7212.40.5000, 7212.50.0000, 7225.19.0000, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8085, 7225.99.0090, 7226.19.1000, 7226.19.9000, 7226.92.5000, 7226.92.7050, 7226.92.8050, and 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (''U.S. Customs'') purposes, the written description of the merchandise under investigation is dispositive.

The Department received comments from a number of parties including importers, respondents, consumers, and the petitioners, aimed at clarifying the scope of these investigations. *See Memorandum to Joseph A. Spetrini* (*''Scope Memorandum''*), January 18, 2000, for a list of all persons submitting comments and a discussion of all scope comments including those exclusion requests under consideration at the time of the preliminary determination in these investigations.

Period of Investigation

The period of investigation is April 1, 1998 through March 31, 1999.

Facts Available

In the *Preliminary Determination,* the Department based the margin on facts otherwise available under sections 776(a)(2)(A) and (C) because Iscor Limited (''Iscor''), the only known South African exporter of subject merchandise, failed to respond to our questionnaire and significantly impeded the investigation, and because the relevant subsections of section 782 of the Act therefore do not apply.

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences when an interested party has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See* also ''Statement of Administrative Action'' accompanying the URAA, H.R. Rep. No. 103–316, 870 (1994) (''SAA''). Based on Iscor's failure to respond to the Department's antidumping questionnaire, we have determined that Iscor has not acted to the best of its ability to comply with the Department's information requests. Therefore, pursuant to 776(b) of the Act, we used an adverse inference in selecting a margin from the facts available. As facts available, the Department applied a margin of 16.65 percent, the only alleged margin in the petition. As discussed in the *Preliminary Determination,* the Department has, to the extent practicable, corroborated the information used as adverse facts available. Since then, no interested parties have provided comments on the *Preliminary Determination* and no request for a hearing has been received by the Department. Therefore, we are continuing to use as adverse facts available the rate alleged by petitioners.

The All-Others Rate

All foreign manufacturers/exporters in this investigation are being assigned dumping margins on the basis of facts otherwise available. Section 735(c)(5)(B) of the Act provides that, where the dumping margins established for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including weight-averaging the facts available margins. In this case, the margin assigned to the only company investigated is based on adverse facts available. Therefore, consistent with the statute and the SAA at 873, we are using an alternative method. In the *Preliminary Determination,* as an alternative, we based the all-others rate on the margin alleged in the petition. We received no comments on this issue, and therefore continue to use this basis for the final determination. As a result, the all-others rate is 16.65 percent.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from South Africa, that are entered, or withdrawn from warehouse, for consumption on or after November 10, 1999 (the date of publication of the *Preliminary Determination* in the **Federal Register**). The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Margin percentage
Iscor	16.65
All Others	16.65

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: January 18, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1848 Filed 2–3–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–831]

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

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

EFFECTIVE DATE: February 4, 2000.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Javier Barrientos, Office of CVD/AD Enforcement VII, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3208 and (202) 482–2243, respectively.

FINAL DETERMINATION: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and/or exporters of certain cold-rolled flat-rolled carbon-quality steel products from Brazil. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

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

Case History

Since the publication of our preliminary determination in this investigation on October 1, 1999 (*Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cold Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil*, 64 FR 53332) (*Preliminary Determination*), the following events have occurred:

We conducted verification of the countervailing duty questionnaire responses from October 21 through October 26, 1999. The final determination of this countervailing duty investigation was aligned with the final antidumping duty determination (*see* 64 FR at 53334). On December 2, 1999, and December 7, 1999, the Department released its verification reports to all interested parties. Respondents submitted a case brief on December 15, 1999; petitioners submitted a rebuttal brief on December 21, 1999.

Scope of Investigations

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

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

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

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium (also called columbium), or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- SAE grades (formerly also called AISI grades) above 2300;
- Ball bearing steels, as defined in the HTSUS;
- Tool steels, as defined in the HTSUS;
- Silico-manganese steel, as defined in the HTSUS;
- Silicon-electrical steels, as defined in the HTSUS, that are grain-oriented;
- Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level exceeding 2.25 percent;
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507);
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.
- Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level less than 2.25 percent, and (a) fully-processed, with a core loss of less than 0.14 watts/pound per mil (.001 inch), or (b) semi-processed, with core loss of less than 0.085 watts/pound per mil (.001 inch);
- Certain shadow mask steel, which is aluminum killed cold-rolled steel coil that is open coil annealed, has an ultra-flat, isotropic surface, and which meets the following characteristics:

Thickness: 0.001 to 0.010 inch
Width: 15 to 32 inches

CHEMICAL COMPOSITION

Element	C
Weight %	< 0.002%

- Certain flapper valve steel, which is hardened and tempered, surface polished, and which meets the following characteristics:

Thickness: 1.0 mm
Width: 152.4 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S
Weight %	0.90–1.05	0.15–0.35	0.30–0.50	0.03	0.006

MECHANICAL PROPERTIES

Tensile Strength	162 Kgf/mm²
Hardness	475 Vickers hardness number

PHYSICAL PROPERTIES

Flatness	0.2% of nominal strip width

Microstructure: Completely free from decarburization. Carbides are spheroidal and fine within 1% to 4% (area percentage) and are undissolved in the uniform tempered martensite.

NON-METALLIC INCLUSION

	Area percentage
Sulfide Inclusion	≤0.04%
Oxide Inclusion	≤0.05%

Compressive Stress: 10 to 40 Kgf/mm²

SURFACE ROUGHNESS

Thickness (mm)	Roughness (µm)
t≤0.209	Rz≤0.5
0.209<t≤0.310	Rz≤0.6
0.310<t≤0.440	Rz≤0.7
0.440<t≤0.560	Rz≤0.8
0.560<t	Rz≤1.0

• Certain ultra thin gauge steel strip, which meets the following characteristics:
Thickness: ≤0.100 mm ±7%
Width: 100 to 600 mm

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Al	Fe
Weight %	≤0.07	0.2–0.5	≤0.05	≤0.05	≤0.07	Balance

MECHANICAL PROPERTIES

Hardness	Full Hard (Hv 180 minimum)
Total Elongation	<3%
Tensile Strength	600 to 850 N/mm²

PHYSICAL PROPERTIES

Surface Finish	≤0.3 micron
Camber (in 2.0 m)	<3.0 mm
Flatness (in 2.0 m)	≤0.5 mm
Edge Burr	<0.01 mm greater than thickness
Coil Set (in 1.0 m)	<75.0 mm

• Certain silicon steel, which meets the following characteristics:
Thickness: 0.024 inch ±.0015 inch
Width: 33 to 45.5 inches

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al
Min. Weight %					0.65	
Max. Weight %	0.004	0.4	0.09	0.009		0.4

MECHANICAL PROPERTIES

Hardness	B 60–75 (AIM 65)

PHYSICAL PROPERTIES

Finish	Smooth (30–60 microinches)
Gamma Crown (in 5 inches)	0.0005 inch, start measuring **inch from slit edge**
Flatness	20 I–UNIT max.
Coating	C3A–.08A max. (A2 coating acceptable)
Camber (in any 10 feet)	1/16 inch
Coil Size I.D.	20 inches

MAGNETIC PROPERTIES

Core Loss (1.5T/60 Hz) NAAS	3.8 Watts/Pound max.
Permeability (1.5T/60 Hz) NAAS	1700 gauss/oersted typical. 1500 minimum.

• Certain aperture mask steel, which has an ultra-flat surface flatness and which meets the following characteristics:
Thickness: 0.025 to 0.245 mm
Width: 381–1000 mm

CHEMICAL COMPOSITION

Element	C	N	Al
Weight %	< 0.01	0.004 to 0.007	< 0.007

• Certain annealed and temper-rolled cold-rolled continuously cast steel, which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight %	0.02	0.20				0.03				0.003
Max. Weight %	0.06	0.40	0.02	0.023 (Aiming 0.018 Max.)	0.03	0.08 (Aiming 0.05)	0.02	0.08		0.008 (Aiming 0.005)

Non-metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides >1 micron (0.000039 inch) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inch) in length.
Surface Treatment as follows:
The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating.

SURFACE FINISH

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Extra Bright	5 (0.1)	0 (0)	7 (0.2)

• Certain annealed and temper-rolled cold-rolled continuously cast steel, which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Al	N
Weight %	<0.08	<0.04	<0.40	<0.03	<0.030.0	0.010–0.025	<0.0025

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Tolerance	±5 percent
Guaranteed inside of 15 mm from mill edges	(aim ±4 percent)
Width Tolerance	-0/+7 mm
Hardness (Hv)	Hv 85–110
Annealing	Annealed
Surface	Matte
Tensile Strength	<275N/mm^2
Elongation	<36%

• Certain annealed and temper-rolled cold-rolled continuously cast steel, in coils, with a certificate of analysis per Cable System International (''CSI'') Specification 96012, with the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S

CHEMICAL COMPOSITION—Continued

Max. Weight %	0.13	0.60	0.02	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Base Weight	55 pounds
Theoretical Thickness	0.0061 inch (+/−10 percent of theoretical thickness)
Width	31 inches
Tensile Strength	45,000–55,000 psi
Elongation	minimum of 15 percent in 2 inches

• Certain full hard tin mill black plate, continuously cast, which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight %	0.02	0.20				0.03				0.003
Max. Weight %	0.06	0.40	0.02	0.023 (Aiming 0.018 Max.)	0.03	0.08 (Aiming 0.05)	0.02	0.08		0.008 (Aiming 0.005)

Non-metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides >1 micron (0.000039 inch) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inch) in length.

Surface Treatment as follows:

The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating.

SURFACE FINISH

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Stone Finish	16 (0.4)	8 (0.2)	24 (0.6)

• Certain ultra-bright tin mill black plate meeting ASTM 7A specifications for surface finish and RA of seven micro-inches or lower.

• Concast cold-rolled drawing quality sheet steel, ASTM a–620–97, Type B, or single reduced black plate, ASTM A–625–92, Type D, T–1, ASTM A–625–76 and ASTM A–366–96, T1–T2–T3 Commercial bright/luster 7a both sides, RMS 12 maximum. Thickness range of 0.0088 to 0.038 inches, width of 23.0 inches to 36.875 inches.

• Certain single reduced black plate, meeting ASTM A–625–98 specifications, 53 pound base weight (0.0058 inch thick) with a Temper classification of T–2 (49–57 hardness using the Rockwell 30 T scale).

• Certain single reduced black plate, meeting ASTM A–625–76 specifications, 55 pound base weight, MR type matte finish, TH basic tolerance as per A263 trimmed.

• Certain single reduced black plate, meeting ASTM A–625–98 specifications, 65 pound base weight (0.0072 inch thick) with a Temper classification of T–3 (53–61 hardness using the Rockwell 30 T scale).

• Certain cold-rolled black plate bare steel strip, meeting ASTM A–625 specifications, which meet the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S
Max. Weight %	0.13	0.60	0.02	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Thickness	0.0058 inch ±0.0003 inch
Hardness	T2/HR 30T 50–60 aiming
Elongation	≥15%
Tensile Strength	51,000.0 psi ±4.0 aiming

• Certain cold-rolled black plate bare steel strip, in coils, meeting ASTM A–623, Table II, Type MR specifications, which meet the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S
Max. Weight %	0.13	0.60	0.04	0.05

PHYSICAL AND MECHANICAL PROPERTIES

Thickness	0.0060 inch (±0.0005 inch)

PHYSICAL AND MECHANICAL PROPERTIES—Continued

Width	≤10 inches (+ ¼ to ⅜ inch/-0)
Tensile strength	55,000 psi max.
Elongation	Minimum of 15 percent in 2 inches

• Certain "blued steel" coil (also know as "steamed blue steel" or "blue oxide") with a thickness of 0.30 mm to 0.42 mm and width of 609 mm to 1219 mm, in coil form;

• Certain cold-rolled steel sheet, whether coated or not coated with porcelain enameling prior to importation, which meets the following characteristics:

Thickness (nominal): ≦0.019 inch

Width: 35 to 60 inches

CHEMICAL COMPOSITION

Element	C	O	B
Max. Weight %	0.004		
Min. Weight %		0.010	0.012

• Certain cold-rolled steel, which meets the following characteristics:

• Width: >66 inches

CHEMICAL COMPOSITION

Element	C	Mn	P	Si
Max. Weight %	0.07	0.67	0.14	0.03

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	0.800–2.000
Min. Yield Point (MPa)	265
Max Yield Point (MPa)	365
Min. Tensile Strength (MPa)	440
Min. Elongation %	26

• Certain band saw steel, which meets the following characteristics:

Thickness: ≤ 1.31 mm Width: ≤ 80 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Cr	Ni
Weight %	1.2 to 1.3	0.15 to 0.35	0.20 to 0.35	≤ 0.03	0.007	0.3 to 0.5	≤ 0.25

Other properties:

Carbide: Fully spheroidized having > 80% of carbides, which are ≤ 0.003 mm and uniformly dispersed

Surface finish: Bright finish free from pits, scratches, rust, cracks, or seams

Smooth edges.

Edge camber (in each 300 mm of length): ≤ 7 mm arc height

Cross bow (per inch of width): 0.015 mm max.

• Certain transformation-induced plasticity (TRIP) steel, which meets the following characteristics:

Variety 1:

CHEMICAL COMPOSITION

Element	C	Si	Mn
Min. Weight %	0.09	1.0	0.90
Max. Weight %	0.13	2.1	1.7

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	1.000–2.300 (inclusive)
Min. Yield Point (MPa)	320
Max Yield Point (MPa)	480
Min. Tensile Strength (MPa)	590

PHYSICAL AND MECHANICAL PROPERTIES—Continued

Min. Elongation %	24 (if 1.000–1.199 thickness range) 25 (if 1.200–1.599 thickness range) 26 (if 1.600–1.999 thickness range) 27 (if 2.000–2.300 thickness range)

Variety 2

CHEMICAL COMPOSITION

Element	C	Si	Mn
Min. Weight %	0.12	1.5	1.1
Max. Weight %	0.16	2.1	1.9

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	1.000–2.300 (inclusive)
Min. Yield Point (MPa)	340
Max Yield Point (MPa)	520
Min. Tensile Strength (MPa)	690
Min. Elongation %	21 (if 1.000–1.199 thickness range) 22 (if 1.200–1.599 thickness range) 23 (if 1.600–1.999 thickness range) 24 (if 2.000–2.300 thickness range)

Variety 3

CHEMICAL COMPOSITION

Element	C	Si	Mn
Min. Weight %	0.13	1.3	1.5
Max. Weight %	0.21	2.0	2.0

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	1.200–2.300 (inclusive)
Min. Yield Point (MPa)	370
Max Yield Point (MPa)	570
Min. Tensile Strength (MPa)	780
Min. Elongation %	18 (if 1.200–1.599 thickness range) 19 (if 1.600–1.999 thickness range) 20 (if 2.000–2.300 thickness range)

- Certain corrosion-resistant cold-rolled steel, which meets the following characteristics:

Variety 1

CHEMICAL COMPOSITION

Element	C	Mn	P	Cu
Min. Weight%				0.15
Max. Weight %	0.10	0.40	0.10	0.35

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	0.600–0.800
Min. Yield Point (MPa)	185
Max Yield Point (MPa)	285
Min. Tensile Strength (MPa)	340
Min. Elongation	31 (ASTM standard 31% = JIS standard 35%)

Variety 2

CHEMICAL COMPOSITION

Element	C	Mn	P	Cu
Min. Weight %				0.15
Max. Weight %	0.05	0.40	0.08	0.35

PHYSICAL AND MECHANICAL PROPERTIES

Thickness Range (mm)	0.800–1.000
Min. Yield Point (MPa)	145
Max Yield Point (MPa)	245
Min. Tensile Strength (MPa)	295
Min. Elongation %	31 (ASTM standard 31%=JIS standard 35%)

Variety 3

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Cu	Ni	Al	Nb, Ti, V, B	Mo
Max. Weight %	0.01	0.05	0.40	0.10	0.023	0.15–.35	0.35	0.10	0.10	0.30

PHYSICAL AND MECHANICAL PROPERTIES

Thickness (mm):	0.7
Elongation %:≥	35

• Porcelain enameling sheet, drawing quality, in coils, 0.014 inch in thickness, +0.002, −0.000, meeting ASTM A–424–96 Type 1 specifications, and suitable for two coats.

The merchandise subject to this investigation is typically classified in the HTSUS at subheadings: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.19.0000, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8085, 7225.99.0090, 7226.19.1000, 7226.19.9000, 7226.92.5000, 7226.92.7050, 7226.92.8050, and 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (''U.S. Customs'') purposes, the written description of the merchandise under investigation is dispositive.

The Department received comments from a number of parties including importers, respondents, consumers, and the petitioners, aimed at clarifying the scope of these investigations. *See Memorandum to Joseph A. Spetrini* (''*Scope Memorandum*''), January 18, 2000, for a list of all persons submitting comments and a discussion of all scope comments including those exclusion requests under consideration at the time of the preliminary determination in these investigations.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as codified at 19 CFR Part 351 (1999) and to the substantive countervailing duty regulations published in the **Federal Register** on November 25, 1998 (63 FR 65348)(CVD Regulations).

Injury Test

Because Brazil 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 Brazil materially injure, or threaten material injury to, a U.S. industry. On July 30, 1999, the ITC published its preliminary determination 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 Brazil of the subject merchandise (64 FR 41458). The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 19, 1999. The views of the Commission are contained in USITC Publication 3214 (July 1999), entitled Certain Cold-Rolled Steel Products from Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela: Investigations Nos. 701–TA–393–396 and 731–TA–829–840 (Preliminary).

Period of Investigation

The period of investigation (the POI) for which we are measuring subsidies is calendar year 1998.

Company Histories

USIMINAS was founded in 1956 as a venture between the Brazilian Government, various stockholders and Nippon Usiminas. In 1974, the majority interest in USIMINAS was transferred to SIDERBRAS, the government holding company for steel interests. The company underwent several expansions of capacity throughout the 1980s. In 1990, SIDERBRAS was put into liquidation and the Government of Brazil (GOB) decided to include its operating companies, including

USIMINAS, in its National Privatization Program (NPP). In 1991, USIMINAS was partially privatized; as a result of the initial auction, Companhia do Vale do Rio Doce (CVRD), a majority government-owned iron ore producer, acquired 15 percent of USIMINAS's common shares. In 1994, the Government disposed of additional holdings, amounting to 16.2 percent of the company's equity. USIMINAS is now owned by CVRD and a consortium of private investors, including Nippon Usiminas, Caixa de Previdencia dos Funcionarios do Banco do Brasil (Previ) and the USIMINAS Employee Investment Club. CVRD was partially privatized in 1997, when 31 percent of the company's shares were sold.

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

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

Attribution of Subsidies

There are three producers/exporters of the subject merchandise in this investigation: USIMINAS, COSIPA, and CSN. As discussed above, USIMINAS owns 49.8 percent of COSIPA. The CVD Regulations, at section 351.525(b)(6)(ii), provide guidance with respect to the attribution of subsidies between or among companies which have cross-ownership. Specifically, with respect to two or more corporations producing the subject merchandise which have cross-ownership, the regulations direct us to attribute the subsidies received by either or both corporations to the products produced by both corporations. Further, section 351.525(b)(6)(vi) defines cross-ownership as existing "between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. Normally, this standard will be met where there is a majority voting ownership interest between two corporations through common ownership of two (or more) corporations." The preamble to the CVD Regulations identifies situations where cross-ownership may exist even though there is less than a majority voting interest between two corporations: "In certain circumstances, a large minority interest (for example, 40 percent) or a 'golden share' may also result in cross-ownership" (63 FR at 65401).

In this investigation, we preliminarily determined that USIMINAS's 49.8 percent ownership interest in COSIPA is sufficient to establish cross-ownership between the two companies because USIMINAS is capable of using or directing the individual assets of COSIPA in essentially the same ways it can use its own assets. We based this determination on the following: (1) USIMINAS has virtually a majority share in COSIPA; and (2) the remaining shareholdings are divided among numerous shareholders (more than ten), with no one shareholder controlling even one-quarter of the shares which USIMINAS controls. *See Preliminary Determination,* 64 FR 53332, 53334–35. We did not learn anything at verification which would lead us to change our preliminary determination nor did we receive any comments on this issue. Thus, for purposes of this final determination, we have continued to calculate one subsidy rate for USIMINAS/COSIPA, by adding together their countervailable subsidies during the POI and dividing that amount by the sum of the two companies' sales during the POI.

We have also examined the ownership of CSN. We note that during the POI, two entities, CVRD and Previ (the pension fund of the Bank of Brasil), had meaningful holdings in both USIMINAS and CSN. As these entities both have ownership interests in and elect members to the Boards of Directors of both companies, we examined whether CSN and USIMINAS could, notwithstanding the absence of direct cross-ownership between them, have cross-ownership such that their interests are merged, and one company could have the ability to use or direct the assets of the other through their common investors. CVRD holds 15.48 percent of USIMINAS and 10.3 percent of CSN (through Docenave); Previ holds 15 percent of the common shares of USIMINAS and 13 percent of CSN. Both USIMINAS and CSN are controlled through shareholders' agreements, which require that the participating shareholders (who together account for more than 50 percent of the shares of the company) pre-vote issues before the Board of Directors and vote as a block. While CVRD and Previ both participate in the CSN shareholders' agreement, and thus exercise considerable influence over the use of CSN's assets, neither CVRD nor Previ participates in the USIMINAS shareholders' agreement and neither CVRD nor Previ has any appreciable influence (beyond their respective 15.48 and 15 percent USIMINAS shareholdings) over the use of USIMINAS's assets. Therefore, CVRD's and Previ's shareholdings in both USIMINAS and CSN are not sufficient to establish cross-ownership between those two companies under our regulatory standard. This absence of common majority or significant minority shareholders led us to preliminarily determine that USIMINAS's and CSN's interests have not merged, *i.e.,* one company is not able to use or direct the individual assets of the other as though the assets were their own. Moreover, we found no other evidence such as golden shares or close supplier relationships to lead us to conclude that there is indirect cross-ownership. *See Preliminary Determination* at 53335. We did not learn anything at verification which would lead us to change our preliminary determination nor did we receive any comments on this issue. Thus, for the purposes of this final determination, we have calculated a separate countervailing duty rate for CSN.

Changes in Ownership

In the *General Issues Appendix* (*GIA*), attached to the *Final Affirmative*

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

Under this methodology, we estimate the portion of the company's purchase price which is attributable to prior subsidies. We compute this estimate by first dividing the face value of the company's subsidies by the company's net worth for each of the years corresponding to the company's allocation period, ending one year prior to the privatization. We then take the simple average of these ratios, which serves as a reasonable surrogate for the percentage that subsidies constitute of the overall value, *i.e.,* net worth, of the company. Next, we multiply the purchase price of the company by this average ratio to derive the portion of the purchase price that we estimate to reflect the repayment of prior subsidies. Then, we reduce the benefit streams of the prior subsidies by the ratio of the repayment/reallocation amount to the net present value of all remaining benefits at the time of the change in ownership. For this final determination, we have conformed our net present value calculation with the methodology outlined in the *GIA. See GIA* 58 FR at 37263.

In the current investigation, we are analyzing the privatizations of USIMINAS, COSIPA and CSN, including the various partial privatizations. In conducting these analyses, to the extent that government-owned or controlled companies purchased shares, we have not applied our methodology to that percentage of the acquired shares equal to the percentage of government ownership in the partially government-owned purchaser (notwithstanding respondents' arguments on this issue which are discussed below in Comment 6). We have also adjusted certain figures included in the privatization calculations to account for inflationary accounting practices. Further, we accounted for CVRD's 1997 partial privatization by making the same adjustments to USIMINAS and CSN's calculations described in *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil (Brazil Hot-Rolled Final)* 64 FR 38742, 38745, 38752 (Department's Position on Comment 3).

In *Brazil Hot-Rolled Final,* we also noted the use of privatization currencies, *i.e.,* certain existing government bonds, privatization certificates and frozen currencies, and examined them in the context of our privatization methodology. We obtained information about the use and valuation of the privatization currencies that were used in the NPP, and we learned about how privatization currencies were valued in the context of the privatization auctions. Specifically, we found that the GOB accepted most of these currencies at their full redeemable value (face value discounted according to the time remaining until maturity). Additionally, foreign debt and restructuring bonds (MYDFAs) were accepted at 75 percent of their redeemable value. Many of the government bonds that were accepted as privatization currencies were routinely trading at a discount on secondary markets. However, no data or estimation of the applicable discounts was provided for the record in that investigation. *See Brazil Hot-Rolled Final* at 38745. Further, it was common knowledge that these bonds traded at a significant discount in these markets, and that investors actively traded to obtain the cheapest bonds in order to maximize their positions in the privatization auctions. The value of the bonds varied depending on the instrument's yield and length to maturity and traded within a range of 40 percent to 90 percent of the redeemable value, *i.e.,* with a discount ranging from 10 percent to 60 percent. Because various issues of bonds were accepted as privatization currencies, with different yields and terms, precise valuation data was not available. However, public information from the record of the hot-rolled investigation, subsequently placed on the record of this investigation, indicates that during the period 1991 through 1994 most bonds traded with discounts ranging from 40 to 60 percent on average. Privatization Certificates (CPs), which banks were forced to purchase and could only be used in the privatization auctions, traded at a discount of approximately 60 percent on average; MYDFAs traded at 30 percent of their face value, *i.e.,* at a discount of 70 percent. *See Brazil Hot-Rolled Final,* 64 FR at 38745.

In the hot-rolled investigation, we concluded that some adjustment to the purchase price of the companies was warranted because of the use of privatization currencies in the auctions. *See Brazil Hot-Rolled Final,* at 38745, 38752 (the Department's Position on Comment 3). Although this issue is discussed further in Comments 6 and 7 below, no further information has been provided in the record of this investigation which would enable us to refine or otherwise cause us to change the approach we developed in the hot-rolled investigation. Thus, we have followed the same approach and have applied a 30 percent discount to the MYDFAs. In addition, as we did in the hot-rolled investigation, we have applied a 60 percent discount to the CPs. *See Id.* For the remaining privatization currencies, in the *Brazil Hot-Rolled Final,* we applied a 50 percent discount as facts available, which reflected an average of the range of discounts estimated. Because no information has been provided in this investigation which accurately indicates the relevant secondary market discounts for these instruments, and in accordance with section 776(a) of the Act, we are again applying, as facts available, the 50 percent discount to the remaining privatization currencies.

Subsidies Valuation Information

Allocation Period

Section 351.524(d)(2) of the CVD Regulations states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

In this investigation, no party to the proceeding has claimed that the AUL listed in the IRS tables does not reasonably reflect the AUL of the renewable physical assets for the firm or industry under investigation. Therefore, in accordance with section 351.524(d)(2) of the CVD Regulations, and for the purposes of this final determination, we are using the 15-year AUL as reported for the steel industry in the IRS tables to allocate the non-recurring subsidies under investigation.

Equityworthiness

In accordance with section 351.507 (a)(1) of the Department's CVD Regulations, a government-provided equity infusion confers a benefit to the extent that the investment decision is inconsistent with the usual investment practice of private investors, including the practice regarding the provision of risk capital, in the country in which the equity infusion is made. *See also* section 771(5)(E)(i) of the Act. In *Preliminary Determination,* we determined that there was no reason to change our findings from prior investigations, *i.e.,* that the respondent companies were unequityworthy (in the relevant years) as follows: (1) COSIPA was unequityworthy from 1977 through 1989, and 1992 through 1993; (2) USIMINAS was unequityworthy from 1980 through 1988; and (3) CSN was unequityworthy from 1977 through 1992. *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Brazil,* 58 FR 37295, 37297 (July 9, 1993) (*1993 Certain Steel Final; Brazil Hot-Rolled Final*, 64 FR at 38746. We note that because the Department determined that it is appropriate to use a 15-year allocation period for non-recurring subsidies, equity infusions provided prior to 1984 no longer provide benefits in the POI. None of the parties has submitted information or argument, nor is there evidence of changed circumstances which would cause us to reconsider these determinations.

Equity Methodology

Section 351.507(a)(3) of the Department's CVD Regulations provides that a determination that a firm is unequityworthy constitutes a determination that the equity infusion was inconsistent with usual investment practices of private investors. The applicable methodology is described in section 351.507(a)(6) of the regulations, which provides that the Department will treat the equity infusion as a grant. Use of the grant methodology for equity infusions into an unequityworthy company is based on the premise that an unequityworthiness finding by the Department is tantamount to saying that the company could not have attracted investment capital from a reasonable investor in the infusion year based on the available information.

Creditworthiness

To determine whether a company is uncreditworthy, the Department must examine whether the firm could have obtained long-term loans from conventional commercial sources based on information available at the time of the government-provided loan. *See* section 351.505(a)(4) of the CVD Regulations. In this context, the term ''commercial'' refers to loans taken out by the firm from a commercial lending institution or debt instruments issued by the firm in a commercial market. *See* section 351.505(a)(2)(ii) of the CVD Regulations.

The Department has previously determined that respondents were uncreditworthy in the following years: USIMINAS, 1984–1988; COSIPA, 1984–1989 and 1991–1993; and CSN 1984-1992. *See Certain Steel from Brazil,* 58 FR at 37297; *Brazil Hot-Rolled Final,* 64 FR at 38746–38747. The parties have not presented any new information or arguments that would lead us to reconsider these findings.

Discount Rates

From 1984 through 1994, Brazil experienced persistent high inflation. There were no long-term fixed-rate commercial loans made in domestic currencies during those years that could be used as discount rates. As in the *Certain Steel Final* (58 FR at 37298) and the *Brazil Hot-Rolled Final* (64 FR 38745–38746), we have determined that the most reasonable way to account for the high inflation in the Brazilian economy through 1994, and the lack of an appropriate Brazilian discount rate, is to convert the non-recurring subsidies into U.S. dollars. If available, we applied the exchange rate applicable on the day the subsidies were received, or, if unavailable, the average exchange rate in the month the subsidies were received. Then we applied, as the discount rate, a long-term dollar lending rate. Therefore, for our discount rate, we used data for U.S. dollar lending in Brazil for long-term non-guaranteed loans from private lenders, as published in the World Bank Debt Tables: External Finance for Developing Countries. This conforms with our practice in *Certain Steel Final* (58 FR at 37298); *Brazil Hot-Rolled Final* (64 FR at 38746); and, *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela,* 62 FR 55014, 55019, 55023 (October 21, 1997).

As discussed above, we have determined that USIMINAS, COSIPA, and CSN were uncreditworthy in the years in which they received equity infusions. Section 351.505 (a)(3)(iii) of the CVD Regulations directs us regarding the calculation of the benchmark interest rate for purposes of calculating the benefits for uncreditworthy companies: To calculate the appropriate rate for uncreditworthy companies, the Department must identify values for the probability of default by uncreditworthy and creditworthy companies. For the probability of default by an uncreditworthy company, we normally rely on 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).[1] *See* 19 CFR 351.505(a)(3)(iii). For the probability of default by a creditworthy company, we used the cumulative default rates for Investment Grade bonds as reported by Moody's. We established that this figure represents a weighted average of the cumulative default rates for Aaa to Baa-rated companies. *See* September 24, 1999, Memorandum to the File, ''Conversations and correspondence regarding the weighted average default rates of corporate bond issuers as published by Moody's,'' on file in the Central Records Unit, Room B–099 of the main Commerce building (CRU). The use of the weighted average is appropriate because the data reported by Moody's for the Caa to C-rated companies are also weighted averages. *See Id.* For non-recurring subsidies, we used the average cumulative default rates for both uncreditworthy and creditworthy companies based on a 15-year term, since all of the non-recurring subsidies examined were allocated over a 15-year period.

I. Programs Determined To Be Countervailable

A. Pre-1992 Equity Infusions

The GOB, through SIDERBRAS, provided equity infusions to USIMINAS (1984 through 1988), COSIPA (198 through 1989 and 1991) and CSN (1984 through 1991) that have previously been investigated by the Department. *See Certain Steel from Brazil,* 58 FR at 37298; *Brazil Hot-Rolled Final*, 64 FR at 38747–38748.

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

[1] We note that since publication of the CVD Regulations, Moody's Investors Service no longer reports default rates for Caa to C-rated category of companies. Therefore for the calculation of uncreditworthy interest rates, we will continue to rely on the default rates as reported in Moody Investor Service's publication dated February 1998 (at Exhibit 28).

meaning of section 771(5) of the Act. *See Preliminary Determination,* 64 FR at 53337. No parties have provided any new information or argument which would lead us to reconsider this determination.

As explained in the ''Equity Methodology'' section above, we treat equity infusions into unequityworthy companies as grants given in the year the infusion was received. These infusions are non-recurring subsidies in accordance with section 351.524(c)(1) of the CVD Regulations. Consistent with section 351.524(d)(3)(ii) of the CVD Regulations, because USIMINAS, COSIPA and CSN were uncreditworthy in the relevant years (the years the equity infusions were received), we applied a discount rate that takes into account the differences between the probabilities of default of creditworthy and uncreditworthy borrowers. From the time USIMINAS, COSIPA and CSN were privatized, we have been following the methodology outlined in the ''Changes in Ownership'' section above to determine the amount of each equity infusion attributable to the companies after privatization. We continue to rely on this methodology except for the selection of the discount rate as discussed above.

For CSN, we summed the benefits allocable to the POI from all equity infusions and divided by CSN's total sales during the POI. For USIMINAS/COSIPA, we summed the benefits allocable to the POI from all of the equity infusions and divided this amount by the combined total sales of USIMINAS/COSIPA during the POI. On this basis, we determine the net subsidy to be 5.75 percent ad valorem for CSN and 6.16 percent ad valorem for USIMINAS/COSIPA.

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

Prior to COSIPA's privatization, and on the recommendation of a consultant who examined COSIPA, the GOB made two debt-for-equity swaps in 1992 and 1993. We previously examined these swaps and determined that they were not consistent with the usual investment practices of private investors; constituted a financial contribution within the meaning of section 771(5)(D) of the Act; and, therefore conferred benefits on COSIPA in the amount of each conversion. *See Brazil Hot-Rolled Final,* 64 FR at 38747. These debt-for-equity swaps are specific within the meaning of section 771(5A)(D)(i) of the Act because they were limited to COSIPA. Accordingly, we preliminarily determined that the GOB debt-for-equity swaps provided to COSIPA in 1992 and 1993 are countervailable subsidies within the meaning of section 771(5) of the Act. *See Preliminary Determination,* 64 FR at 53337. No party has provided any new information or argument which would lead us to reconsider this determination.

Each debt-for-equity swap constitutes an equity infusion in the year in which the swap was made. As such, we have treated each debt-for-equity swap as a grant given in the year the swap was made in accordance with section 351.507(b) of the CVD Regulations. Further, these swaps, as equity infusions, are non-recurring in accordance with section 351.524(c)(1) of the CVD Regulations. Because COSIPA was uncreditworthy in the years of receipt, we applied a discount rate consistent with section 351.524(d)(3)(ii) of the CVD Regulations as discussed in the ''Discount Rates'' section above. Since COSIPA has been privatized, we followed the methodology outlined in the ''Changes in Ownership'' section above to determine the amount of each debt-for-equity swap attributable to the company after privatization. We divided the benefit allocable to the POI from these debt-for-equity swaps by the combined total sales of USIMINAS/COSIPA. On this basis, we determine the net subsidy to be 4.44 percent ad valorem for USIMINAS/COSIPA.

C. GOB Debt-for-Equity Swaps Provided to CSN in 1992

Prior to CSN's privatization, and on the recommendation of a consultant who examined CSN, in 1992, the GOB converted some CSN debt into GOB equity in CSN. In this investigation, we initiated on this debt-for-equity swap as a straight equity infusion (*see Initiation Notice* 64 FR 34204), but subsequent to our initiation, in the *Brazil Hot-Rolled Final*, we determined that it constituted a debt-for-equity swap (64 FR at 38748). In the *Brazil Hot-Rolled Final* , we determined that this swap was not consistent with the usual investment practices of private investors and therefore conferred countervailable benefits on CSN in the amount of the swap. *See Id.* Thus, we preliminarily determined that, pursuant to sections 771(5)(D) and (E)(i) of the Act, this debt-for-equity swap constitutes a financial contribution which confers a benefit in the amount of the swap (*see* ''Equityworthiness'' section above). This debt-for-equity swap is specific within the meaning of section 771(5A)(D) of the Act because it is limited to CSN. Accordingly, we preliminarily determined that the GOB debt-for-equity swap provided to CSN in 1992 is a countervailable subsidy within the meaning of section 771(5) of the Act. *See Preliminary Determination,* 64 FR at 53337. No parties have provided any new information or argument which would lead us to reconsider this determination.

This debt-for-equity swap constitutes an equity infusion in the year in which the swap was made. As such, we have treated this debt-for-equity swap as a grant given in the year the swap was made in accordance with section 351.507(b) of the CVD Regulations. Further this swap, as an equity infusion, is non-recurring in accordance with section 351.524(c)(1) of the CVD Regulations. Because CSN was uncreditworthy in the years of receipt, we applied a discount rate consistent with section 351.524(d)(3)(ii) of the CVD Regulations as discussed in the ''Uncreditworthy Rate'' section above. Since CSN has been privatized, we followed the methodology outlined in the ''Changes in Ownership'' section above to determine the amount of the debt-for-equity swap attributable to the company after privatization. We divided the benefit allocable to the POI from the equity infusion by CSN's total sales during the POI. On this basis, we determine the net subsidy to be 1.39 percent ad valorem for CSN.

II. Program for Which the Investigation Was Rescinded

Negotiated Deferrals of Tax Liabilities

In *Preliminary Determination* (64 FR at 53338), we rescinded our investigation of tax deferrals negotiated by COSIPA and CSN which petitioners had alleged provided them with countervailable subsidies. Our rescission was based on the Department's then-recent final determination that this program is not countervailable. *See Brazil Hot-Rolled Final*, 64 FR at 38748–38749; Memorandum to the File, Countervailing Duty Investigation of Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, August 2, 1999, on file in CRU.

Interested Party Comments

Comment 1: Privatization

Respondents argue that 19 U.S.C. 1677(5)(B) and Article 1.1. of the WTO Agreement on Subsidies and Countervailing Measures (SCM) require the Department to find that there is a financial contribution which confers a benefit before concluding that there is a countervailable subsidy. Because, according to respondents, the statute plainly requires the Department to examine, on a continuing basis, the contribution, the benefit and the causal connection between the two, respondents argue that it is insufficient to identify a financial contribution, made in the past, to a company owned by the government, and then presume irrebuttably that this contribution confers a benefit to the company after it has changed ownership. Rather, the Department must analyze all subsequent events (including changes in ownership, dividends received, and corporate restructurings) in order to determine how and whether prior financial contributions could benefit the companies and products under investigation.

Respondents cite the Department's practice of recognizing the cessation of subsidies when a countervailable grant is subsequently returned to the government or a countervailable loan is fully repaid, both ''subsequent events'' which extinguish the subsidy. Respondents characterize privatization as another such ''subsequent event'' which must be considered in examining whether a privatized company benefits from pre-privatization subsidies. Respondents argue that the preliminary determination itself, with its ''payback'' analysis, concedes that privatization disrupts the required causal connection between the financial contribution and the benefit. Furthermore, respondents claim that the Department cannot use the stated lack of an obligation to consider the effect of every subsidy in determining whether a countervailable benefit exists (*i.e.*, to conduct an ''effects test'') as an excuse for failing to consider the subsequent events in these circumstances. Respondents state that their position is not premised on requiring an analysis of the effects of all subsidies in all circumstances, but rather on a less burdensome reading of the statute and the SCM that requires consideration of whether a certain limited universe of ''significant events'' subsequent to a subsidy may eliminate the benefits of that subsidy (consistent with long-standing practice as discussed above). Any other reading of the statute, according to respondents, renders 19 U.S.C. 1677(5)(F) an unnecessary amendment of the law.

Respondents further argue that the proper consideration of a ''subsequent event'' in this case, the arm's-length privatization of the companies, would necessarily lead to the conclusion that pre-privatization subsides were eliminated. Without an analytical basis to believe or presume that subsidies have been passed through after an arm's length transaction, respondents believe the Department must conclude that the post-privatization owners do not benefit from pre-privatization subsidies. Respondents rely on the example of Company A which purchases a machine with government assistance and then sells the machine to Company B at market price to illustrate that the benefit of the government assistance remains with Company A; there is no pass-through of advantage or benefit to Company B or the products it may produce with the machine. The same conclusion is necessary when Company B purchases all of the assets and liabilities of (government-owned) Company A. The new owner does not enjoy any advantage. Respondents purport that the owners of a company and their relationship with the assets of the company are critical to any analysis of whether a company has received any benefit from some past financial contribution; when the owners change in an arm's-length privatization, an important dynamic within the company is altered and the entire company changes. Because the Department has overlooked the relevance of the new post-privatization owners, respondents conclude that the analysis is necessarily incomplete.

Respondents further note the changes in ownership and control which resulted from the privatizations of all three companies, and argue that the manner in which the new controlling owners acquired their interests in the companies (arm's-length transactions) preclude the new owners from enjoying any benefit or unfair advantage. Respondents cite the preamble of the CVD Regulations which state that ''where a firm does not pay less for its inputs than it would have to pay * * * as a result of a government financial contribution, it would be very difficult to contend that a benefit exists'' (63 FR at 65361) and argue that because the new owners did not pay less when they acquired the companies, it is ''difficult to contend that a benefit exists.''

Finally, respondents note that the fact the GOB retained some residual or indirect interest in the privatized companies does not preserve prior subsidies or convey new subsidies to the respondent companies. Nor does it undermine respondents' conclusion that the new owners and companies did not enjoy any advantage or benefit from pre-privatization subsidies during the POI.

Petitioners note that respondents' arguments are identical to those respondents made, and the Department rejected, in the *Brazil Hot-Rolled Final.* According to petitioners, respondents have neither addressed the bases for the Department's previous rejection of these arguments nor provided any new argument or information which would warrant a change in the Department's response to these arguments.

Department's Position: We disagree with respondents. In accordance with the statute (sections 771(5)(B) and 771(5)(E) of the Act), the Department has found that COSIPA, CSN and USIMINAS continue to benefit from pre-privatization equity infusions. We have examined the facts of this case in light of the above-cited provisions and find that the methodology we follow is in accordance with the Act. As petitioners noted, the Departments' privatization/change-in-ownership methodology has been upheld by the Courts regardless of the amendments to the Act by the URAA. *See Saarstahl AG* v. *United States,* 78 F.3d 1539 (Fed. Cir. 1996) (*Saarstahl II*); *Inland Steel Bar Co.* v. *United States,* 86 F.3d 1174 (Fed. Cir. 1996) (*Inland II*); and, *Delverde SrL* v. *United States,* 24 F. Supp. 2d 314 (Ct. Int'l Trade 1998) (*Delverde II*).

The Department has satisfied both 19 U.S.C. 1677(5)(B) (section 771(5)(B) of the Act) and Article 1.1. of the SCM in this investigation. We found that the GOB provided financial contributions to respondents, in the form of equity infusions and debt-for-equity conversions in the above-mentioned years which conferred countervailable benefits through the POI. In accordance with the Department's standard methodology, the benefits from these subsidies were allocated over time. Neither of the above-mentioned provisions requires the Department to revisit these determinations.

Under both the SCM and the Act, the Department has the discretion to determine the impact of a change in ownership on the countervailability of past subsidies. The Department has consistently applied its privatization/change-in-ownership methodology to determine the impact that a privatization/change in ownership has on pre-privatization subsidies. However, we have not done this by re-identifying or re-valuing the benefit of the subsidy based on events as of the time when the ownership of the subsidized company changed. The Department identifies and values the subsidy as of the time of the subsidy bestowal and does not revisit this determination. As petitioners correctly note, the Department is not required to examine the effects of subsidies, *i.e.*, trace how benefits are used by companies and whether they provide competitive advantages. Instead, the Department's methodology addresses the impact of the change in ownership on the allocation of pre-privatization subsidies. The Department's methodology accounts for the impact that the change in ownership has on the measurement of the benefit from pre-privatization subsidies, by allocating, or apportioning, subsidies between the buyer and the seller, as reflected by the purchase price. As the Department said in *Stainless Steel Plate in Coils from Italy,* ''[o]ur methodology recognizes that a change in ownership has some impact on the allocation of previously-bestowed subsidies and, through an analysis based on the facts of each transaction, determines the extent to which the subsidies pass through to the buyer.'' 64 FR at 15518. Thus, our methodology is wholly consistent with 19 U.S.C. 1677(5)(F) (section 771 (5)(F) of the Act) and, contrary to respondent's argument, provides the analytical basis for determining whether and to what extent subsidies have passed through to the privatized company or remain, in whole or in part, with the seller.

In addition, we remind respondents that section 701(a)(1) of the Act directs the Department to determine whether a countervailable subsidy is being provided ''with respect to the manufacture, production, or export of a class or kind of merchandise.'' We note that the same terminology is also reflected in the SCM (Article 10, footnote 36). Given this focus on the manufacture, production, and/or exportation of merchandise, the focus of the inquiry here should not be on the new owners of the company and how they may or may not have benefitted from the privatization transaction. Instead, as provided for in section 701(a)(1) of the Act and in Article 10, footnote 36 of the SCM, we have focused on the activities of the company, rather than its ownership structure. Our privatization methodology has accounted for the change in the ownership of the company conducting these activities. Thus, we have measured the amount of the benefit that passes through this transaction as respondent companies continued to manufacture, produce and export subject merchandise.

In addition, respondents' reliance on the discussion of inputs in the preamble of the CVD Regulations is misplaced. Contrary to the suggestion in respondents' argument here, the regulations' discussion of inputs does not reflect any change in the Department's approach to the identification of a ''benefit'' under Section 771(5)(B). Rather, it simply reflects the Department's longstanding practice of identifying the ''benefit'' *as of the time of the subsidy bestowal,* which, in the input context, is when the input was provided by the government. It is true that the Department will look at whether the firm paid what the input was worth, but the more fundamental point is that this method of identifying the benefit is based solely on events as of the time of the subsidy bestowal. It is not based in any way on an analysis of post-subsidy bestowal events or how the market value of the subsidy may have changed in the years following the subsidy bestowal.

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

Comment 2: Impact of WTO Panel Decision on Privatization

Respondents argue that U.S. law and international obligations require the Department to incorporate the holdings of the recent WTO panel report on privatization in all subsequent proceedings involving privatization issues. The WTO panel reviewing three recent administrative reviews of the countervailing duty order on hot-rolled lead and bismuth carbon steel products from the United Kingdom issued a preliminary report (which was not public) attacking the Department's determination that subsidies bestowed prior to the privatization of a government-owned company pass through to the privatized company. Essentially, according to respondents, the WTO panel concluded that all prior subsidies are extinguished by a privatization achieved through an arm's length transaction. Further, according to respondents, the panel decision indicates that the Department's long-standing approach to privatization is inconsistent with the principles and obligations of the SCM. Respondents cite the *Charming Betsy* doctrine (*see Murray Schooner* v. *Charming Betsy,* 6 U.S. (2 Cranch) 64, 118 (1804)), for the proposition that an act of Congress should not be construed to violate international obligations if any other possible construction remains. Respondents further note that under the WTO, a panel report is a ''clarification'' of the principles embodied in a WTO Agreement, and therefore, to the extent a WTO panel report identifies an inconsistency between the practice of a WTO Member and a WTO Agreement, the report informs the Member how it must adjust its practice to conform with its existing international obligations under the agreement. Respondents argue that to the extent the panel report identifies inconsistencies between U.S. practice and the SCM, the United States is obligated to address those inconsistencies in general; any Department decision subsequent to the panel report that does not reflect the panel's interpretations of the SCM will be inconsistent with U.S. obligations under the SCM. A failure to comport Department actions with the panel report, according to respondents, would certainly result in a remand by a reviewing court.

Respondents note that, in response to the adverse panel report, as an alternative to incorporating the principles of the report in its practice, the United States may, under WTO procedures, elect to compensate the European Union for the nullification and impairment of its rights under the SCM. However, respondents urge the Department not to take this course of action, arguing that the WTO panel's clarification of the rights and obligations of Members under the SCM will remain, *i.e.*, the U.S. will remain obligated to render its decisions under the countervailing duty law in accordance with the panel report. Should the Department continue to issue decisions that conflict with the panel report, respondents argue that the United States will remain vulnerable to a series of challenges that it has nullified and impaired the rights of WTO Members. Finally, respondents note that the failure to implement the WTO report will be directly contrary to the United States' strong position that the integrity of the WTO dispute resolution process can only be preserved by members' compliance with panel rulings, however adverse.

Petitioners argue that the Department should disregard respondents' arguments as they are predicated on an interim and confidential panel report. Petitioners cite the *Final Affirmative Countervailing Duty Determination; Certain Cut-to-Length Carbon-Quality Steel Plate from France*, 64 FR 73277 (December 29, 1999) and *Final Affirmative Countervailing Duty Determination; Certain Cut-to-Length Carbon-Quality Steel Plate from Italy*, 64 FR 73244 (December 29, 1999), wherein the Department stated ''this was an interim (*i.e.*, preliminary) confidential report. As such, it is inappropriate for the parties or the Department to comment on it.'' *Id.* at 73271. Petitioners further argue that even if the panel report were relevant to the current investigation, respondents' arguments about the legal significance of the report are mistaken. First, petitioners argue that it is premature to discuss any implementation of the panel report, which has not yet been circulated among WTO members (and which cannot be considered for adoption until 20 days thereafter). Furthermore, petitioners note that the United States has the right to request that the report be reviewed by the Appellate Body, and argue that the report itself may be riddled with errors and the Department should not implement erroneous findings that remain subject to reversal on appeal.

Second, petitioners note that U.S. law expressly prohibits the implementation of the panel report in the instant investigation. According to petitioners, the relevant statutory provision prohibits the amendment, rescission, or modification of regulations or practices found by a panel or Appellate Body to be inconsistent with any of the Uruguay Round Agreements unless and until the appropriate congressional committees have been consulted; the Trade Representative has sought advice from relevant private sector advisory committees; the agency or department head has provided an opportunity for public comment on a proposed modification through its publication in the **Federal Register**; the Trade Representative has submitted a report to the appropriate congressional committees regarding the proposed modification; the Trade Representative and the agency head have consulted with the appropriate congressional committees on the proposed contents of the final rule; and, the final rule or other modification had been published in the **Federal Register**. *See* 19 U.S.C. 3533(g)(1). Thus, petitioners conclude that it would be unlawful for the Department to change its practice with regard to privatization until the statutorily mandated actions have been fulfilled.

Finally, petitioners argue that the panel report has no binding effect in U.S. law, dismissing respondents' interpretation of the *Charming Betsy* doctrine. Petitioners state that respondents are mistaken in assuming the WTO panel report would provide the basis for the Court of International Trade (CIT) to overturn a final determination in this investigation that subsidies persist after privatization because case law shows that the Department may make its own determination regarding U.S. international obligations, and the CIT will give deference to those determinations, regardless of GATT or WTO panel reports to the contrary.

Department's Position: As a threshold matter, we disagree with respondents that our international obligations under the SCM require a change in our approach to privatization in the instant case. Although the panel report has now been circulated to all WTO Members and is no longer confidential, petitioners are correct in noting that unless and until the panel report is adopted by the membership, the United States has no obligation with respect to the report. As of now, the report has not been adopted. It is therefore premature to consider what obligations, if any, the report may impose on the United States.

Even if it were not premature for the Department to reconsider our approach to privatization in light of the adverse panel report, and it were otherwise appropriate to do so, we agree with petitioners that, under 19 U.S.C. 3533(g)(1), a ''regulation or practice may not be amended, rescinded, or otherwise modified in the implementation of such report unless and until'' the very specific statutory obligations therein provided are fulfilled.

Thus, we continue to determine that a portion of subsidies bestowed on a government-owned company prior to privatization continues to benefit the production of the privatized company.

Comment 3: Valuation of Equity Infusion Benefits

Respondents argue that the Department's practice of treating equity infusions into unequityworthy companies like grants necessarily overstates the benefits of such infusions and, contrary to 19 U.S.C. 1671(a), results in the Department countervailing more than the net benefits actually received by the company. Respondents maintain that the Department's methodology fails to recognize the basic differences between equity investments and grants: Grants are unaccompanied by financial obligations; equity investments are accompanied by the obligations to generate a return (*i.e.*, to pay dividends) and to cede a claim on the company's assets to the investor. Respondents argue that, in examining government equity investments, the Department must measure the degree to which the firm is relieved of these two obligations. Respondents note that in examining other forms of subsidization, the Department recognizes the ability of a company to offset completely the benefits of the subsidy, for example, by adjusting the interest rate upward on a loan at a preferential interest rate until it reaches parity with market rates. Respondents concede that it may be reasonable to treat the equity infusions as grants in a case in which there were demonstrably no costs to the company receiving the equity, but argue that there is no basis in law or fact for the Department's irrebuttable presumption that unequityworthy companies incur absolutely no costs in connection with government investments.

If the Department persists in treating equity infusions like grants, respondents argue for a change in methodology in which the Department recognizes all post-equity infusion events, including privatization; increases in net worth; and, the payment of dividends to the investor prior to the end of the POI. Only by ''netting out'' these identifiable and related costs, respondents argue, can the Department comply with its statutory mandate not to countervail more than the net benefit.

Petitioners again note that respondents' arguments with respect to equity methodology are identical to those considered and rejected by the Department in the *Hot-Rolled Steel Final*. Petitioners maintain that respondents have ignored the Department's reasoning in the *Hot-Rolled Steel Final* and, thus, have presented no reason for the Department change that reasoning.

Department's Position: As they did in the *Hot-Rolled Steel Final*, respondents are once again basically arguing a return to the ''rate of return shortfall'' methodology (RORS), which the Department rejected in 1993 because it relied on an *ex post facto* analysis of events and represented a cost-to-government analysis of the benefit. The Department instead determined that the grant methodology was the most appropriate for analyzing the benefit from an equity infusion into an unequityworthy company. As the Department said in the *GIA*, 58 FR at 37239:

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

The Department has consistently applied the grant methodology to measure the benefit from equity infusions into unequityworthy companies since 1993. *See, e.g., Certain Steel from Brazil; Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel from Italy,* 59 FR 18357 (March 18, 1994); *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela*, 62 FR 55014 (October 22, 1997); and *Final Affirmative Countervailing Duty Determination; Stainless Steel Plate in Coils from Belgium*, 64 FR 15567, 15569 (March 31, 1999). This methodology has been upheld by the Court. *See British Steel plc* v. *United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel I*). Respondents' argument that equity investments impose additional costs on companies is not relevant and has been rejected by the Court. We have found respondents to be unequityworthy as discussed in the ''Equityworthiness'' section above. This finding has not been disputed by respondents. Our finding of unequityworthiness is akin to saying that private investors would not have invested capital in the firm. Therefore, we have continued to use the grant methodology to measure the benefit of equity infusions (and debt-for-equity conversions), as discussed in the ''Equity Methodology'' section above.

Comment 4: Exchange Rate Issues

Respondents take issue with the exchange rates the Department used in the calculations for the preliminary determination. While the Department used official monthly average exchange rates from the Central Bank of Brazil to convert to dollars most of the equity infusions examined, the Department used daily exchange rates from the Dow Jones Business Information Service to convert to dollars four of the equity infusions examined. Respondents argue that the Department's use of the Dow Jones rates is both inaccurate and inconsistent and the Department should use the official Central Bank of Brazil exchange rates (which respondents have provided in their questionnaire responses) for all currency conversions. Respondents cite an example of a daily exchange rate for which the Dow Jones rate differs by nearly twenty percent from the Central Bank rate, resulting in overstating the dollar value of the relevant equity infusion. Furthermore, respondents note that an official Central Bank rate is intrinsically superior for the purposes of a countervailing duty proceeding, and is more consistent in that the Department is using Central Bank monthly average rates for most of the currency conversions in the calculations.

Petitioners argue that respondents have provided no reason for the Department to doubt the reliability of the Dow Jones data, and therefore no reason to change the interest rates used in the calculations.

Department's Position: For the calculations for the preliminary determination, we used the monthly average exchange rates provided in the questionnaire responses, published in the *Suma Economica*, and sourced from the Central Bank of Brazil. Where we used daily exchange rates, the data provided by respondents did not meet our needs: although it came from the same source, it was not clear whether the exchange rates provided were ''buy'' or ''sell'' rates, or an average of the two. Since the Department uses an average of the ''buy'' and ''sell'' rates, we sought and used another source for that data, the exchange rates maintained on Import Administration's web site. For this final determination, we have now identified and used another public source of the appropriate exchange rate data: the Central Bank of Brazil's web site. As indicated in the calculation memorandum for these final results (on file in CRU), daily exchange rate data is available from the Central Bank of Brazil back to 1985. We used this data to calculate the average of the ''buy'' and ''sell'' rates, and also to calculate the monthly average exchange rates we used. Exchange rate data for 1984 was unavailable from the Central Bank's web site; for 1984 we used the exchange rate data reported by respondents, which is published in the *Suma Economica* and sourced from the Central Bank of Brazil.

Comment 5: Repayment Calculations

Respondents argue that the gamma ratio used in the Department's privatization methodology does not properly reflect the proportion of the purchase price that represents repayment of prior subsidies; they maintain that an average of infusion values to net worth ratios over time does not provide a meaningful ratio. Respondents instead suggest comparing the present value of the unamortized pre-privatization infusions (at the time of the infusion) to the total net worth of the company at the time of privatization. They hold that this approach more properly accounts for the difference between a company that received an infusion ten years prior to subsidization from a company that receives the same infusion the year before privatization.

Once again, petitioners note that respondents have forwarded the same arguments considered and rejected by the Department in *Brazil Hot-Rolled Steel Final.* According to petitioners, respondents have not provided any reason for the Department to deviate from the position articulated at that time.

Department's Position: As we did in the *Brazil Hot-Rolled Steel Final* and for this final determination, we have continued to calculate gamma using historical subsidy and net worth data. The gamma calculation serves as a reasonable estimate of the percent that subsidies constitute of the overall value of the company. This methodology has been upheld by the courts in *Saarstahl II, Delverde II,* and *British Steel plc* v. *United States,* 929 F. Supp. 426, 439 (CIT 1996). Respondents' criticism of the Department's current methodology centers on their belief that the average of subsidies to net worth does not take into account the timing of the receipt of subsidies and the corresponding net present value of the subsidies. We note that while gamma itself does not factor in the net present value of the subsidies, the results of the gamma calculation are applied to the present value of the remaining benefit streams at the time of privatization. Thus, our current calculations, as a whole, do account for the present value of the remaining benefits at the time of privatization.

Comment 6: Adjustments to Purchase Prices in Privatizations

Respondents argue that the Department incorrectly adjusted the purchase prices downward to account for both the use of privatization currencies and the acquisition of shares by CVRD. Respondents argue that the relevant value of the currencies, in identifying the purchase price of the companies, is the present value of the currencies, the amount at which the currencies were accepted by the GOB. Respondents hold that this value is correct because it represents the value of the debt that the GOB retired through the sales. Further, the GOB had a real liability equal to the present value of the instrument and the value of this liability, retired through the transaction, must be used in the calculation as it attempts to identify the amount of subsidy ''paid back'' to the government in the privatization. Respondents state that the value of the privatization currencies to the purchasers of the shares is irrelevant. They provide examples of different currency exchange rates and different bond values to illustrate the point that the value to the GOB remains the same in each scenario. In short, respondents note that when measuring the value of subsidies, the Department focuses exclusively on the value of the subsidy to the recipient, at the time the subsidy is received. Thus, respondents urge the Department to focus, in this instance, on the value received by the government, *i.e.,* the present value of the privatization currencies used to purchase privatized companies; it is the perspective of the recipient that is consistently relevant.

In addition, respondents note that in *Certain Steel from Brazil,* the Department examined the privatization of USIMINAS, was aware of the secondary market trading of the privatization currencies, and did not adjust USIMINAS's purchase price. Therefore, respondents argue, the hot-rolled steel investigation represented a departure from the Department's earlier approach, a departure which was not adequately explained and which does not now provide the basis for the adjustment to purchase price.

Finally, respondents disagree with the treatment of shares purchased by CVRD in the privatizations. Respondents state that CVRD's share purchases were made on commercial terms, a fact which is supported by the participation of other private investors in those privatization auctions, and thus the purchase price should not be discounted for CVRD's participation. Respondents note that the verification reports reinforce this conclusion and state they cannot be penalized for a GOB investment made on terms consistent with commercial considerations.

Petitioners support the Department's preliminary adjustments to account for the market value of privatization currencies. Petitioners state that record evidence demonstrates that the currencies traded at deep discounts from their face values on secondary markets. Petitioners state that the statute and practice reveal a strong preference for using market-determined prices to make valuation decisions. They hold that because the GOB could purchase the securities on the secondary market, just like any private investors, the value to the GOB was exactly the same as the market value.

Department's Position: As a threshold matter, respondents' arguments are identical to those considered and rejected by the Department in the *Brazil Hot-Rolled Final* (64 FR at 38751). With no new arguments to consider (and no new information developed in the course of this investigation), we continue to view respondents' arguments regarding the valuation of privatization currencies as flawed. Respondents are correct in noting that the GOB retired debts equal to the present value of the currencies accepted in exchange for shares. However, that fact is not relevant to our analysis of the purchase price in the privatization transaction; the proper value of the purchase price to use in the privatization calculation is the market selling price of the company. Since the purchase price was partially accounted for by privatization currencies and those currencies were discounted on secondary markets, the market selling price of the company is partially composed of the market value of the privatization currencies. As we stated in the *Brazil Hot-Rolled Final,* to use the present value of the currencies when determining the purchase price would be to overstate the cash, market value of the purchase price. As petitioners correctly point out, it is the Department's preference to use market values in calculations where possible. The discounted value accurately represents the market value of the currencies, and therefore the price paid by participants in the privatization auctions. That the GOB accepted those currencies at present value is irrelevant to our analysis of the purchase price. With respect to respondents' argument about our examination of the currencies in *Certain Steel from Brazil,* we reiterate the point articulated in the *Brazil Hot-Rolled Final* (64 FR at 38751). While the fact that privatization currencies were used to acquire USIMINAS shares was documented in the record of that case, the parties did not have the opportunity to comment on the final privatization methodology applied and the implications that various facts in evidence may have had on this methodology. Furthermore, in *Certain Steel from Brazil,* and the companion cases, the Department developed its privatization methodology, and applied it for the first time in the final determinations. We have gained experience with the methodology since that time. In this investigation, we have properly determined that privatization currencies were overvalued by the GOB and that the discounted, market value should be used in the privatization calculation as discussed above. We have used the discounted value best supported by record evidence.

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

Comment 7: Not All Privatization Currencies Used in Privatizations Were Acquired at Discounted Prices

Respondents argue that the Department's valuation of the privatization currencies mistakenly assumes that all currencies were acquired by the users on the secondary market at a discount. They point to the Privatization Certificates (CPs), which banks were forced to purchase under the Collar Plan for 100 percent of their value, and SIDERBRAS debentures which SIDERBRAS creditors were given in lieu of receiving debt payment. Respondents state that many banks chose to use the CPs in privatization auctions, as holders of other privatization currencies also did, exchanging one-to-one for shares, rather than trade them on the secondary market. They maintain that if instruments used in privatization auctions were not actually acquired on the secondary market, a secondary market discount cannot be applied. Similarly, even if the instruments were trading in a secondary market at a premium, respondents argue, no adjustment for market value would be appropriate. Thus, respondents argue, there is no basis for the Department to assume that all currencies used in the privatization auctions were acquired at discounts on the secondary market and information in the record indicates that some of the currencies were either used by their original owners who had come by them as a result of the GOB's debt restructuring plan or borrowed on commercial terms from BNDES (the GOB development bank); to continue to adjust the purchase price for the secondary market discounts is to apply an adverse inference without justification.

Petitioners believe that to focus on the acquisition price of the privatization currencies is to focus on the wrong moment in time. The relevant question, according to petitioners, is not what price was paid in the past to acquire the currencies, but what were the currencies worth at the time they were used to make purchases in the GOB privatization auctions.

Department's Position: As discussed in the previous comment, the appropriate measure of the value of the privatization currencies is not their cost to their holders at the time of acquisition (be that at the time the original instruments were issued, when they were acquired on the secondary market, or when they were borrowed from another holder), but their value in the secondary market at the same time they were used in privatization auctions. This represents the value that the holders could have realized, in the alternative, through a commercial transaction at the time of the privatization auctions. The secondary market provides the commercial ''benchmark'' for evaluating whether the value the GOB attributed to the currencies was appropriate, and whether the purchase price represents something with a comparable market value. The secondary market discounts which are supported on the record indicate that the GOB overvalued the currencies in the privatization auctions and that the purchase price is tainted by the GOB's overvaluation. We agree with petitioners that the statute expresses a preference for using market-determined prices when examining government actions, and we have appropriately examined the respondents' purchase prices through the lens of the discounted secondary market trading in privatization currencies.

Comment 8: Asymmetrical Comparisons in the Gamma Calculations

Respondents urge the Department to correct the gamma calculation to overcome the asymmetry inherent in ratios which mix the use of historical figures and figures corrected for inflation, *i.e.,* the numerators and denominators should be expressed in the same terms. They argue that the Department can correct this inaccuracy by ensuring that the ratios are expressed in the same terms, and recommend accomplishing this by converting to dollars the numerators and denominators.

Petitioners argue that the asymmetry results from respondents having reported unusable data. Petitioners note that respondents' proposed correction works entirely to respondents' advantage by resulting in a higher repayment ratio. Petitioners note that in accordance with CIT rulings, respondents are not entitled to benefit from their failure to satisfy the Department's requests for information; thus for any year in which the Department does not have the appropriate information, petitioners urge the Department to assume the ratio is zero.

Department's Position: We agree, in part, with respondents and petitioners. In calculating the gamma ratio, we would prefer to compare historical subsidies with historical net worth, or indexed subsidies with indexed net worth. For purposes of the preliminary determination, we used the same information that we used in the *Brazil Hot-rolled Final*. In that case, we had some years for which the data was symmetrical and some years for which we only had historical subsidies and indexed net worth. Since the preliminary determination, we have reexamined the financial statements on the record, and have found that for a number of additional years, the financial statements do provide an inflation-adjusted subsidies value. Therefore, we have been able to calculate a symmetrical comparison for the following years: for USIMINAS and COSIPA for the relevant years from 1988 (except 1992 for COSIPA) forward and for CSN from 1987 forward (except 1992). For all other years, we have continued to calculate the gamma ratios as we did in the preliminary determination. We agree with petitioners that respondents have not demonstrated that their proposed modification yields a more symmetrical or accurate comparison in the gamma ratios than the ratios we calculated for the preliminary determination. However, we disagree with petitioners that we should adversely assume that the ratio is zero since for all of the years, we have information on either historical or indexed subsidy values and net worth.

Comment 9: Corrections Made at Verification

Respondents contend that the Department's calculations for this final determination should include the corrected POI sales figures which were presented and verified at verification. The figures which were corrected were: the USIMINAS total sales value; the volume and value of COSIPA exports of subject merchandise to the United States; and, the volume and value of CSN total sales and the value of CSN exports of the subject merchandise to the United States.

Department's Position: We agree with respondents and have used the corrected figures in our calculations for this final determination. The Department normally accepts minor corrections to submitted information at verification, and the opportunity to make minor corrections was included in the verification outlines that were used to prepare for verification. The corrected figures were verified in accordance with our standard verification procedures; thus, we have used them in the calculations.

Verification

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

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a combined ad valorem rate for USIMINAS and COSIPA and an individual rate for CSN. The total estimated net countervailable subsidy rates are stated below.

Company	Net subsidy rate
IMINAS/COSIPA	10.60% ad valorem.
CSN	7.14% ad valorem.
All Others	9.21% ad valorem.

In accordance with our preliminary affirmative determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of cold-rolled flat-rolled carbon-quality steel products from Brazil which were entered, or withdrawn from warehouse, for consumption on or after October 1, 1999, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, which provides that suspension ordered after the preliminary determination may not remain in effect for more than four months, we will instruct the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after January 29, 2000 but to continue the suspension of liquidation of entries made between October 1, 1999 and January 29, 2000.

We will reinstate suspension of liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above.

ITC Notification

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

Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: January 18, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–1849 Filed 2–3–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–830]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil

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

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: February 4, 2000.

FOR FURTHER INFORMATION CONTACT: Phyllis Hall (Companhia Siderurgica Nacional or CSN), Martin Odenyo (Usinas Siderurgicas de Minas Gerais and Companhia Siderπrgica Paulista or USIMINAS/COSIPA), Nancy Decker, or Robert M. James, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, DC 20230; telephone: (202) 482–1398, (202) 482–5254, (202) 482–0196 and (202) 482–5222, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (April 1999).

Final Determination

We determine that certain cold-rolled flat-rolled carbon-quality steel products (cold-rolled steel) from Brazil are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the Suspension of Liquidation section of this notice.

Case History

We published in the **Federal Register** the Preliminary Determination in this investigation on November 10, 1999. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, 64 FR 61249 (November 10, 1999) (Preliminary Determination). Since the publication of the PreliminaryDetermination the following events have occurred.

One of the respondents in this investigation, Companhia Siderurgica Nacional (CSN) refused verification. The Department verified sections A–C of Usinas Siderugicas de Minas Gerais (USIMINAS') responses from November 15 through November 19, 1999, at USIMINAS' administrative headquarters in Belo Horizonte, Brazil. The Department verified section D of USIMINAS' response from November 8 through November 12, 1999, at USIMINAS' production facility in Ipatinga, Brazil. See Memorandum For the File; ''Sales Verification of Sections A–C Questionnaire Responses Submitted by Usinas Siderurgicas de Minas Gerais, S.A., December 23, 1999 (USIMINAS' Sales Verification Report) and Memorandum to Neal Halper, Acting Director, Office of Accounting; ''Verification of the Cost of Production and Constructed Value Data—USIMINAS,'' December 20, 1999 (USIMINAS' Cost Verification Report).

The Department verified sections A–C of Companhia Siderurgica Paulista (COSIPA's) responses from November 8 through November 12, 1999, at COSIPA's production facility in Cubatao, Brazil. The Department verified section D of COSIPA's response from November 15 through November 20, 1999, at COSIPA's production facility in Cubatao, Brazil. See Memorandum For the File; ''Sales Verification of Sections A–C Questionnaire Responses Submitted by Companhia Siderurgica Paulista (COSIPA),'' December 17, 1999 (COSIPA's Sales Verification Report) and Memorandum to Neal Halper, Acting Director, Office of Accounting; ''Verification of the Cost of Production and Constructed Value Submissions of Companhia Siderurgica Paulista,'' December 23, 1999 (COSIPA's Cost Verification Report).

The Department verified sections A (General Information) and B (Home Market Sales) responses of Rio Negro Industria e Comercio de Aco S.A. (Rio Negro) (an affiliated distributor of USIMINAS) on November 4 and November 5, 1999. The verification was performed at Rio Negro's sales branch and administrative headquarters in Guarulhos, Brazil. See Memorandum to the File; ''Sales Verification Report of Rio Negro Industria e Comercio de Aco S.A.,'' December 27, 1999, (Rio Negro's Sales Verification Report). Public versions of these, and all other Departmental memoranda referred to herein, are on file in room B–099 of the main Commerce building.

On November 29, 1999, Bethlehem Steel Corporation, Gulf States Steel, Inc., Ispat Inland Steel, LTV Steel Company, Inc., National Steel Corporation, Steel Dynamics, Inc.,U.S. Steel Group, a unit of USX Corporation, Weirton Steel Corporation, Independent Steelworkers Union, and United Steelworkers of America (petitioners) requested a public hearing. On January 6, 1999, the petitioners withdrew requests for a hearing, and therefore, there was no hearing for this investigation. On December 30, 1999, petitioners and USIMINAS/COSIPA filed case briefs. We received rebuttal briefs from petitioners, USIMINAS/COSIPA and CSN on January 5, 2000. On December 23, 1999, the Department sent a request to USIMINAS to submit a new home market sales listing as a result of minor corrections identified at verification. The Department received this information on December 30, 1999.

Scope of the Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in