responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: March 27, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–7871 Filed 3–30–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–523–802]

Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are not being provided to producers and exporters of circular welded carbon-quality steel pipe (''circular welded pipe'') from the Sultanate of Oman (''Oman'').

DATES: *Effective Date*: April 2, 2012.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin or Susan Kuhbach, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6478 and (202) 482–0112, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department of Commerce's (''Department'') notice of initiation in the **Federal Register**. *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations*, 76 FR 72173 (November 22, 2011) (''*Initiation Notice*''), and the accompanying Initiation Checklist.

On November 22, 2011, the Department released the U.S. Customs and Border Protection (''CBP'') data on imports of subject merchandise during the period of investigation (''POI''), under administrative protective order (''APO'') to all parties with APO access. *See* Memorandum to the File from Joshua Morris, ''Release of Customs and Border Protection (''CBP'') Data,'' dated November 22, 2011. We received no comments. The CBP data showed two exporters of subject merchandise: Al Jazeera Tube Mills Company SAOG (''Al Jazeera'') and a second company with inconsequential exports because the quantity of exports was extremely small.

On December 16, 2011, the U.S. International Trade Commission (''ITC'') published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of circular welded pipe from India, Oman, the United Arab Emirates, and the Socialist Republic of Vietnam. *See Circular Welded Carbon-Quality Steel Pipe from India, Oman, the United Arab Emirates, and Vietnam*, 76 FR 78313 (December 16, 2011).

On December 19, 2011, the Department postponed the deadline for the preliminary determination in this investigation until March 26, 2012. *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 76 FR 78615 (December 19, 2011). In conjunction with this postponement, the Department also postponed the deadline for the submission of new subsidy allegations until February 15, 2012. *See* Memorandum to the File from Joshua S. Morris, ''New Subsidy Allegation Deadline: *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam*,'' dated December 15, 2011. This memorandum and others referenced in this determination are on file electronically in Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''), with access to IA ACCESS available in the Department's Central Records Unit (''CRU''), room 7046 of the main Department building.

On December 22, 2011, we issued a countervailing duty questionnaire to the Government of the Sultanate of Oman (''GSO'') and to Al Jazeera. We received responses from the GSO and Al Jazeera on February 17, 2012. *See* February 17, 2012 Questionnaire Response of Al Jazeera Steel Products Co. SAOG (''AJ QR'') and February 17, 2012 Questionnaire Response of the Government of the Sultanate of Oman (''GSO QR''). Supplemental questionnaires were sent to the GSO on February 27 and March 1, 2012, and to Al Jazeera on February 27, 2012, and we received responses from Al Jazeera on March 7, 2012, and from the GSO on March 16, 2012. *See* March 7, 2012 Supplemental Questionnaire Response of Al Jazeera Steel Products Co. SAOG (''AJ SQR'') and March 16, 2012 Response of the Government of the Sultanate of Oman to Supplemental Questionnaire and New Subsidies Allegation Questionnaire (''GSO SQR'').

One of the petitioning parties, Wheatland Tube, requested two extensions of the deadline for filing new subsidy allegations. As a result, this deadline was extended from February 15 to February 24, and then to February 28, 2012. *See* Memorandum to the File from Susan Kuhbach, ''New Subsidy Allegation Deadline: *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam*,'' dated February 6, 2012 and Letter to Interested Parties, dated February 24, 2012.

A new subsidy allegation was received from Wheatland Tube on February 28, 2012. See Letter from Petitioner Wheatland Tube re New Subsidies Allegation and Additional Factual Information, dated February 28, 2012. On March 5, 2012, the Department included the newly alleged subsidy in the investigation. *See* Memorandum: ''New Subsidy Allegations,'' dated March 5, 2012. On March 6, 2012, the Department sent new subsidy allegation questionnaires to Al Jazeera and the GSO and their responses were received on March 13, and 16, respectively. See ''Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman: Al Jazeera New Subsidies Questionnaire Response,'' dated March 15, 2012 (''AJ NSQR''), and GSO SQR.

We received pre-preliminary comments from Wheatland Tube on March 14, 2012.

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the POI, is January 1, 2010, through December 31, 2010.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997), and *Initiation Notice*, 76 FR 72173. On December 5, 2011, SeAH Steel VINA Corp. (''SeAH VINA''), a mandatory respondent in the concurrent countervailing duty (''CVD'') circular welded pipe from Vietnam investigation, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular welded pipe. Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude ''Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines *–*–* .'' *See, e.g., Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order*, 76 FR 66899, 66900 (Oct. 28, 2011). According to SeAH VINA: (i) If the term ''class or kind of merchandise'' has meaning, it cannot have a different meaning when applied to the same products in two different cases; and (ii) the distinction between standard and line pipe reflected in the Brazil, Korean and Mexican orders derives from customs classifications administered by CBP and, thus, is more administrable.

On December 14, 2011, Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube (collectively, ''certain Petitioners'') responded to SeAH VINA's comments stating that the scope as it appeared in the *Initiation Notice* reflected Petitioners'' intended coverage. Certain Petitioners contend that pipe that is multi-stenciled to both line pipe and standard pipe specifications and meets the physical characteristics listed in the scope (*i.e.*, is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish) is ordinarily used in standard pipe applications. In recent years, certain Petitioners state, the Department has rejected end-use scope classifications, preferring instead to rely on physical characteristics to define coverage, and the scope of these investigations has been written accordingly. Therefore, certain Petitioners ask the Department to reject SeAH VINA's proposed scope modification.

We agree with certain Petitioners that the Department seeks to define the scopes of its proceedings based on the physical characteristics of the merchandise. *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970 (June 5, 2008) and accompanying Issues and Decision Memorandum at Comment 1. Moreover, we disagree with SeAH VINA's contention that once a ''class or kind of merchandise'' has been established that the same scope description must apply across all proceedings involving the product. For example, as the Department has gained experience in administering antidumping duty (''AD'') and CVD orders, it has shifted away from end use classifications to scopes defined by the physical characteristics. *Id.* Thus, proceedings initiated on a given product many years ago may have end use classifications while more recent proceedings on the product would not. *Compare Countervailing Duty Order: Oil Country Tubular Goods from Canada*, 51 FR 21783 (June 16, 1986) (describing subject merchandise as being ''intended for use in drilling for oil and gas'') with *Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010) (describing the subject merchandise in terms of physical characteristics without regard to use or intended use). Finally, certain Petitioners have indicated the domestic industry's intent to include multi-stenciled products that otherwise meet the physical characteristics set out in the scope. Therefore, the Department is not adopting SeAH VINA's proposed modification of the scope.

Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (''O.D.'') not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, American Society for Testing and Materials International (''ASTM''), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products in which: (a) Iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium;
(xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (''API'') API–5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished

scaffolding; [1] (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (*e.g.*, outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (gage 20)
1.315 inch O.D. and 0.047 inch wall thickness (gage 18)
1.315 inch O.D. and 0.055 inch wall thickness (gage 17)
1.315 inch O.D. and 0.065 inch wall thickness (gage 16)
1.315 inch O.D. and 0.072 inch wall thickness (gage 15)
1.315 inch O.D. and 0.083 inch wall thickness (gage 14)
1.315 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.047 inch wall thickness (gage 18)
1.660 inch O.D. and 0.055 inch wall thickness (gage 17)
1.660 inch O.D. and 0.065 inch wall thickness (gage 16)
1.660 inch O.D. and 0.072 inch wall thickness (gage 15)
1.660 inch O.D. and 0.083 inch wall thickness (gage 14)
1.660 inch O.D. and 0.095 inch wall thickness (gage 13)
1.660 inch O.D. and 0.109 inch wall thickness (gage 12)
1.900 inch O.D. and 0.047 inch wall thickness (gage 18)
1.900 inch O.D. and 0.055 inch wall thickness (gage 17)
1.900 inch O.D. and 0.065 inch wall thickness (gage 16)
1.900 inch O.D. and 0.072 inch wall thickness (gage 15)
1.900 inch O.D. and 0.095 inch wall thickness (gage 13)
1.900 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.047 inch wall thickness (gage 18)
2.375 inch O.D. and 0.055 inch wall thickness (gage 17)
2.375 inch O.D. and 0.065 inch wall thickness (gage 16)
2.375 inch O.D. and 0.072 inch wall thickness (gage 15)
2.375 inch O.D. and 0.095 inch wall thickness (gage 13)
2.375 inch O.D. and 0.109 inch wall thickness (gage 12)
2.375 inch O.D. and 0.120 inch wall thickness (gage 11)
2.875 inch O.D. and 0.109 inch wall thickness (gage 12)
2.875 inch O.D. and 0.134 inch wall thickness (gage 10)
2.875 inch O.D. and 0.165 inch wall thickness (gage 8)
3.500 inch O.D. and 0.109 inch wall thickness (gage 12)
3.500 inch O.D. and 0.148 inch wall thickness (gage 9)
3.500 inch O.D. and 0.165 inch wall thickness (gage 8)
4.000 inch O.D. and 0.148 inch wall thickness (gage 9)
4.000 inch O.D. and 0.165 inch wall thickness (gage 8)
4.500 inch O.D. and 0.203 inch wall thickness (gage 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

[1] Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a ''kit.'' A ''kit'' is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

Alignment of Final Determination

On November 22, 2011, the Department initiated an AD investigation concurrent with this CVD investigation of circular welded pipe from Oman. *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 76 FR 72164 (November 22, 2011). The scope of the merchandise being covered is the same for both the AD and CVD investigations. On March 23, 2012, Petitioners submitted a letter, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (''Act''), requesting alignment of the final CVD determination with the final determination in the companion AD investigation. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued on August 6, 2012.

Subsidies Valuation Information

Allocation Period

The average useful life (''AUL'') period in this proceeding, as described in 19 CFR 351.524(d)(2), is 15 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System. *See* U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property*, at Table B–2: Table of Class Lives and Recovery Periods. No party in this proceeding has disputed this allocation period.

Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii) through (v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists 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. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (''CIT'') has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits. *See Fabrique de Fer de Charleroi, SA* v. *United States*, 166 F. Supp. 2d 593, 600–604 (CIT 2001).

Al Jazeera reported no affiliates in Oman and, consequently, has responded on behalf of itself. (AJ QR at 2–3.) Thus, the subsidies received by Al Jazeera have been attributed to its total sales, its sales of subject merchandise, or its export sales, in accordance with 19 CFR 351.525(b)(1)-(5).

Benchmarks and Discount Rates

Section 771(5)(E)(ii) of the Act states that the benefit for loans is the ''difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.'' In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient ''could actually obtain on the market'' the Department will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans, the Department ''may use a national average interest rate for comparable commercial loans,'' pursuant to 19 CFR 351.505(a)(3)(ii). According to 19 CFR 351.505(a)(2)(i), a ''comparable'' loan is similar in structure (fixed versus variable interest rate), maturity and currency denomination.

In allocating benefits over time, the Department normally uses as the discount rate the company's cost of long-term fixed rate debt at the time the government approves the subsidy. If such rates are not available, the Department will use the average cost of long-term fixed rate loans in the country in question. *See* 19 CFR 351.524(d)(3).

Al Jazeera had government-provided loans outstanding during the POI for which benchmarks are needed. However, none of Al Jazeera's non-government loans provides a suitable rate because none was taken out in the years the government loans were approved. Therefore, we are relying on the national average cost of long-term fixed-rate loans as reported by the World Bank and submitted by the GSO. (GSO QR at Appendices B.1.I–1 and B.1.I–2.) We have included in the average cost of fixed-rate long-term loans, the additional fees that would be incurred in obtaining loans from commercial banks, as reported by the GSO. (GSO QR at 25.)

Analysis of Programs

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

I. Programs Preliminarily Determined To Be Countervailable

A. Soft Loans for Industrial Projects Under Royal Decree 17/97

Royal Decree (''RD'') 17/97 made soft loans available to the private sector with the goals of diversifying the economy of Oman and developing industry, agriculture, fisheries, tourism, education, health services, and traditional crafts in Oman. Under this program, applicants approved by the Ministry of Commerce and Industry received loans at three percent interest from commercial banks in Oman, with the difference between the three percent rate and the commercial interest rate covered by the GSO. (GSO QR at 15.) The soft loan program under RD 17/97 originated in 1997 and terminated in 2006. (GSO SQR at 12 and Appendix SQ–20.) Beginning in 2007, soft loans were made by the Oman Development Bank. (GSO QR at 16.) The GSO reported that Al Jazeera had soft loans under the earlier RD 17/97 program outstanding during the POI, but has not received any loans from the Oman Development Bank. (GSO QR at 15.) The two loans outstanding were granted in 1998 and 2004, respectively. (GSO QR at 24.) According to the GSO, both loans have now been repaid in full. (GSO SQR at 12.)

According to the GSO, firms operating the agriculture, fisheries, industry, tourism, education, health and traditional crafts sectors could apply for loans to set up, support or expand a project. (GSO QR at 17.) After review by the relevant ministries, a ministerial committee would approve or disapprove of the loan. (GSO QR at 18.) According to Article 12 of RD 17/97, the maximum amounts that could be approved varied by region (150 percent of paid up capital if the applicant was located in the Governorate of Muscat and 250 percent of paid up capital elsewhere) and by corporate form (a maximum of 500,000 Omani Rial (''OR'') or up to 5,000,000 OR if the applicant was a public joint-stock company which covered at least 40 percent of its capital by public subscription). (GSO QR at 20.)

In response to the Department's request to provide information about the amounts of assistance provided under the program to the different recipients, the GSO provided the aggregate amount of loans approved during the pendency of the program broken out between industry, tourism, education, health, and agriculture/fishing. (GSO QR at Appendix B.1.G–3.) In response to the Department's request for a breakdown of the information among different sectors under the ''industry'' heading, by year, the GSO responded that it does not maintain the information in that manner. Moreover, because there were no sectoral criteria that affect eligibility, the GSO stated there was no requirement to include that information in the applications. (GSO SQR at 15.) The GSO did provide the amounts of individual loans disbursed to recipients in the industrial category. (GSO SQR at Appendix SQ–24.)

We preliminarily determine that the soft loans received by Al Jazeera under RD 17/97 confer a countervailable subsidy. The loans are a financial contribution in the form of a direct transfer of funds and they confer a benefit in the amount of the difference between the interest Al Jazeera paid on the loans and the amount the company would have paid on a comparable commercial loan. *See* sections 771(5)(d)(i) and (e)(ii) of the Act. Additionally, we preliminarily determine that the subsidy was specific, under section 771(5A)(D)(iii)(II) of the Act, because Al Jazeera was a predominant user of the program.

To calculate the benefit, we computed the difference between the amounts Al Jazeera would have paid under the benchmark interest rates described above and the amounts it actually paid during the POI. Because the loans were given to finance Al Jazeera's pipe mills, we divided the subsidy during the POI by Al Jazeera's sales of circular welded pipe during the POI.

On this basis, we preliminarily determine that Al Jazeera received a countervailable subsidy of 0.12 percent *ad valorem* under this program. *See* Memorandum to the File from Sergio Balbontin, ''Preliminary Affirmative Countervailing Duty Determination: Calculation Memorandum for Al Jazeera Steel Products Co. SAOG,'' dated March 26, 2012.

II. Programs Preliminarily Determined To Be Not Countervailable

A. Tariff Exemptions on Imported Equipment, Machinery, Raw Materials, and Packaging Materials

Under RD 61/2008, industrial enterprises in Oman are able to import machinery, equipment, parts, raw materials, semi-manufactured materials and packing material duty free. According to the GSO, the purpose of RD 61/2008 is to encourage and develop all industrial projects, to raise the contribution of the industrial sector in the gross domestic product, and to expand the bases of economic linkage in the Arab States of the Gulf. RD 61/2008 supersedes similar earlier schemes under the Organization and Promotion of Industry Law (RD 1/79) and the Foreign Business Investment Law (102/94). (GSO QR at 4 and Appendix A.1.D–1.)

RD 1/79 entered into force on January 4, 1979. According to the GSO, the purpose of this law was to encourage diversification of the Omani economy and to stimulate industrial development. (GSO SQR at 1.) Under Article 19 of RD 1/79, licensed or

registered industrial enterprises were exempted from customs duties on equipment, tools, spare parts, raw materials, and semi-manufactured goods. (GSO SQR at Appendix SQ–3.)

Both RD 61/2008 and RD 1/79 provide similar definitions of the ''industrial enterprises'' that are eligible to receive the tariff exemptions: establishments whose basic objective is to convert raw materials or semi-manufactured goods into manufactured goods. (GSO QR at Appendices A.1.D–1 and GSO SQR at Appendix SQ–3.) Also, both decrees outline the process for receiving an industrial license. Under RD 61/2008, the procedure for obtaining an industrial license is ''automatic,'' according to the GSO, upon submission of the required documentation (commercial registration, business plan and approval from the Ministry of Environment). Further, the GSO states that there is no discretion in the procedure, as the application process has been fully automated through a ''one stop shop'' IT system. (GSO QR at 8.)

Al Jazeera's industrial license was obtained under RD 1/79, as well as its initial tariff exemption. According to Article 5 of RD 1/79, industrial enterprises could not be established or change their capacity, size, purpose or site without obtaining an industrial license from the Ministry of Commerce and Industry. To obtain an industrial license, companies would submit an application to the Ministry. This application requested a wide range of information including: a list of shareholders, estimated investment, a description of the products to be produced, annual output, a description of the manufacturing process, the numbers and types of labor required, market and marketing information (imports of the product, domestic production of the product, exports, and proposed distribution channels), details of plant and machinery, raw materials requirements, and utilities requirements. (GSO QR at Appendix A.1.G–6.) The decision of whether to grant the industrial license rested with the Directorate General of Industry (Ministry of Commerce and Industry). (GSO SQR at Appendix SQ–3.) According to the GSO, the Ministry relied upon non-binding guidelines for granting these licenses. (GSO SQR at 2.)

To obtain the tariff exemption under RD 1/79, the industrial enterprise would submit to the Ministry of Commerce and Industry its industrial license along with a list of the materials and equipment it intended to import and the annual amounts. (GSO SQR at 2 and Appendix SQ–4.) The procedure under RD 61/2008 is similar except that final approval of the Ministry of Finance is also required in order to ensure that the application conforms with the uniform customs law of the Arab Gulf Cooperation Council. (GSO SQR at 3 and Appendix SQ–6.) RD 61/2008 also provides at Article 16 that priority in granting the tariff exemptions will be given, *inter alia*, to enterprises producing goods for exports. (GSO QR at Appendix A.1.D–1.)

As noted above, Al Jazeera received its industrial license and initial tariff exemption under RD 1/79. According to the GSO, if a company needs to import raw materials in excess of the amount for which the exemption was granted, it must file a new request with the Ministry of Commerce and Industry. (GSO QR at 6.) Al Jazeera received a new approval under RD 61/2008. (GSO QR at 11.)

The GSO states that processes for granting industrial licenses in Oman are ''automatic.'' Regarding the former, companies apply though an online system administered by the Ministry of Commerce and Industry. According to the Ministry of Commerce and Industry, no firm that met the legal and regulatory requirements for an industrial license has been denied a license. (GSO QR at Appendix A.1.G–4 and GSO SQR at 6.) Specifically, rejections of license applications occur only when the applicant does not constitute an ''industrial enterprise,'' or when the applicant cancels its plans and does not complete the steps for registration. (GSO QR at 8.)

In its pre-preliminary comments, Wheatland Tube points to Al Jazeera's application for its industrial license and, in particular, the section of the application that requests information about exports. Citing 19 CFR 351.514 and prior findings by the Department,[2] Wheatland Tube argues that the application by its terms renders the tariff exemptions an export subsidy. We preliminarily disagree. The application cited by Wheatland Tube is the application for an industrial license which, while necessary for the tariff exemption, is not in itself a subsidy program. Instead, as explained above, an industrial license is required to start, expand, or relocate any enterprise that converts raw materials or semi-manufactured goods into manufactured goods. Thus, while we acknowledge our regulation, which looks to whether exportation or anticipated exportation is a condition for receipt of benefits under a program, and our past determinations in which we have found export contingency when an application for a subsidy required information on the firm's exports, we do not agree that such questions on an application for something as fundamental as an industrial license necessarily means that a separate subsidy program is specific as an export subsidy. Therefore, we have focused our analysis on the procedures for obtaining the tariff exemptions.

As explained above, applications for tariff exemptions are filed with the Ministry of Commerce and Industry. According to the GSO, the approval process for duty exemptions is automatic and does not take into account the export performance or potential of the applicant, the use of domestic over imported goods, the industry or sector in which the applicant operated, or the location of the applicant. (GSO QR at 9–10 and GSO SQR at 4–5.) More recently, the tariff exemptions application has also been referred to the Ministry of Finance, which carries out a formal check of whether the applicant corresponds to the company named in the industrial license, whether the capital goods pertain to the activity of the company, and whether the quantity the applicant seeks to import is consistent with its output. (GSO QR at 6.) The GSO states that there is no discretion in deciding whether to grant the duty exemption when the regulations are met (GSO QR at 6–7) and that no qualifying companies have been denied tariff exemptions. (GSO QR at Appendix A.F.1–2 and GSO SQR at 6.) The submitted data shows that hundreds of approvals are made per year. (GSO SQR at Appendix SQ–5.) The GSO further explains that the ''priority'' described in Article 16 of RD 61/2008 for granting tariff exemptions to certain enumerated sectors means that if two or more applications were filed contemporaneously, the enterprise in the designated sector would receive the tariff exemption prior to the other applicants. (GSO QR at 7–8.)

In response to the Department's request to provide information about the amounts of assistance provided under the program to the different industries in Oman, the GSO explained that it does not maintain this data. Specifically, recipients of the import duty exemptions are not classified by the International Standard Industrial Classification. (GSO SQR at 6.) Nor does the GSO maintain information on the

[2] *See, e.g., Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521, 18524 (April 4, 2011), and *Drill Pipe From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011).

duties it would have collected but for the exemption. (GSO SQR at 7.)

In summary, based on information submitted by the GSO, the tariff exemptions are granted automatically and without regard to the firm's export performance or potential, use of domestic over imported goods, industry sector or location. Moreover, hundreds of applications are approved in a year and no applications have been rejected. The GSO has explained that it is not able to provide information regarding the distribution of duty exemptions because of the nature of the benefit (exemptions) and the manner in which the recipients submit their data.

On this basis, we preliminarily determine that the GSO's program providing tariff exemptions on imported raw materials and equipment does not confer a countervailable subsidy because it is not specific within the meaning of section 771(5A) of the Act. At verification, we intend to examine the applications and the approval process to confirm that the tariff exemptions are, in fact, used by industries producing a wide variety of products. Also, we invite the parties to comment on the distinction we have made in this preliminary determination to focus on the application process for benefits under the tariff exemption program rather than on the application for the company's industrial license.

Provision of Electricity for Less Than Adequate Remuneration (''LTAR'')

The provision of electricity to consumers in Oman is heavily regulated. (GSO QR at Appendix C.1–5 at 15.) In particular, in accordance with Article 10 of RD78/2004, the rates that are charged for electricity are approved by the Council of Ministers. (GSO QR at Appendix C.1–1.) During the POI, all industrial users in all regions of Oman paid uniform rates. (GSO QR at 37.) To be eligible for the industrial user rate, a company must have a letter of recommendation from the Ministry of Commerce and Industry and meet a stipulated power factor. (GSO QR at Appendix C.1–3 at 37.) According to the GSO, letters of recommendation are given to all companies with an industrial license. (GSO QR at 39.) During the POI, there were over 1.5 million industrial users of electricity in Oman. (GSO QR at Appendix C.1–3 at 10.)

The electricity bills submitted by Al Jazeera show that it paid the established rates. (AJ QR at Exhibit 13.)

Because all industrial users pay the same rates for electricity, we preliminarily determine that any potential subsidy related to the GSO's provision of electricity is not specific within the meaning of section 771(5A) of the Act.

C. Provision of Water for LTAR

Ministerial Decision 11/2000 establishes a uniform water tariff for all commercial users in Oman. (GSO QR at Appendix C.2–1.) The water bills submitted by Al Jazeera show that it paid the established rates. (AJ QR at Exhibit 14.)

Because all commercial users pay the same tariff for water, we preliminarily determine that any potential subsidy related to the GSO's provision of water is not specific within the meaning of section 771(5A) of the Act.

D. Provision of Natural Gas for LTAR

According to the GSO, the Ministry of Oil and Gas is the central buyer and seller of gas in the Sultanate. The Ministry buys gas from producers and resells it to power plants, industrial estates, and LNG producers. Further, according to the GSO, the natural gas network delivers gas for industrial purposes only and companies using gas for industrial purposes must be located in or close to an industrial estate. (GSO QR at 43.)

The GSO states that virtually all industries in Oman are located in industrial estates or free trade zones. (GSO QR at 33.) This is due in part to infrastructural constraints, such as the fact that natural gas is not readily available outside of these areas. Additionally, according to the GSO, the zoning in the Sultanate is very strict: an industry seeking to locate outside an industrial estate or free trade zone would have to apply to have the land reclassified as industrial land. Id. Finally, industrial estates serve as ''one-stop-shops'' where all the applications for an industrial installation can be made, rather than having to apply to many different agencies. *Id.*

Regarding natural gas, all industrial companies located in all of industrial estates pay the same rate. (GSO QR at 42.) Al Jazeera is located in the Sohar Industrial Estate and the natural gas bills it submitted show that it paid the standard rate charged to all industries located in Sohar Industrial Estate and all other industrial estates. (AJ QR at Exhibit 15.) Companies located nearby, but outside of industrial estates normally purchase gas from the Ministry of Oil and Gas, but are supplied by the industrial estates. According to the GSO, these companies would normally pay the same for natural gas as companies within the industrial estates, but might pay more if the cost of providing the gas was higher due, for example, to having constructed a pipeline. (GSO SQR at 13.)

Because all industrial users proximate to the gas pipeline pay the same price for natural gas, we preliminarily determine that any potential subsidy related to the GSO's provision of natural gas is not specific within the meaning of section 771(5A) of the Act.

E. Provision of Land and/or Buildings for LTAR

As explained above under ''Provision of Natural Gas for LTAR,'' the GSO states that virtually all industries in Oman are located in industrial estates or free trade zones. These estates and zones have been established on government-owned land and are managed by the Public Establishment for Industrial Estates. (GSO QR at 33.) A small number of very large industrial companies, established by the GSO, are located outside the industrial estates on government-owned land, but the GSO does not provide land under lease outside of the industrial estates. (GSO SQR at 13.)

Privately owned ''industrial land'' outside of the estates differs from land in the estates, according to the GSO. (GSO SQR at 14.) The plots cannot exceed 85 square meters and rental periods are shorter than those in the estates (which range about 25 years). (GSO SQR at 14.) Companies located outside the estates are small workshops such as carwashes and welders which cannot rent land in the industrial estates because they are not industrial establishments per RD 61/2008. *Id.* The lease rates for these plots are set by the market and, according to the GSO, possibly range around .50 OR per square meter/month. Also according to the GSO, no land in the vicinity of the Sohar industrial estate (where Al Jazeera is located) is provided under lease to industrial establishments by private parties. *Id.*

Regarding lease rates in the industrial estates, the GSO reports that they are set taking into account the location of the industrial estate and lease rates in neighboring countries. *Id.* Lease rates in the Sohar and Rusayl Industrial Estates are uniform at 0.5 OR per square meter per year, while the lease rates in effect for the five other industrial estates maintained by the GSO are 0.25 OR per square meter per year for the first five years and 0.5 OR per square meter per year thereafter. (GSO SQR at Appendix SQ–23.) Lease rates in the free trade zones are typically higher, ranging from 1.5 to 2.5 OR per square meter per year. (GSO SQR at 15.)

According to the GSO, these higher prices reflect additional services and

benefits available in the free trade zones: one stop shop for industrial license and work permits, and various regulatory and policy exemptions. If the land in the free trade zone is not developed, the lease rates may be lower. *Id*.

In summary, the GSO provides industrial land under leases in industrial estates and free trade zones. Companies locating in free trade zones receive benefits or services that are not received in the industrial estates and the lease rates in free trade zones are, therefore, higher. Within the industrial estates, the rates are uniform except for the existence of ''introductory'' rates in certain zones. Because Al Jazeera has been located in Sohar Industrial Estate beyond any ''introductory'' period in the other industrial estates, it would face the uniform rate of 0.50 OR.

Because all recipients of industrial leases in the industrial estates that have been located there beyond five years pay the same lease rates, we preliminarily determine that any potential subsidy related to the GSO's provision of industrial leases is not specific within the meaning of section 771(5A) of the Act.

III. Programs Preliminarily Determined To Be Not Used By Respondents or To Not Provide Benefits During the POI

A. Exemption from Corporate Income Tax

Based on information included in Al Jazeera's questionnaire response, Wheatland Tube alleged that Al Jazeera benefitted from a countervailable exemption from income tax during the POI. Al Jazeera's response indicates that the company has a tax loss for 2009 (relating to the tax return filed during the POI) (AJ SQR at 5) and did not belatedly pay corporate income taxes in 2009 for prior years. (AJ NSQR at 2.) Therefore, we preliminarily determine that any income tax exemption was not used during the POI.

B. Pre-Shipment Export Credit Guarantees

IV. Programs For Which More Information Is Required

A. Export Credit Discounting Subsidy (identified as ''Post-Shipment Financing Loans'' in the Initiation Notice)

The Export Credit Guarantee Agency of Oman (''ECGA'') is the national export credit agency of the Sultanate. Exporters whose sales are insured by ECGA can discount their export bills with commercial banks and ECGA provides a one percent subsidy on the export sales it has insured. (GSO QR at 26.) Al Jazeera received an interest subsidy for a loan outstanding during the POI. (AJ QR at 13–14.) However, the interest subsidy for this loan was received after the POI. (AJ SQR at 4.) Consequently, the interest subsidy does not give rise to a benefit during the POI.

We intend to seek further information from Al Jazeera regarding possible interest subsidies received during the POI arising from loans outstanding prior to the POI.

Verification

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

Preliminary Negative Determination

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an estimated countervailable subsidy rate for Al Jazeera. Further, because Al Jazeera is the only company for which a rate has been calculated, we are also assigning that rate to all other producers and exporters of circular welded pipe from Oman.

Exporter/manufacturer	Net subsidy rate
Al Jazeera Tube Mills Company SAOG.	0.12 percent
All Others	0.12 percent

Because all of the rates are *de minimis*, we preliminarily determine that no countervailable subsidies are being provided to the production or exportation of circular welded pipe from Oman. As such, we will not direct CBP to suspend liquidation of entries of the subject merchandise.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

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

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we intend to disclose to the parties the calculations for this preliminary determination within five days of its announcement. Due to the anticipated timing of verification and issuance of verification reports, case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. *See* 19 CFR 351.309(c)(i) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. See 19 CFR 351.309(c)(2) and (d)(2).

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, we intend to hold the hearing two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must electronically submit a written request to the Assistant Secretary for Import Administration using IA ACCESS, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. *See id*.

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

Dated: March 26, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–7839 Filed 3–30–12; 8:45 am]

BILLING CODE 3510–DS–P