exporters of carbon and certain alloy steel wire rod from Canada. For information on the estimated countervailing duty rates, see infra section on "Suspension of Liquidation."

DATES: February 8, 2002.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or Andrew Covington, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and

Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-3464 and (202) 482-3534, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA") effective January 1, 1995 ("the Act"). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (April 2001).

Petitioners

The petitioners in this investigation are Co-Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. (collectively, "petitioners").

Case History

The following events have occurred since the publication of the notice of initiation in the Federal Register. See Notice of Initiation of Countervailing Duty Investigations: Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey, 66 FR 49931 (October 1, 2001) ("Initiation Notice").

On October 9, the Department of Commerce ("the Department") received a request from the petitioners to amend the scope of this investigation to exclude certain wire rod. The petitioners submitted further clarification with respect to their scope amendment request on November 28, 2001. Also on November 28, 2001, the five largest U.S. tire manufacturers and the industry trade association, the Rubber Manufacturers Association, submitted comments on the proposed exclusion. The tire manufacturers submitted additional comments on January 28, 2002.

On October 11, 2001, the Department issued countervailing duty ("CVD") questionnaires to the Government of Canada ("GOC") and the producers/exporters of the subject merchandise. Due to the large number of producers and exporters of carbon and certain alloy steel wire rod ("wire rod" or "subject merchandise") in Canada, we decided to limit the number of responding companies to the three producers/exporters with the largest volumes of exports to the United States during the period of investigation: Ispat Sidbec Inc. ("Ispat Sidbec"), Ivaco Inc. ("Ivaco") and Stelco Inc. ("Stelco"). See October 4, 2001 memorandum to Susan Kuhbach, Respondent Selection, which is on file in the Department's Central

Records Unit ("CRU") in Room B-099 of the main Department building.

On October 18, 2001, the petitioners filed letters raising several concerns with respect to the Department's initiation of this investigation and the concurrent countervailing duty investigations of wire rod from Brazil, Germany, and Trinidad and Tobago. The Department addressed these concerns in the December 4, 2001 memorandum from Susan Kuhbach to Richard Moreland, entitled "Petitioners' Objections to Department's Initiation Determinations," which is on file in the Department's CRU. For Canada, the Department also initiated an investigation of two alleged subsidies raised in the petitioners' October 18, 2001 letter. Supplemental questionnaires on these alleged subsidies were sent to the GOC on December 6, 2001.

On November 14, 2001, we published a postponement of the preliminary determination of this investigation until February 1, 2002. See Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Trinidad and Tobago, and Turkey: Postponement of Preliminary Determinations of Countervailing Duty Investigations, 66 FR 57036 (November 14, 2001).

The Department received responses to its countervailing duty questionnaires from the GOC, the Government of Quebec (GOQ), and the companies from November 19 through December 4, 2001. The GOC and Stelco responded to the Department's December 6, 2001 questionnaires regarding the newly initiated subsidies allegations on December 19, 2001.

Comments on these questionnaire responses were received from the petitioners between December 13, 2001, and January 7, 2002. Included in the petitioners' December 13, 2001 comments regarding Stelco was a request that the Department seek more information about "other research" initiatives undertaken by Stelco and, in particular, Stelco's relationship with the McMaster Steel Research Center. The petitioners alleged that this Center receives both federal and provincial funding for its research activities under the Ontario Research and Development Challenge Fund ("ORDCF") and the Natural Sciences and Engineering Research Council of Canada ("NSERC"). Based on our review of the supporting documentation submitted by the petitioners regarding ORDCF and NSERC, there is no indication that funding provided by these organizations is limited to specific enterprises or industries in Ontario or Canada, respectively, as required by section

771(5)(A) of the Act. Therefore, we have not investigated Stelco's involvement with the McMaster Steel Research Center.

In their December 20, 2001 comments regarding the GOQ's questionnaire response, the petitioners raised issues concerning the sale of Sidbec-Dosco to Ispat Sidbec. On January 17, 2002, the petitioners alleged that Ispat Sidbec received countervailable subsidies in conjunction with its purchase of Sidbec-Dosco. Specifically, the petitioners claimed that a subsidy was conferred in the amount of the difference between the fair market value of Sidbec-Dosco and the amount paid for the company by Ispat. The petitioners alleged additional subsidies arising from the change in ownership that are proprietary and cannot be summarized in this notice.

Regarding the petitioners' allegation that the price paid for Sidbec-Dosco did not reflect fair market value, it is the Department's practice not to conduct an analysis of whether a sales transaction reflects fair value when a change-in-ownership occurs and we find that the pre-sale and post-sale entities are the same "person." (See "Final Results of Redetermination Pursuant to Court Remand" *Acciai Speciali Terni S.p.A. v. United States*, Court No. 99-06-00364, Remand Order (CIT August 14, 2000).) Because we have determined that Sidbec-Dosco and Ispat Sidbec were the same "person" (see "Change in Ownership" section, *infra*), we do not reach the issue identified by the petitioners and have no basis to investigate this transaction as a possible subsidy. The other issues raised by the petitioners are addressed in the February 1, 2002 memorandum to the file entitled "Petitioners' Allegations Regarding Ispat's Purchase of Sidbec Dosco," a public version of which is on file in the Department's CRU.

Supplemental questionnaires were sent to the GOC, the GOQ and the companies between December 21, 2001 and January 4, 2002. Responses to these supplemental questionnaires were received between January 4 and January 15, 2002.

On December 28, 2001, Stelco submitted a letter seeking sanctions against the petitioners for their alleged failure to serve the petitioners' October 18 letter on Stelco. On February 1, 2002, the Department responded to Stelco's complaint finding that the petitioners had not violated their service obligations.

Period of Investigation ("POI")

The period for which we are measuring subsidies is calendar year 2000.

Scope of Investigation

The merchandise covered by this investigation is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.0 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States ("HTSUS") definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (i.e., products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0090, 7227.90.6051 and 7227.90.6058 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Scope Comments

In the Initiation Notice, we invited comments on the scope of this proceeding. As noted above, on October 9, 2001, we received a request from the petitioners to amend the scope of this investigation and the companion CVD and antidumping duty ("AD") wire rod investigations. Specifically, the petitioners requested that the scope be amended to exclude high carbon, high tensile 1080 grade tire cord and tire bead quality wire rod actually used in the production of tire cord and bead, as defined by specific dimensional characteristics and specifications.

On November 28, 2001, the petitioners further clarified and modified their October 9, request. The petitioners suggested the following five

modifications and clarifications: (1) Expand the end-use language of the scope exclusion request to exclude 1080 grade tire cord and tire bead quality that is used in the production of tire cord, tire bead, and rubber reinforcement applications; (2) clarify that the scope exclusion requires a carbon segregation per heat average of 3.0 or better to comport with recognized industry standards; (3) replace the surface quality requirement for tire cord and tire bead with simplified language specifying maximum surface defect length; (4) modify the maximum soluble aluminum from 0.03 to 0.01 for tire bead wire rod; and (5) reduce the maximum residual element requirements to 0.15 percent from 0.18 percent for both tire bead and tire cord wire rod and add an exception for chromium-added tire bead wire rod to allow a residual of 0.10 percent for copper and nickel and a chromium content of 0.24 to 0.30 percent.

Also on November 28, 2001, the five largest U.S. tire manufacturers and the industry trade association, the Rubber Manufacturers Association, ("the tire manufacturers") submitted a letter to the Department in response to petitioners' October 9, 2001 submission regarding the scope exclusion. In this letter, the tire manufacturers supported the petitioners' request to exclude certain 1080 grade tire cord and tire bead wire rod used in the production of tire cord and bead.

Additionally, the tire manufacturers requested clarification from the Department of whether 1090 grade was covered by the petitioners' exclusion request. The tire manufacturers further requested an exclusion from the scope of this investigation for 1070 grade wire rod and related grades (0.69 percent or more of carbon) because, according to the tire manufacturers, domestic production cannot meet the requirements of the tire industry.

The tire manufacturers stated their opposition to defining scope exclusions on the basis of actual end use of the product. Instead, the tire manufacturers support excluding the product if it is imported pursuant to a purchase order from a tire manufacturer or a tire cord wire manufacturer in the United States. Finally, the tire manufacturers urged the Department to adopt the following specifications to define the excluded product: A maximum nitrogen content of 0.0008 percent for tire cord and 0.0004 percent for tire bead; maximum weight for copper, nickel, and chromium, in the aggregate, of 0.0005 percent for both types of wire rod. In their view, there should be no additional specifications and tests, as proposed by the petitioners.

On January 28, 2002, the tire manufacturers responded to the petitioners' November 28, 2001 letter. The tire manufacturers continue to have three major concerns about the product exclusion requested by the petitioners. First, the tire manufacturers urge that 1070 grade tire cord quality wire rod be excluded (as it was in the 1999 Section 201 investigation). Second, they continue to object to defining the exclusion by actual end use. Finally, they reiterate their earlier position on the chemical specifications for the excluded product.

At this point in the proceeding, we recognize that the interested parties have both advocated excluding tire rod and tire core quality wire rod. However, the Department continues to examine this issue. Therefore, for this preliminary determination we have not amended the scope, and this preliminary determination applies to the scope as described in the Initiation Notice.

We plan to reach a decision as early as possible in this proceeding. Interested parties will be advised of our intentions prior to the final determination and will have the opportunity to comment.

Injury Test

Because Canada is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission ("ITC") is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On October 15, 2001, the ITC transmitted to the Department its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Canada of the subject merchandise. See *Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Turkey, Ukraine, and Venezuela*, 66 FR 54539 (October 29, 2001).

Changes in Ownership

On February 2, 2000, 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"), rejected the Department's change-in-ownership methodology as explained in the General Issues Appendix of the Final Affirmative Countervailing Duty Determination: *Certain Steel Products from Austria*, 58 FR 37217, 37225 (July

9, 1993). The CAFC held that "the Tariff Act, as amended, does not allow Commerce to presume conclusively that the subsidies granted to the former owner of Delverde's corporate assets automatically 'passed through' to Delverde following the sale. Rather, the Tariff Act requires that Commerce make such a determination by examining the particular facts and circumstances of the sale and determining whether Delverde directly or indirectly received both a financial contribution and benefit from the government." *Delverde III*, 202 F.3d at 1364.

Pursuant to the CAFC finding, the Department developed a new change-in-ownership methodology following the CAFC's decision in *Delverde III*. This new methodology was first announced in a remand determination on December 4, 2000, and was also applied in *Grain-Oriented Electrical Steel from Italy; Final Results of Countervailing Duty Administrative Review*, 66 FR 2885 (January 12, 2001). Likewise, we have applied this new methodology in analyzing the changes in ownership in this preliminary determination.

The first step under this new methodology is to determine whether the legal person (entity) to which the subsidies were given is, in fact, distinct from the legal person that produced the subject merchandise exported to the United States. If we determine the two persons are distinct, we then analyze whether a subsidy has been provided to the purchasing entity as a result of the change-in-ownership transaction. If we find, however, that the original subsidy recipient and the current producer/exporter are the same person, then 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" under investigation. Assuming that the original subsidy has not been fully amortized under the Department's normal allocation methodology as of the POI, 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 holds itself out 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 person to be the same person as the pre-sale person if, based on the totality of the factors considered, we determine 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.

We have preliminarily determined that Ispat Sidbec is the only respondent to have undergone a change in ownership and, therefore, have limited our analysis to this company.

In 1994, Sidbec, a corporation wholly owned by the GOQ, sold all the shares of its subsidiary, Sidbec-Dosco, to Ispat Mexicana S.A. de C.V. The company that was purchased is known today as Ispat-Sidbec.

After applying our "person" analysis to the facts and circumstances of the privatization of Sidbec-Dosco, we preliminarily determine that the pre-sale and post-sale entities are not distinct persons. Specifically, Ispat Sidbec is still in the same general business as Sidbec-Dosco, the manufacture of steel products including steel wire rod. Although Ispat Sidbec has to some extent refocused and shifted its product line since the privatization, the products are essentially the same. The Sidbec name has been retained and used continually since the privatization. After its sale, Sidbec-Dosco Inc. became Sidbec-Dosco (Ispat) and later, Ispat Sidbec, Inc.

As to the second factor, continuity of production facilities, although Ispat Sidbec has closed one facility since it purchased Sidbec-Dosco, it has maintained the facilities at Contrecoeur, Longueuil, and Montreal, Quebec. The volume of steel produced immediately before and after the privatization has changed only minimally.

Next, we compared the assets and liabilities of Sidbec-Dosco to those of Sidbec-Dosco (Ispat), and found them to be approximately the same. Last, we reviewed information about workforce retention and concluded that the post-privatization Sidbec-Dosco (Ispat) retained personnel, including management.

Therefore, we preliminarily determine that the subsidies provided to Sidbec prior to the privatization of its wholly owned subsidiary Sidbec-Dosco continued to benefit Sidbec-Dosco (Ispat), later Ispat Sidbec, during the POI.

Subsidies Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life ("AUL") of the renewable physical assets used to produce the subject merchandise. 19 CFR section 351.524(d)(2) creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (the "IRS Tables"). For wire rod, the IRS Tables prescribe an AUL of 15 years.

In order to rebut the presumption in favor of the IRS tables, the Department must find that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry in question, and that the difference between the company-specific or country-wide AUL and the IRS tables is significant. (See 19 CFR 351.524(d)(2)(i).) For this difference to be considered significant, it must be one year or greater. (See 19 CFR 351.524(d)(2)(ii).)

In this proceeding, the petitioners have claimed that the AULs for Ispat Sidbec and Ivaco should differ from the presumed 15-year AUL, based on information from these companies' recent financial statements. The responding companies do not address this allegation, pointing out that use of the alternative periods proposed by the petitioners would make no difference in this investigation because the companies received no non-recurring subsidies in the period proposed by the petitioners (Ivaco) or because they received no non-recurring subsidies that are not captured in the 15-year AUL period from the IRS Tables (Ispat Sidbec). Regarding Ivaco, we agree and have not addressed the petitioners' allegation further.

However, regarding Ispat Sidbec, the two non-recurring subsidies which we have preliminarily determined to be countervailable were previously allocated in Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Canada, 62 FR 54972, 54975-76 (October 22, 1997) ("1997 Wire Rod"). The allocation period calculated for Ispat Sidbec in 1997 Wire Rod was a company-specific period. The length of the period is proprietary.

For the reasons discussed in the proprietary February 1, 2002 memorandum to the file entitled "Ispat Sidbec's AUL," (to be written) we have preliminarily determined that the petitioners have not rebutted the presumption in favor of the IRS tables.

(A public version of this memorandum is available in the Department's CRU.) Therefore, we have used the 15-year period to allocate Ispat Sidbec's subsidies.

Attribution of Subsidies

19 CFR 351.525(b)(6)(ii)-(v) directs that the Department will attribute subsidies received by certain affiliated companies to the combined sales of those companies. Based on our review of the responses, we find that "cross-ownership" exists with respect to certain companies, as described below, and have attributed the subsidies received by these companies accordingly.

Ispat Sidbec: Ispat Sidbec has responded on behalf of Ispat Sidbec Inc. and two of its subsidiaries, Sidbec-Feruni (Ispat) Inc. (100 percent owned) and Deitcher Brothers (1992) Inc. (50 percent owned). Both of these subsidiaries provide processed scrap to Ispat Sidbec Inc. for use in the production of slabs and billets which, in turn, are used in the production of the subject merchandise.

Although Ispat Sidbec has responded on behalf of Deitcher Brothers (1992) Inc. (Deitcher Brothers), Ispat Sidbec argues that cross-ownership does not exist between these two companies because Ispat Sidbec Inc. does not have majority voting ownership and does not direct the operations of Deitcher Brothers. Based on Ispat Sidbec's description of the voting rights of the owners (which is proprietary), we preliminarily determine that cross-ownership does not exist between Ispat Sidbec Inc. and Deitcher Brothers (see 19 CFR 351.525(b)(6)(vi)). Thus, according to 19 CFR 351.525(b)(6)(i), we should not include Deitcher Brothers' sales in the denominator used to calculate the ad valorem subsidy rate for Ispat Sidbec. However, for purposes of this preliminary determination, we do not have sufficient information to remove these sales.

Also, based on Ispat Sidbec's supplemental questionnaire response, it appears that Ispat Sidbec should also have responded on behalf of the Canadian holding company that owns all the outstanding shares of Ispat Sidbec Inc., Ispat Canada.

For our final determination, we intend to gather information regarding the value of Deitcher Brothers' sales that are included in the financial results for Ispat Sidbec Inc. and to investigate any subsidies received by Ispat Canada.

For this preliminary determination, we find that cross-ownership within the meaning of 19 CFR 351.525(b)(6)(vi) exists between Ispat Sidbec Inc. and

Sidbec-Feruni (Ispat) Inc., and the subsidies received by them have been attributed to their combined sales.

Ivaco: Ivaco has responded on behalf of Ivaco, Inc. (including its divisions) and Ivaco Rolling Mills Limited Partnership ("IRM"). IRM is virtually 100 percent owned by Ivaco, Inc. and produces unprocessed wire rod which it sells in processed and unprocessed forms. For sales of processed wire rod, the processing is done by Sivaco Ontario Processing Division ("Sivaco Ontario") or Sivaco Quebec, both divisions of Ivaco, Inc. Sivaco Ontario also sells processed wire rod using inputs supplied by IRM and others. Sivaco Quebec occasionally sells the subject merchandise. Based on the extent of the relationship between Ivaco, Inc. and IRM, we preliminarily determine that cross-ownership within the meaning of 19 CFR 351.525(b)(6)(vi) exists.

Ivaco also reported that Bakermat, Inc., a company that was 50 percent owned by Ivaco, Inc. until November 23, 2000, supplied IRM with a small amount of scrap that was used by IRM to produce billets, an input into the subject merchandise. Ivaco claims that it cannot report more information about Bakermat, beyond the 1998 and 1999 financial statements it has submitted, pointing to the fact that Bakermat's financial results were never combined with those of Ivaco, Inc.

Based on the record of this proceeding, we find no evidence that Bakermat received any subsidies. Thus, even if we were to combine Bakermat with Ivaco due to cross-ownership during a portion of the POI, it would not change our preliminary results. Therefore, we are not addressing the issue of whether cross-ownership existed between these companies through November 2000.

Stelco: Stelco has responded on behalf of Stelco Inc., Stelco-McMaster Ltee. Quebec (Stelco-McMaster), Wabush Mines Nfld and Quebec (Wabush Mines), Fers et Metaux Recycles Ltee. (Fers et Metaux), and Stelwire Ltd. (Stelwire). Stelco Inc. produces the subject merchandise, using inputs from Stelco-McMaster (billets) and Wabush Mines (iron ore). Additionally, Fers et Metaux supplies recycled scrap to Stelco-McMaster. Stelwire sold some subject merchandise to the United States and Canada. Stelco-McMaster and Stelwire are 100 percent owned by Stelco Inc. Stelco-McMaster owns 50 percent of Fers et Metaux. Stelco Inc. owns 37.87 percent of Wabush Mines.

Although Stelco has responded on behalf of Wabush Mines and Fers et

Metaux, saying that neither received the subsidies being investigated in this proceeding, it disputes that cross-ownership exists between these companies and Stelco Inc. Regarding Wabush Mines, Stelco points to the fact that another shareholder of that company also owns 37.87 percent of Wabush Mines' shares. Hence, Stelco claims that it does not control Wabush mines. Regarding Fers et Metaux, Stelco claims that because it has no direct ownership interest in Fers et Metaux, cross-ownership cannot be considered to exist.

For purposes of the preliminary determination, we agree that cross-ownership does not exist between Stelco Inc. and Wabush Mines because of the lack of majority voting ownership. (See 19 CFR 351.525(b)(6)(vi) and February 1, 2001 memorandum to the file entitled "Stelco's Affiliation with Wabush Lake Railway Company, Ltd. and Arnaud Railway Company," a public version of which is on file in the Department's CRU.). However, we disagree with Stelco that we cannot find cross-ownership with Fers et Metaux because the ownership is indirect. Nothing in 19 CFR 351.525(b)(6)(vi) indicates that the ownership must be direct in order for cross-ownership to exist. Moreover, we note that Fers et Metaux is 100 percent owned by Stelco-McMaster, whose subsidies and sales are properly combined with those of Stelco Inc. under our cross ownership rules. Therefore, lacking other evidence to indicate that Stelco Inc.'s 50 percent ownership does not confer majority voting ownership, we find that cross-ownership exists between Stelco Inc. and Fers et Metaux.

Consequently, for these preliminary results, we are combining Stelco Inc., Stelco-McMaster, Fers et Metaux, and Stelwire for attribution purposes. However, we do not have sufficient information to include 100 percent of Fers et Metaux sales; nor do we have the information to exclude Wabush Mines' sales. We intend to seek this information for our final determination.

Creditworthiness

In the Initiation Notice, we stated that the Department had found Ispat Sidbec's predecessor company, Sidbec Dosco, to be uncreditworthy between 1983 and 1992 in 1997 Wire Rod. Ispat Sidbec and the GOQ have correctly noted that the Department found Sidbec, Sidbec-Dosco's owner, and not Sidbec-Dosco to be uncreditworthy. It was Sidbec that received grants from the GOQ during the period 1984 - 1992, and it was Sidbec's debt that was converted to equity in 1988.

In the instant investigation, the GOQ has provided financial information regarding Sidbec-Dosco's creditworthiness. However, we have not analyzed that information. Instead, following the approach adopted by the Department in 1997 Wire Rod, we believe that Sidbec is the proper focus of our creditworthiness analysis. (See 62 FR 54972, 54987).

Because we have received no new information regarding Sidbec's creditworthiness, we preliminarily determine that Sidbec was uncreditworthy from 1983 - 1992.

Equityworthiness

In 1997 Wire Rod, we determined that Sidbec was unequityworthy in 1988 and that the 1988 conversion of Sidbec's debt to equity was a countervailable subsidy. In the instant investigation, the GOQ has provided financial information regarding Sidbec-Dosco's equityworthiness. However, we have not analyzed that information. Instead, following the approach adopted by the Department in 1997 Wire Rod, we believe that Sidbec is the proper focus of our equityworthiness analysis. (See 62 FR 54972, 54983 - 84).

Because we have received no new information regarding Sidbec's equityworthiness, we preliminarily determine that Sidbec was unequityworthy at the time of the 1988 debt-to-equity conversion.

Discount Rates

The only non-recurring, allocable subsidies in this preliminary determination are the 1988 conversion of Sidbec's debt to equity and grants received by Sidbec between 1984 and 1992. As discussed above, we have preliminarily found Sidbec to be uncreditworthy in those years.

In accordance with 19 CFR 351.524(d)(3)(ii), the discount rate for companies considered uncreditworthy is the rate described in 19 CFR 351.505(a)(3)(iii). To calculate that rate, the Department must specify values for four variables: (1) the probability of default by an uncreditworthy company; (2) the probability of default by a creditworthy company; (3) the long-term interest rate for creditworthy borrowers; and (4) the term of the debt.

For the probability of default by an uncreditworthy company, we have used the average cumulative default rates reported for the Caa- to C-rated category of companies as published in Moody's Investors Service, "Historical Default Rates of Corporate Bond Issuers, 1920-1997" (February 1998). For the probability of default by a creditworthy company, we used the cumulative

default rates for investment grade bonds as published in Moody's Investor Services: "Statistical Tables of Default Rates and Recovery Rates" (February 1998). For the commercial interest rate charged to creditworthy borrowers, we used the "Average Weighted Yield (ScotiaMcLeod) - All Corporate Long-Term" from the Bank of Canada's website. For the term of the debt, we used the AUL period for Ispat Sidbec, as the grants and equity benefits are being allocated over that period.

Denominator

Ispat Sidbec reported two values for total sales. The first includes merchandise produced in whole or in part in Canada, while the second excludes merchandise that undergoes substantial transformation outside of Canada. For purposes of this preliminary determination, we have used the second amount. Given that this merchandise is substantially transformed outside of Canada, we are assuming that much of its value is non-Canadian. Therefore, use of this sales value better reflects the Department's policy of attributing subsidies only to merchandise produced in the jurisdiction of the subsidizing country. See 19 CFR 351.525(b)(7).

We intend to seek clarification of two sales values for our final determination.

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Programs Preliminarily Determined To Be Countervailable

A. 1988 Debt-to-Equity Conversion

In 1988, the GOQ began exploring options for increasing the value of its investment in Sidbec. To improve the company's debt-to-equity ratio, the GOQ decided to convert four Sidbec debt instruments it held into equity. According to the GOQ, converting Sidbec's debt allowed Sidbec to invest in Sidbec-Dosco, thereby increasing the value of that company and the likelihood that Sidbec-Dosco could be successfully privatized. The amount of debt converted totaled Cdn\$81,559,630, reflecting the principal and interest outstanding on the debt as of December 23, 1988.

We preliminarily determine that this debt-to-equity conversion is a countervailable subsidy. The investment was a direct transfer of funds from the GOQ to Sidbec within the meaning of section 771(5)(D)(i) of the Act. As discussed above, we have determined

that Sidbec was unequityworthy. Consequently, the debt-to-equity conversion was inconsistent with the usual investment practice of private investors, including the practice regarding the provision of risk capital, in Quebec and conferred a benefit in the amount of the conversion. See section 771(5)(E)(i) of the Act and 19 CFR 351.507(a)(6). Finally, the debt-to-equity conversion was limited to Sidbec and, hence, specific within the meaning of 771(5A).

To calculate the benefit, we have allocated the amount of debt and accumulated interest that was converted over Ispat-Sidbec's AUL (as computed in 1997 Wire Rod). We divided the amount attributed to the POI by Ispat Sidbec's total sales (excluding goods which undergo substantial transformation outside Canada). On this basis, we preliminarily determine the net countervailable subsidy during the POI to be 0.78 percent *ad valorem*.

B. GOQ Grants to Sidbec Between 1986 and 1992

In 1976, Sidbec entered into a joint venture, Normines JV, to mine iron ore. By 1983, the losses of the Normines JV were such that Sidbec was forced to borrow money to finance the JV's operations. Sidbec borrowed additional funds in 1984 in connection with the Normines JV. Between 1984 and 1992, the GOQ reimbursed Sidbec for all payments of principal and interest on these loans.

We preliminarily determine that these grants reimbursing Sidbec for the loan costs associated with the Normines JV are countervailable subsidies. The grants were a direct transfer of funds from the GOQ to Sidbec within the meaning of section 771(5)(D)(i) of the Act, providing a benefit in the amount of the grants (see 19 CFR 351.504(a)). Also, the grants were limited to Sidbec and, hence, specific within the meaning of 771(5A).

To calculate the benefit, we have allocated the grants over Ispat-Sidbec's AUL (as computed in 1997 Wire Rod). We divided the amount for the POI by Ispat Sidbec's total sales (excluding goods which undergo substantial transformation outside Canada). On this basis, we preliminarily determine the net countervailable subsidy during the POI to be 5.59 percent *ad valorem*.

II. Programs Preliminarily Determined to Be Not Countervailable

A. Tax Credit for Mining Incentives for Stelco

Under Canada's federal corporate income tax, companies are permitted to

take a resource allowance. This allowance is provided in lieu of deductions for Crown royalties, provincial mining taxes and other charges related to oil and gas or mining production. The allowance equals 25 percent of a taxpayer's annual resource profits, computed after operating costs, but before the deduction of exploration expenses, development expense, earned depletion and interest expenses. Resource allowances are also deductible from income for purposes of calculating income taxes owed in certain provinces.

According to Stelco, the resource allowance represents the reduction in the mineral contents of the reserves from which the mineral is taken. Therefore, Stelco claims, the resource allowance is equivalent to a depletion allowance.

Stelco points to Final Affirmative Countervailing Duty Determination; Iron Ore Pellets from Brazil, 51 FR 21961 (June 17, 1986) (Iron Ore Pellets), arguing that the resource allowance is not countervailable. Stelco also states that even if the resource allowance were found to be countervailable, the benefit to Stelco from the federal and provincial tax savings would be a de minimis 0.07 percent. (See Stelco's December 3, 2001 Questionnaire Response, at page IV-28)

In Iron Ore Pellets, the Department stated, "In the past, we have found that depreciation allowances, per se, are not countervailable. Because the depletion allowance, which is comparable to a depreciation allowance on minerals, is part of the normal tax practice in Brazil and because there is no indication that it favors exports over domestic products, we determine the program not to be countervailable." Id at 21963. In the instant proceeding, we find that the federal resource allowance is a normal tax practice in Canada because: (1) it is available to all resource-based companies in Canada; (2) the method for claiming the allowance is a standard schedule to the federal corporate tax form, Schedule 51; and (3) the allowance has been in place since 1976 (when it replaced an earlier resource tax abatement). Also, the resource tax allowance does not favor export over domestic sales.

Consequently, consistent with our determination in Iron Ore Pellets, we preliminarily determine that the resource allowance taken by Stelco on its federal corporate income tax does not confer a countervailable subsidy.

Regarding the resource allowances taken on provincial corporate income taxes, Stelco has shown that the same allowance taken on its federal tax return is apportioned between the three provinces with tax authority over the

company based on Stelco's allocation of business activity between the three provinces. Stelco has also submitted its tax returns for two of these three provinces, Ontario and Quebec. Those returns indicate that the resource allowance is a standard deduction, i.e., may be claimed on the standard corporate tax return for the province.

Therefore, we preliminarily determine that the resource allowances offered by Ontario and Quebec do not confer countervailable subsidies because they are part of the normal tax practice of these provinces and do not favor export over domestic sales.

B. Government Support for *Projet Bessemer*

In 1989, Stelco and Sidbec-Dosco (among other Canadian steel producers) entered into a joint venture to develop a commercial scale strip caster. Co-financing for this R&D initiative was sought from several federal and provincial government sources, and initial approval was given by the governments. However, the original approach to the project was abandoned and the funding agencies suspended, then withdrew their support.

Therefore, we preliminarily determine that there was no financial contribution by the GOC or the provincial governments in *Projet Bessemer* and, consequently, no subsidy. See section 771(5)(B)(i) of the Act.

We further note that Stelco responded that direct casting for the manufacture of hot-rolled strip was not related to the production of the subject merchandise (which is produced from billets). Thus, had any subsidies been received for R&D on direct casting those subsidies would not be attributed to the products covered by this proceeding. (See 19 CFR 351.525(b)(5).)

C. Government Support for Stelco's Energy Projects

In a 1999 report issued by Stelco, Industrial Energy Innovators Action Plan Report, the company stated that it had used incentives provided by the government for many of its energy projects. In response to our questionnaires, Stelco has explained that the "incentive" it was describing was its honorary designation as an "Industrial Energy Innovator." It received this designation because it was successful in lowering its energy usage and increasing its efficiency.

Therefore, we preliminarily determine that there was no financial contribution by the GOC in support of Stelco's energy projects and, consequently, no subsidy. See section 771(5)(B)(i) of the Act.

III. Programs Preliminarily Determined to Be Not Used During the POI

A. Resource Allowance for Newfoundland

As discussed above under "Tax Credits for Mining Incentives," Stelco was subject to taxes in three provinces during the POI. For the third province, Newfoundland, the amount of tax savings generated by the resource allowance is so small that it yields no measurable benefit. Given the insignificance of any benefit under this program, we are not planning to seek further information to determine whether the resource allowance in Newfoundland is a countervailable subsidy.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each manufacturer of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rates to be:

Producer/Exporter	Net Subsidy Rate
Ispat Sidbec Inc.	6.37 %
Ivaco Inc.	0 %
Stelco Inc.	0 %
All Others	6.37 %

In accordance with sections 777A(e)(2)(B) and 705(c)(5)(A), we have set the "all others" rate as Ispat Sidbec's rate because the rates for all other investigated companies are zero.

In accordance with section 703(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of wire rod from Canada which are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the Federal Register, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above, except for entries from Ivaco Inc. and Stelco Inc. This suspension will remain in effect until further notice. Entries from Ivaco Inc. and Stelco Inc. are not subject to this suspension of liquidation because we have preliminarily determined their rates to be zero.

ITC Notification

In accordance with section 703(f) 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 an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and

(3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

February 2, 2002

Faryar Shirzad,

Assistant Secretary for Import
Administration.

[FR Doc. 02-3120 Filed 2-7-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-428-833]

Preliminary Affirmative Countervailing Duty Determination and Preliminary Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod from Germany

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

ACTION: Notice of preliminary
affirmative countervailing duty
determination and preliminary negative
critical circumstances determination.

SUMMARY: The Department of Commerce has preliminarily determined that countervailable subsidies are being provided to producers or exporters of carbon and certain alloy steel wire rod from Germany. For information on the estimated countervailing duty rates, see *infra* section on "Suspension of Liquidation." We have also preliminarily determined that critical circumstances do not exist with respect to imports of carbon and certain alloy steel wire rod from Germany.

EFFECTIVE DATE: February 8, 2002.

FOR FURTHER INFORMATION CONTACT: Melanie Brown or Annika O'Hara, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4987 and (202) 482-3798, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA") effective January 1, 1995 ("the Act"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department") regulations are to 19 CFR Part 351 (April 2001).

Petitioners

The petitioners in this investigation are Co-Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. (collectively, "the petitioners").

Case History

The following events have occurred since the publication of the notice of initiation in the **Federal Register** (see *Notice of Initiation of Countervailing Duty Investigations: Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey*, 66 FR 49931 (October 1, 2001) ("*Initiation Notice*").

Due to the large number of producers and exporters of carbon and certain alloy steel wire rod ("wire rod" or "subject merchandise") in Germany, we decided to limit the number of responding companies to the two producers/exporters with the largest volumes of exports to the United States during the period of investigation: Ispat Walzdraht Hochfeld GmbH ("IWHG") and Saarlust AG ("Saarlust"). See October 3, 2001 memorandum to Susan Kuhbach, entitled "Respondent Selection," which is on file in the Department's Central Records Unit in Room B-099 of the main Department building ("CRU").

On October 9, 2001, the Department decided to initiate an investigation of two additional subsidy programs alleged by the petitioners in a submission filed on September 13, 2001. Due to the lateness of their filing, we were unable to analyze the petitioners' allegations before the initiation of this investigation. See October 9, 2001 memorandum to Richard W. Moreland entitled "New Subsidy Allegations," which is on file in the CRU.

Also on October 9, 2001, we issued countervailing duty ("CVD") questionnaires to the Government of Germany ("GOG") and the producers/exporters of the subject merchandise. We issued a CVD questionnaire to the European Commission ("EC") on October 19, 2001.

On October 9, we received a request from the petitioners to amend the scope of this investigation to exclude certain tire rod. The petitioners submitted further clarification with respect to their scope amendment request on November 28, 2001. Also on November 28, 2001, the five largest U.S. tire manufacturers and the industry trade association, the Rubber Manufacturers Association ("the tire manufacturers"), submitted comments on the proposed exclusion. On January 21, 2002, we received comments on the proposed exclusion of tire cord from Tokusen U.S.A., Inc., a manufacturer of steel cord for steel belted radial tires. Finally, the tire manufacturers filed a letter with the Department on January 28, 2002, affirming the position they had taken in

their November 28, 2001, submission. See "Scope Comments" section below.

On October 18, 2001, the petitioners filed a letter raising several concerns with respect to the Department's initiation of this investigation and the concurrent CVD investigations of wire rod producers in Brazil, Canada, and Trinidad and Tobago. On the same day, the petitioners also filed a separate submission objecting to the Department's decision not to investigate certain subsidy programs alleged specifically for Germany. The Department addressed the petitioners' concerns in a December 4, 2001, memorandum to Richard W. Moreland entitled "Petitioners' Objections to Department's Initiation Determinations," which is on file in the CRU.

On November 6, 2001, we postponed the preliminary determination in this investigation until February 1, 2002, upon request of the petitioners. See *Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Trinidad and Tobago, and Turkey: Postponement of Preliminary Determinations of Countervailing Duty Investigations*, 66 FR 57036 (November 14, 2001).

The GOG and Saarlust submitted their responses to the Department's questionnaire on November 15 and November 21, 2001, respectively. The EC responded to our questionnaire on November 26, 2001. IWHG filed its response on November 29, 2001, and on the same date, we also received a response from Ispat Hamburger Stahlwerke GmbH ("IHSW"), a German producer of the subject merchandise affiliated with IWHG (see "Cross-ownership" section below). The petitioners submitted comments on all questionnaire responses, except the EC's, on December 21, 2001. The Department issued supplemental questionnaires to the GOG, the responding companies, and the EC between December 19, 2001, and January 23, 2002, and received responses to these questionnaires between January 11 and 25, 2002.

On December 5, 2001, the petitioners filed a critical circumstances allegation with respect to Brazil, Germany, and Turkey. In a letter filed on December 21, 2001, the petitioners extended this allegation to include Trinidad and Tobago. See "Critical Circumstances" section below.

On December 21, 2001, and January 18, 2002, the petitioners claimed that IHSW received a countervailable subsidy in conjunction with the 1995 change in ownership. The petitioners' description of the subsidy arising from