Rescission of Second Administrative Review

On November 1, 2002, TAMSA submitted a letter certifying that neither TAMSA, nor its U.S. affiliate, Siderca Corporation, directly or indirectly, exported or sold for consumption in the United States any subject merchandise during the POR. *See Memorandum from Eric Greynolds through Melissa Skinner, ''Second Administrative Review of the Antidumping Duty Order on Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico: Intent to Rescind Administrative Review,''* (April 30, 2003). The Department conducted a shipment data query on SLP produced by TAMSA during the POR. Our analysis of the query results showed that none the relevant shipments were subject to antidumping duties. To further confirm TAMSA's claim that it did not export subject merchandise to the United States during the POR, on March 19, 2003 we subsequently requested an additional data query of the internal BCBP data. *See Memorandum to file from Mark Young through Eric Greynolds, ''Second Administrative Review of the Antidumping Duty Order on Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico: Internal Customs Data Query''* (March 31, 2003). Pursuant to this request, we discovered what appeared to be several shipments of subject merchandise from TAMSA to the United States during the POR. Consequently, on March 31, 2003, the Department requested that TAMSA explain the discrepancy between TAMSA's statement that it had no sales of subject merchandise during the POR and the results of our data query which contradicted TAMSA's statement, or respond to the antidumping questionnaire that was sent on October 11, 2002. *See* letter to respondent, dated March 31, 2003, in the case file in the CRU.

Subsequent to the issuance of the Department's March 31, 2003 letter to TAMSA, we discovered an inadvertent error regarding the internal BCBP data query on shipments of subject merchandise from TAMSA. Specifically, the results of the query included extraneous data concerning merchandise that is not covered by the scope of the order. Therefore, on April 30, 2003, we stated that based on our shipment data query and examination of entry documents, we should treat TAMSA as a non-shipper and, in accordance with section 351.213(d)(3) of the Department's regulations, rescind this review. *See Memorandum from Eric Greynolds through Melissa Skinner to the File, ''Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Mexico: Rescission of First Administrative Review,''* dated April 30, 2003. We invited interested parties to comment on our intent to rescind the administrative review.

With respect to petitioner's October 25, 2002 request that the Department determine whether antidumping duties have been absorbed during the period of review by respondent TAMSA, we find their request to be irrelevant to the instant case. The Department's query results show that TAMSA had no entries of subject merchandise during the POR, therefore, no duty absorption can exist (*see e.g., Certain Fresh Cut Flowers from Mexico, Final Results of Antidumping Duty Administrative Review,* 62 FR 27219 (May 19, 1997)).

Based on our BCBP data query and examination of entry documentation, the Department will treat TAMSA as a non-shipper for the purpose of this review. Therefore, in accordance with § 351.213(d)(3) of the Department's regulations, and consistent with our practice, we will rescind this review because TAMSA is the sole respondent and a non-shipper (*see e.g., Polychloroprene Rubber from Japan: Notice of Recission of Antidumping Duty Administrative Review,* 66 FR 45005 (August 27, 2001)).

This notice is in accordance with section 751(a)(1) of the Act and section 351.213(d) of the Department's regulations.

Dated: July 1, 2003.

Gary Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–17217 Filed 7–7–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533–829]

Notice of Preliminary Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand from India

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

ACTION: Notice of Preliminary Affirmative Countervailing Duty Determination.

EFFECTIVE DATE: July 8, 2003.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of prestressed concrete steel wire strand (PC strand or subject merchandise) from India. For information on the estimated countervailing duty rates, please see the ''*Suspension of Liquidation*'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Robert Copyak at (202) 482–2209, Alicia Kinsey at (202) 482–4793, or Cindy Robinson at (202) 482–3797, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp. (collectively, the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigation: Prestressed Concrete Steel Wire Strand from India*, 68 FR 9058 (February 27, 2003) (*Initiation Notice*)), the following events have occurred.

On February 28, 2003, we issued our initial countervailing duty questionnaire (initial questionnaire) to the Government of India (GOI).[1] On April 1, 2003, the GOI requested a one-month extension of the April 7, 2003, deadline for submitting its response to the ''government'' portion of the initial questionnaire. We granted the GOI an extension until April 21, 2003. On April 21, 2003, the GOI submitted a partial questionnaire response and requested a second extension. The GOI explained that it was having logistical difficulties in gathering the requested information, which pertains to several state government programs and various federal departments. *See* Memorandum to the File from Alicia Kinsey, International Trade Analyst, concerning Conversation with Government of India Official (April 24, 2003), which is on

[1] In the questionnaire, we informed the GOI that it was the government's responsibility to identify all Indian producers/exporters that shipped subject merchandise to the United States during the period of investigation and to forward a copy of the ''company'' portion of the initial questionnaire to all such producers/exporters.

file in room B–099 of the Central Records Unit of the Main Commerce Building (CRU). *See also ''Use of Adverse Facts Available*'' section, below.

On April 25, 2003, we informed the GOI that its April 21, 2003, partial questionnaire response was incomplete and unusable for purposes of calculating a countervailing duty rate, and we again extended the deadline for submitting a complete questionnaire response until April 30, 2003. On April 28, 2003, the GOI submitted another partial questionnaire response. However, the GOI did not file any more submissions and thus did not meet the April 30, 2003, deadline for filing a complete questionnaire response. On May 23, 2003, in a second attempt to obtain the information we requested in the initial questionnaire, we issued a supplemental questionnaire to the GOI. The GOI's supplemental questionnaire response was due on June 6, 2003. The GOI did not submit a response to the supplemental questionnaire. *See ''Use of Adverse Facts Available*'' section, below.

As of April 7, 2003, which was the original deadline for the submission of responses to the initial questionnaire, we had not received any responses from any Indian producers/exporters of the subject merchandise. On April 14, 2003, we spoke with a law firm which had entered an appearance in the investigation on behalf of Tata Inc. (importer of subject merchandise) and Tata SSL Ltd. (producers/exporters of subject merchandise) and inquired whether the law firm intended to file a response on these companies' behalf. The law firm informed us that it had not submitted any responses on behalf of Tata Inc. and Tata SSL Ltd. because the companies were proceeding with the investigation on a *pro se* basis. *See* Memorandum to the file from Robert Copyak, Financial Analyst, concerning Conversation with Former Counsel to Tata (April 24, 2003). On April 15, 2003, on the basis of their recent change to *pro se* status, we granted Tata Inc. and Tata SSL Ltd. an extension until April 30, 2003, to file a response to the initial questionnaire.

On April 16, 2003, we spoke with a company official who stated that the companies never received the initial questionnaire. *See* Memorandum to the File from Alicia Kinsey, International Trade Analyst, concerning April 16, 2003 Conversation with Tata Official (April 24, 2003). On April 21, 2003, we spoke with the GOI official who had been coordinating the GOI's involvement in the investigation. He explained that the GOI had not distributed a copy of the initial questionnaire to Tata Inc. and Tata SSL Ltd. Subsequently, the Department provided Tata Inc. And Tata SSL Ltd. an electronic version of the questionnaire. See Memorandum to the File from Alicia Kinsey, International Trade Analyst, concerning Conversation with Government of India Official (April 24, 2003). *See also ''Use of Adverse Facts Available*'' section, below.

On April 29, 2003, Tata Inc. and Tata SSL Ltd. requested another extension of the deadline for submitting responses to our initial questionnaire. On April 30, 2003, we extended the deadline to May 7, 2003.On May 7, 2003, respondents' former counsel again entered an appearance on behalf of Tata Inc. and Tata SSL Ltd.. On May 8, 2003, Tata Iron and Steel Company Limited (Wire Division) (TISCO), which recently acquired Tata SSL Ltd., submitted a response to the initial questionnaire. Although the submission was filed one day after the deadline, we accepted it as timely because the company informed us that the delay was the fault of the courier. However, we returned the submission to TISCO for correction and re-submission because it was improperly filed and was not served on interested parties. *See* Memorandum to the File from Robert Copyak and Alicia Kinsey, Case Analsyts, through Melissa Skinner, Office Director, concerning Acceptance and Request for Correction and Re-submission of the May 8, 2003, Questionnaire Response Submitted by TISCO (May 23, 2003). TISCO corrected its May 8, 2003, submission and re-submitted it on May 28, 2003. On May 29, 2003, we issued a supplemental questionnaire to TISCO, and TISCO submitted a timely response on June 12, 2003.

On June 16, 2003, petitioners submitted a letter urging the Department to use facts available for purposes of the preliminary determination. *See ''Use of Adverse Facts Available*'' section, below. On June 23, 2003, respondent's counsel contacted a Department official to inform the Department that respondent's counsel had received a tax return requested in our initial and supplemental questionnaires to TISCO; we informed respondents' counsel that if they were to submit the tax return, it would be rejected by the Department as untimely filed. *See* Memorandum to the File from Robert Copyak, Financial Analyst, through Jim Terpstra, Program Manager regarding Conversation with Garvey Schubert Barer, Counsel for Tata Iron and Steel Company Limited (Wire Division) (June 23, 2003).

Extension of Time Limit for Preliminary Determination

On April 7, 2003, we published in the **Federal Register** an extension of the due date for this preliminary determination from April 28, 2003, to June 30, 2003. *See Prestressed Concrete Steel Wire Strand from India: Extension of Time Limit for Preliminary Determination in Countervailing Duty Investigation*, 68 FR 16783 (April 7, 2003).

Scope of the Investigation

The merchandise subject to this investigation is prestressed concrete steel wire (PC strand), which is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pre-tensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.

The merchandise under this investigation is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

In the scope section of the *Initiation Notice* for this investigation, the Department encouraged all parties to submit comments regarding product coverage by March 19, 2003. Petitioners filed comments regarding product coverage on June 13, 2003. These comments were submitted too late for consideration in this preliminary determination. The Department will examine these comments for the Final Determination.

Injury Test

Because India is a ''Subsidy Agreement Country'' within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from India materially injure or threaten material injury to a U.S. industry. On March 21, 2003, the ITC published its preliminary determination finding 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 of subject merchandise from India. *See Prestressed Concrete Steel Wire Strand from Brazil, India, Korea, Mexico, and Thailand*, 68 FR 13952 (March 21, 2003).

Alignment With Final Antidumping Duty Determination

On June 26, 2003, petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the antidumping duty investigation of prestressed concrete steel wire strand from India.

Period of Investigation

The period of investigation (POI) is April 1, 2001 through March 31, 2002. This period was alleged by petitioners to be the Indian producers'/exporters' most recently completed fiscal year. *See* the *Initiation Notice* and the February 20, 2003, Office of AD/CVD Enforcement VI Initiation Checklist titled ''Initiation of Countervailing Duty Investigation: Prestressed Concrete Steel Wire Strand from India (C-533–829)''(*Initiation Checklist*), which is on file in the CRU.

Use of Adverse Facts Available

We preliminarily determine that the GOI and TISCO's questionnaire responses are incomplete and unusable, for the reasons set forth below. Therefore, for this preliminary determination, we have calculated a single countervailing duty rate that is applicable to all Indian producers/exporters of subject merchandise. Accordingly, we also preliminarily determine to base the calculation of this one rate on facts available, pursuant to section 776(a) of the Act, and adverse inferences, pursuant to section 776(b) of the Act (hereafter ''adverse facts available'').

Despite our repeated requests and numerous extensions described above, the GOI and the Indian exporters/producers of subject merchandise have not provided the requested program information and company-specific data necessary for calculating company-specific countervailing duty rates.

We requested in the initial questionnaire that the GOI provide basic information regarding the production of subject merchandise in India and the administration of the federal and state programs that we are investigating. As described above, although the GOI provided two partial questionnaire responses, these submissions are incomplete and unusable because they contain only a small portion of the information we requested in the initial questionnaire. The GOI did not provide complete answers and did not provide useable information. Moreover, the GOI failed to answer specific questions regarding the nature of and participants in India's PC strand industry and failed to answer specific questions regarding the various federal and state programs under investigation. The GOI also failed to distribute the ''company'' portion of the questionnaire to the producers/exporters of subject merchandise.

In a supplemental questionnaire, we requested that the GOI provide all of the information it had neglected to provide in its two partial questionnaire responses. Despite this second opportunity to provide the information requested in the initial questionnaire and the additional time to provide it, the GOI did not file a response and therefore did not provide the information necessary to conduct this countervailing duty investigation.

Similarly, the questionnaire responses provided by TISCO are incomplete and unusable. Despite several extensions, TISCO failed to provide answers to specific questions regarding its use of various federal and state programs under investigation. Most notably, however, TISCO failed to provide the information requested regarding its affiliated and parent companies. In addition, TISCO failed to submit its tax returns, as requested in the Tax Programs Appendix of the initial questionnaire. A copy of the company's tax return is necessary for ascertaining whether the company claimed a tax exemption for export profits under section 80 HHC of the India Tax Act. As mentioned in the ''*Case History*'' section, above, counsel for TISCO acquired a copy of TISCO's tax return and offered to file it on the record; however, the information, for which the Department had not granted an extension, would have been filed nearly two weeks after the supplemental questionnaire was due, and less than a week before this preliminary determination was issued. TISCO had the opportunity to provide its tax return in the initial questionnaire, for which two extensions were granted, and in the supplemental questionnaire. Despite these numerous opportunities, TISCO did not submit its tax return. The Department's statutory obligations require a reasonable cut-off point for new information to be submitted on the record and considered; therefore, the Department did not solicit TISCO's tax return upon learning of its availability. TISCO also failed to submit any information regarding most of the state programs under investigation. TISCO also did not submit adequate information regarding the Pre-shipment and Post-shipment Export Financing program.

In a supplemental questionnaire, we requested the above-mentioned information. Although TISCO provided some additional information, the company did not submit its tax returns, did not provide any additional information about the state programs, did not provide information about their affiliate and parent companies, and did not supplement its previously-submitted information regarding the Pre-shipment and Post-shipment Export Financing program. Moreover, all of the information submitted in both the initial and supplemental questionnaires was generated from the Indian fiscal year 2002–2003, a fiscal year that was not yet completed when the original questionnaire was issued. Respondents did not consult with Department officials regarding their definition of the period of investigation. The information provided by the GOI covered the POI as identified in the questionnaire.

Section 776(a) of the Act requires the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. As described above, the GOI and TISCO, as well as any other Indian producers or exporters of the subject merchandise, have failed to provide the information regarding the programs under investigation that the Department expressly requested in the initial and supplemental questionnaires. Because of TISCO's and the GOI's lack of cooperation, the statute requires the use of facts otherwise available for purposes of calculating the countervailing duty rates in this investigation.

Furthermore, section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that a party has failed to cooperate to the best of its ability. The Department finds that by not providing necessary information specifically requested by the Department in this investigation, despite numerous opportunities, the GOI and TISCO have failed to cooperate to the best of their ability. As discussed above, the GOI failed to act to the best of its ability by not distributing the questionnaires to Indian producers/exporters of subject merchandise, not providing necessary information specifically requested in the questionnaire, and not responding to the Department's supplemental questionnaire. TISCO also failed to act

to the best of its ability by not providing necessary information specifically requested in the questionnaire and supplemental questionnaire, despite numerous extensions, and by submitting information using a different POI without consulting the Department. Therefore, in selecting facts available, the Department determines that an adverse inference is warranted.

Section 776(b) of the Act indicates that, when employing an adverse inference, the Department may rely upon information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review; or (4) any other information placed on the record. *See* also 19 CFR §351.308(c).

If the Department relies on this secondary information as facts available, section 776(c) of the Act provides that the Department shall, ''to the extent practicable,'' corroborate such information using independent sources reasonably at its disposal. The Statement of Administrative Action accompanying the URAA (SAA) further provides that to corroborate secondary information means that the Department will satisfy itself that the secondary information to be used has probative value. *See also*, 19 CFR 351.308(d). Thus, in those instances in which the Department determines to apply adverse facts available, in order to satisfy itself that such information has probative value, the Department will examine, to the extent practicable, the reliability and relevance of the information used. However, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there are typically no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. The only source for such information normally is administrative determinations. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render benefit data not relevant. *See Cotton Shop Towels From Pakistan: Final Results of Countervailing Duty Administrative Review*, 66 FR 42514 (August 13, 2001). However, the fact that corroboration may not be practicable in a given case does not prevent the Department from applying an adverse inference as appropriate, and does not prevent the Department from using the secondary information. *See* 19 CFR 351.308(d). The SAA accompanying the URAA clarifies that information from the petition is ''secondary information.'' *See* Statement of Administrative Action, accompanying H.R. 5110 (H. Doc. No. 103–316) (1994) at 870.

Because the respondents failed to act to the best of their ability, as discussed above, for each program examined, unless the record information made it clear that respondents could not have received benefits from the program, we made the adverse inference that the respondent benefitted from the program, consistent with our practice. *See, e.g., Certain Cold-Rolled Carbon Steel Flat Products From Korea; Final Affirmative CVD Determination*, 67 FR 62102 (October 3, 2002). Therefore, as adverse facts available, we preliminarily determine to use (where possible) the highest company-specific program rates from the most recently-completed investigation pertaining to exports of an Indian steel product *see Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 49635 (September 28, 2001) (*Hot-Rolled Steel From India*) and *Issues and Decision Memorandum: Final Results of the Countervailing Duty Investigation: Certain Hot-Rolled Carbon Steel Flat Products From India*, which is on file in the CRU or available online at *http://www.ia.ita.doc.gov/frn/summary/india/01–24404–1.txt* (*Hot-Rolled Steel From India Decision Memo*). Because some of the programs under investigation were not investigated in *Hot-Rolled Steel From India*, 66 FR 49635, we preliminarily determine, consistent with our practice, to use (where possible) the highest company-specific program rates from another recently-completed Indian investigation. *See Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip From India*, 67 FR 34905 (May 16, 2002) (*PET Film From India*) and *Issues and Decision Memorandum: Final Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India*, which is on file in the CRU or available online at *http://ia.ita.doc.gov/frn/summary/india/02–12294–1.txt* (PET Film From India Decision Memo). *See also Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea*, 64 FR 30636 (June 8, 1999) (*Sheet and Strip from Korea*).

To corroborate the secondary information that Indian producers/exporters of subject merchandise are eligible to use and may have benefitted from these programs, we reviewed the federal and state industrial policy and tax bulletins that were submitted on the record by petitioners (in the petition) and by the GOI and the Indian producers/exporters in their questionnaire responses. We also reviewed official government correspondence and records kept by administering authorities. We note that many of these documents were examined at the respective verifications. S*ee Hot-Rolled Steel From India*, 66 FR 49635, and *PET Film From India*, 67 FR 34905. Based on our review of these documents, these rates are neither unduly harsh nor punitive, and because they have been corroborated, continue to have probative value.

With respect to two of the programs we have previously examined, Tax Deductions under Section 80HHC of the India Tax Act and the State of Maharastra Capital Incentive Scheme, we were unable to use company-specific program rates from *Hot-Rolled Steel From India* and *PET Film From India* because the Department determined that the programs were not used during the POIs of those cases. As adverse facts available for these two programs, we preliminarily determine to use program rates of 2.00 percent *ad valorem*, which is the *de minimis* rate for developing countries. *See* Section 703(b)(4)(B). To corroborate our adverse inference that Indian producers/exporters of subject merchandise are eligible to use and may have benefitted from these programs, we reviewed the federal and state industrial policy and tax bulletins that were submitted on the record by petitioners (in the petition) and by GOI and the Indian producers/exporters in their questionnaire responses. We also reviewed official government correspondence and records kept by administering authorities. We note that many of these documents were examined at the respective verifications. *See Hot-Rolled Steel From India*, 66 FR 49635, and *PET Film From India*, 67 FR 34905. Based on our review of these documents, these rates are neither unduly harsh nor punitive, and because they have been corroborated, continue to have probative value.

For each program that we have not examined in previous investigations or administrative reviews, we preliminarily determine to use an adverse facts available program rate of 2.00 percent *ad valorem*. *See ''Programs Previously Not Examined*'' section, below. In selecting this rate, we relied on the information put forth by petitioners. In a letter to the Secretary of Commerce dated June 16, 2003, petitioners argue for the application of

the *de minimis* rate for developing countries for each program in which the respondents failed to provide the necessary information to calculate a countervailing duty rate. *See* petitioners' June 16, 2003 letter; *see also* Section 703(b)(4)(B). To ensure that respondents are provided an incentive to respond in the future, and because ''in employing adverse inferences, one factor [the Department] will consider is the extent to which a party may benefit from its own lack of cooperation,'' we have preliminarily determined it was reasonable to apply the 2.00 percent rate. (SAA at 870.) Because we have no information on these programs, it was not practicable in this case to corroborate the 2.00 percent rate with anything other than the general information (*i.e.*, various federal and state industrial policy bulletins) used for the allegations in the petition. *See Sheet and Strip Korea*, 64 FR 30636. Based on the record of this case, we regard the petition a practicable source for corroboration, because information in the petition is reliable and relevant, and there is no record information showing otherwise. *See* 19 CFR 351.308(c)(2)(d). Therefore, we conclude that because TISCO and the GOI failed to cooperate to the best of their ability, we are making an adverse inference that a program rate of 2.00 percent *ad valorem* might reflect the level of benefit they are receiving. To corroborate our adverse inference that Indian producers/exporters of subject merchandise are eligible to use and may have benefitted from these programs, we reviewed the federal and state industrial policy and tax bulletins that were submitted on the record by petitioners in the petitions. Based on this review, these rates are neither unduly harsh nor punitive, and because they have been corroborated, continue to have probative value.

Programs Previously Determined To Be Countervailable

As explained in the *Initiation Notice* and in the *Initiation Checklist*, this investigation includes several programs that were determined to be countervailable in previous investigations and administrative reviews. No new information or evidence of changed circumstances has been submitted in this investigation to warrant reconsideration of those determinations. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to determine that the following programs are countervailable. Full descriptions of each program are provided in the *Initiation Checklist. See Hot-Rolled Steel From India*, 66 FR 49635, and *Pet Film From India*, 67 FR 34905, for the Department's determinations of countervailaibility for each of these programs.

A. Government of India Programs

1. Pre-shipment and Post-shipment Export Financing

The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment financing, or ''packing credits,'' to exporters. Post-shipment export financing consists of loans in the form of discounted trade bills or advances by commercial banks.

The Department has previously determined that this export financing is countervailable to the extent that the interest rates are set by the GOI and are lower than the rates exporters would have paid on comparable commercial loans. *See, Hot-Rolled Steel From India*, 66 FR 49635, and *Pet Film From India*, 67 FR 34905, and *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From India*, 64 FR 73137 (December 29, 1999) (*CTL Plate From India*). Specifically, the Department determined that the GOI's issuance of financing at preferential rates constituted a financial contribution pursuant to section 771(5)(D)(i) of the Act. *See* the ''Pre-Shipment and Post-Shipment Export Financing'' section of the *PET Film From India Decision Memo*. The Department further determined that the interest savings under this program conferred a benefit pursuant to section 771(5)(E)(ii) of the Act. *Id*. In addition, the Department determined this program, which is contingent upon exports, to be specific within the meaning of section 771(5A)(B) of the Act. *Id*.

As adverse facts available for pre-shipment export financing, we preliminary determine to use a rate of 1.32 percent *ad valorem*, which is the highest company-specific program rate calculated in *Hot-Rolled Steel From India*, 66 FR 49635. As adverse facts available for post-shipment export financing, we preliminary determine to use a rate of 0.74 percent *ad valorem*, which is the highest company-specific program rate calculated in *Hot-Rolled Steel From India*, 66 FR 49635.

2. Duty Entitlement Passbook Scheme (DEPS)

India's DEPS was enacted on April 1, 1997, as a successor to the Passbook Scheme (PBS). As with PBS, the DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEPS credits on a post-export basis, provided that the exported product is listed in the GOI's Standard Input/Output Norms (SIONs). Post-export DEPS credits can be used for any subsequent imports, regardless of whether they are consumed in the production of an export product. Post-export DEPS credits are valid for 12 months and are transferable. Exporters were eligible to earn credits equal to certain percent of the f.o.b. value of their export shipments.

The Department has previously determined that the DEPS is countervailable. *See, Hot-Rolled Steel From India*, 66 FR 49635 and *Pet Film From India*, 67 FR 34905. In *PET Film From India*, the Department determined that (1) under the DEPS, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because the GOI provides credits for the future payment of import duties; (2) since the GOI does not have in place and does not apply a system to confirm which inputs, and in what amounts, are consumed in the production of the exported products that is reasonable and effective for the purposes intended, under section 351.519(a)(4) of the Department's regulations and section 771(5)(E) of the Act, the entire amount of import duty exemption earned during the POI constitutes a benefit; and (3) this program can only be used by exporters and, therefore, is specific under section 771(5A)(B) of the Act. *See* the ''DEPS'' section of the *PET Film From India Decision Memo*, on file in the CRU.

As adverse facts available for the DEPS, we preliminary determine to use a rate of 13.98 percent *ad valorem*, which is the highest company-specific program rate calculated in *Hot-Rolled Steel From India*, 66 FR 49635.

3. Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and an exemption from excise taxes on imports of capital goods. Under this program, producers may import capital equipment at reduced rates of duty by undertaking to earn convertible foreign exchange equal to four to five times the value of the capital goods within a period of eight years. For failure to meet the export obligation, a company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest.

In previous investigations, we determined that producers/exporters benefit from the waiver of import duty on imports of capital equipment. A

second type of benefit conferred under this program involves the import duty reductions that producers/exporters received on the imports of capital equipment for which producers/exporters have not yet met their export requirements. For those capital equipment imports, producers/exporters have unpaid duties that will have to be paid to the GOI if the export requirements are not met. When a company has an outstanding liability and the repayment of that liability is contingent upon subsequent events, our practice is to treat any balance on that unpaid liability as an interest-free loan. *See* 19 CFR §351.505(d)(1). *See Hot-Rolled Steel From India*, 66 FR 49635, and *Pet Film From India*, 67 FR 34905, and *CTL Plate From India*, 64 FR 73137.

In *PET Film From India*, the Department determined that (1) the receipt of benefits under this program is contingent upon export performance in accordance with section 771(5A)(B) of the Act; (2) the GOI provided a financial contribution under section 771(5)(D)(ii) of the Act in the two ways described above; and (3) the program provides benefits under section 771(5)(E) of the Act. *See* the ''Export Promotion of Capital Goods Scheme (EPCGS)'' section of the *Pet Film From India Decision Memo*.

As adverse facts available for the EPCGS, we preliminary determine to use a rate of 16.63 percent *ad valorem*, which is the highest company-specific program rate calculated in *Hot-Rolled Steel From India*, 66 FR 49635.

4. Loans From the Steel Development Fund (SDF)

Under the SDF program, companies that contributed to the fund are eligible to take out long-term loans at advantageous rates. In order to create the SDF, the GOI, acting through the Joint Planning Commission, mandated steel p price increases which were earmarked for the SDF. In previous investigations, the Department determined that this program is countervailable. Under section 771(5)(B) of the Act, a subsidy can be found whenever the government makes a financial contribution, when it provides a payment to a funding mechanism to provide a financial contribution, or when it entrusts or directs a private entity to make a financial contribution. Therefore, in *Hot-Rolled Steel From India*, we found that SDF loans constituted a financial contribution and conferred a benefit within the meaning of section 771(5)(D(i) and (E)(ii) of the Act, respectively. *See ''*Comment 1: Steel Development Loans and Loan Forgiveness''of the *Hot-Rolled Steel From India Decision Memo*. Because eligibility for loans from the SDF is limited to steel companies, we also determined that loans under this program are specific within the meaning of 771(5A)(D)(i) of the Act. *See Hot-Rolled Steel From India*, 66 FR 49635, and the ''Comment 1: Steel Development Loans and Loan Forgiveness'' section in the *Hot-Rolled Steel From India Decision Memo.*

As adverse facts available for the SDF Loan program, we preliminary determine to use a rate of 0.99 percent *ad valorem*, which is the highest company-specific program rate calculated in *Hot-Rolled Steel From India*, 66 FR 49635.

5. Exemption of Export Credit From Interest Taxes

Under the Interest Tax Act of 1974, a tax is levied on the chargeable interest accruing to a credit institution in a given year. Under Section 28 of the Income Tax Act, the GOI may exempt any credit institution or class of credit institutions, or the interest on any category of loan or advances from the levy of the interest tax. Pursuant to this section of the Income Tax Act, the GOI has exempted working capital loans taken from banks for supporting exports from the interest tax. Loans obtained by producers/exporters of subject merchandise from banks under the pre- and post-shipment export financing program are covered by this exemption. All producers/exporters of subject merchandise are eligible to use this program.

In *Hot-Rolled Steel From India*, we determined that this program is contingent upon export performance and, therefore, is specific in accordance with section 771(5A)(B) of the Act. *See* ''Comment 13: Exemption of Export Credit From Interest Tax'' of *Hot-Rolled Steel From India Decision Memo*. We have also determined that the GOI provided a financial contribution under section 771(5)(D)(ii) of the Act and that the program provides a benefit under section 771(5)(E) of the Act. *See Hot-Rolled Steel From India*, 66 FR 49635.

As adverse facts available for the Exemption of Export Credit From Interest Taxes program, we preliminary determine to use a rate of 0.08 percent *ad valorem*, which is the highest company-specific program rate calculated in *Hot-Rolled Steel From India*, 66 FR 49635.

6. Advance Licenses

Under India's Duty Exemption Scheme, exporters may also import inputs duty-free through the use of import licenses. Using advance licenses, companies are able to import inputs ''required for the manufacture of goods'' without paying India's basic customs duty.

In *Hot-Rolled Steel From India*, the Department determined that the use of advance licenses was countervailable. *See* the ''Advance Licenses'' section of the *Hot-Rolled Steel From India Decision Memo*. The program is contingent upon export performance and, therefore, is specific in accordance with section 771(5A)(B) of the Act. Under the program, the GOI provides a financial contribution under section 771(5)(D)(ii) of the Act, and the program provides a benefit under section 771(5)(E) of the Act. *See Hot-Rolled Steel From India*, 66 FR 49635.

As adverse facts available for the Advance Licenses program, we preliminary determine to use a rate of 0.24 percent *ad valorem*, which is the highest company-specific program rate calculated in *Hot-Rolled Steel From India*, 66 FR 49635.

7. Income Tax Exemption Scheme (Section 80 HHC)

In *Certain Iron-Metal Castings From India: Final Results of Countervailing Duty Administrative Review (Iron-Metal Castings from India*), 65 FR 31515 (May 18, 2000), the Department determined that deductions of profit derived from exports under section 80HHC of India's Income Tax Act are countervailable. The program is contingent upon export performance and, therefore, is specific in accordance with section 771(5A)(B) of the Act. Under the program, the GOI provides a financial contribution under section 771(5)(D)(ii) of the Act, and the program provides a benefit under section 771(5)(E) of the Act.

Although in *Hot-Rolled Steel From India*, 66 FR 49635, and *PET Film From India*, 67 FR 34905, we determined that the producers and exporters of subject merchandise did not use this program, we initiated an investigation of this program because the Department has not made a determination that the program has been terminated.

As adverse facts available for this program, we preliminarily determine to use a rate of 2.00 *ad valorem*, which is the *de minimis* rate for developing countries.

8. Loan Guarantees From the GOI

The GOI provides loan guarantees on a case-by-case basis. Loan guarantees are normally extended to ''Public Sector Companies'' in particular industrial sectors. In *Hot-Rolled Steel From India*, we determined, in accordance with section 771(5)(D)(i) of the Act, that GOI loan guarantees conferred

countervailable subsidies because they result in a financial contribution by the government in the form of revenue forgone and, in accordance with section 771(5)(E) of the Act, provide a benefit to the recipient in the amount of the interest tax savings. Moreover, we determined that the receipt of the loan guarantees were limited to certain companies selected by the GOI on an *ad hoc* basis and, thus, we found the program to be specific under section 771(5A)(D)(iii)(II) of the Act.

As adverse facts available for the GOI Loan Guarantee program, we preliminary determine to use a rate of 0.19 percent *ad valorem*, which is the highest company-specific program rate calculated in *Hot-Rolled Steel From India*, 66 FR 49635.

B. State of Maharastra (SOM) Programs

1. Sales Tax Incentives

Petitioners allege that incentives offered by the SOM under the Industrial Policy of Maharashtra 1993 provide either exemption or deferral of state sales taxes. Under this program, companies are exempted from paying state sales taxes on purchases and collecting sales taxes on sales; or, as an alternative, recipients are allowed to defer submitting sales taxes collected on sales to the SOM for ten to twelve years. After the deferral period expires, the companies are required to submit the deferred sales taxes to the SOM in equal installments over five to six years. Petitioners claim that producers of subject merchandise received countervailable benefits under this program. In addition, petitioners argue that although this program appears to be discontinued pursuant to the Industrial Policy of Maharashtra 2001, respondents nonetheless may have benefitted during the POI from either the deferral or the exemption of the sales tax.

In *PET Film from India*, the Department determined the program to be specific within the meaning of section 771(5A)(D)(iv) of the Act because the benefits are limited to industries located within designated geographical areas. The Department also determined that the SOM provided a financial contribution under section 771(5)(D)(i) of the Act in the form of uncollected interest and that the program conferred benefits under section 771(5)(E) of the Act. *See* the ''*Sales Tax Incentives*'' section of the *PET Film from India Decision Memo*.

As adverse facts available for this SOM program, we preliminary determine to use a rate of 2.39 percent *ad valorem*, which is the highest company-specific program rate calculated in *PET Film From India*, 67 FR 34905.

2. Capital Incentive Scheme

Petitioners allege that companies operating in specific areas of the SOM are eligible to receive capital incentives in the form of either cash grants (of up to 3,000,000 rupees) or sales tax incentives. Petitioners allege that producers of subject merchandise received countervailable benefits under this program.

In *PET Film From India* , the Department determined that this program is countervailable. We determined that the program is specific under section 771(5A)(D)(iv) of the Act because it is limited to industries located in designated geographical areas within the SOM. We further determined that the program provides a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds from the SOM and conferred a benefit under 771(5)(E) of the Act. Although we determined that the producers and exporters of PET film did not use this program, we initiated an investigation of this program because the Department has not made a determination that the program has been terminated.

As adverse facts available for this SOM program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

3. Electricity Duty Exemption Scheme

This program provides an exemption from the payment of tax on electricity charges for manufacturers located in specific regions of Maharashtra. In *PET Film From India*, we determined that this program is countervailable because (1) it is specific within the meaning of section 771(5A)(D)(iv) of the Act; (2) the tax exemption provided through the program constitutes a financial contribution with the meaning of section 771(5)(D)(ii) of the Act; and (3) pursuant to section 771(5)(E) of the Act, the benefit consists of the amount of the tax exempted.

As adverse facts available for this SOM program, we preliminary determine to use a rate of 0.36 percent *ad valorem*, which is the highest company-specific program rate calculated in *PET Film From India*, 67 FR 34905.

Programs Not Previously Examined

As explained in the *Initiation Notice* and in the *Initiation Checklist*, this investigation includes several programs that have not been examined in prior investigations and administrative reviews. Because the GOI and TISCO did not provide the information necessary to conduct our investigation of these programs, we are making an adverse inference that each program is countervailable. Summaries of petitioners' allegations with regard to each program are provided in the *Initiation Checklist*.

A. Programs in the State of Maharashtra

1. Octroi Refund Scheme

Petitioners alleged that, under the Octroi Refund Scheme, industrial establishments that make capital investments in specific regions of Maharashtra are entitled to the refund of octroi duty, a tax levied by local authorities on goods that enter a town or district, and possibly to the refund of other duties. As adverse facts available for the State of Maharastra Octoi Refund Scheme, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

2. Exemption of Sales and Purchase Taxes for Certain Investments Related to Automobiles or Automobile Components

Petitioners alleged that, under this program, automobile investment projects over Rs. 15 billion in Category A districts are eligible to receive tax incentives. As adverse facts available for this State of Maharastra program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

B. Program in the State of Bihar

1. Sales Tax Incentives

Petitioners argued that the State of Bihar operates its sales tax scheme in a manner ''substantially identical'' to the Maharashtra sales tax incentive scheme that the Department countervailed in *PET Film From India*. They alleged that, under the Industrial Policy of Bihar 1995, the government granted tax incentives to companies that invested in ''backward areas'' within Bihar. In addition, petitioners pointed out that the State of Bihar expands its sales tax scheme by expanding the eligibility criteria to include new or existing industrial units undertaking expansion, modernization, or diversification through an investment of more than Rs. 500 crores (equivalent to Rs. 5,000,000,000, as Rs. 1 crore = 10,000,000 rupees). They alleged, that, under this sales tax scheme, ''new industrial units'' are permitted to either ''set off'' or exempt sales taxes paid on

the purchase of raw materials within the state and either defer or exempt sales taxes on the sale of finished goods.

As adverse facts available for the State of Bihar sales tax incentive program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

C. Programs in the State of Jharkhand

1. Sales Tax Incentives

Petitioners alleged that, under this program, ''existing industrial units'' as well as ''new industrial units'' are eligible to ''set off'' the Jharkhand sales tax paid on purchases of raw materials against the amount of sales tax payable to Jharkhand on the sale of finished products. As adverse facts available for the State of Jharkhand (SOJ) sales tax incentive program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

2. Captive Electricity Generative Plant Subsidy

Petitioners alleged that, under the Jharkhand Industrial Policy 2001, the SOJ provides a grant to ''new industrial units'' in certain industries that invest in a captive electricity generating plant within ''backward areas'' of the state. As adverse facts available for the SOJ program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is *de minimis* rate applicable for developing countries.

3. Interest Subsidy

Petitioners alleged that, under the Jharkhand Industrial Policy 2001, the SOJ provides an interest subsidy to eligible ''new industrial units'' that invest in ''backward areas'' within the state. Annexures I and III of the Jharkhand Industrial Policy 2001 identify ''backward areas'' and ineligible industries, respectively. As adverse facts available for this SOJ program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is *de minimis* rate applicable for developing countries.

4. Stamp Duty and Registration

Petitioners alleged that, under the Jharkhand Industrial Policy 2001, the SOJ grants an exemption from the payment of 50 percent of the stamp duty and registration fee required for the purpose of registering documents with the state relating to the purchase of land and buildings for establishing a ''new industrial unit'' within certain ''backward areas'' of the state. As adverse facts available for the SOJ program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

5. Pollution Control Equipment Subsidy

Petitioners alleged that, under the Jharkhand Industrial Policy 2001, the SOJ provides a capital investment subsidy in the form of a grant for installation of pollution control and monitoring equipment to eligible new and existing industrial units in ''backward areas'' of the state. As adverse facts available for the SOJ program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

6. Mega Units

Petitioners alleged that, under the Jharkhand Industrial Policy 2001, the SOJ formulates special tax incentives and tax deferrals for new projects with an investment of more than Rs. 500,000,000 (''mega units'') on a case-by-case basis. As adverse facts available for this SOJ program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

7. Captive Electricity Tax Exemptions

Petitioners allege that the SOJ seeks to encourage the private sector to establish captive power generation plants. Under the Jharkhand Industrial Policy 2001, such captive power generation and purchase shall be exempted from electricity duty for a period of ten years from the date of commercial production. As adverse facts available for this SOJ program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

D. Program in the State of Gujarat

1. Sales Tax Incentives

Petitioners argue that, pursuant to the 1995 Industrial Policy of Gujarat, the government granted sales tax incentives to eligible investments located in specific areas in Gujarat. Only ''banned industries'' and operations in ''banned areas'' were ineligible. Petitioners allege that eligible units were entitled to purchase raw materials, consumable stores, packing materials and processing materials required for production free of charge. They allege that, in addition, other available benefits included exemptions or deferment from sales tax on the sales of goods, intermediate products by-products, scrap, and waste as well as exemptions or deferment from turnover tax and the Central Sales Tax. Petitioners allege that, with the 2000 Industrial Policy, the State of Gujarat extended the availability of these sales tax incentives, allowing companies to continue benefitting after 2000.

As adverse facts available for the State of Gujarat's sales tax incentive program, we preliminary determine to use a rate of 2.00 percent *ad valorem*, which is the *de minimis* rate applicable for developing countries.

Suspension of Liquidation

In accordance with 703(b) of the Act, we have calculated the following countervailing duty rate for all Indian producers/exporters of subject merchandise.

Producer/Exporter	Net subsidy rate
All producers/exporters.	62.92% ad valorem

In accordance with section 703(d) of the Act, we are directing the U.S. Bureau of Customs and Border Protection to suspend liquidation of all entries of the subject merchandise From India, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or the posting of a bond for such entries of the merchandise in the amount indicated above. This suspension will remain in effect until further notice.

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 nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

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

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Any requested hearing will be tentatively scheduled to be held 57 days from the date of publication of the preliminary

determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative oral presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

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

Dated: June 30, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–17216 Filed 7–7–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351–806]

Notice of Decision of the Court of International Trade: Silicon Metal From Brazil

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

ACTION: Notice of Decision of the Court of International Trade.

SUMMARY: On June 27, 2003, the United States Court of International Trade (CIT) affirmed the Department of Commerce's results of redetermination on remand of the final results of the sixth administrative review of the antidumping duty order on silicon metal from Brazil. *See American Silicon Technologies, et al.* v. *United States*, Slip Op. 99–03–00149 (CIT June 27, 2003) (*American Silicon Decision*). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department is notifying the public that *American Silicon Decision* and the CIT's earlier opinion in this case, discussed below, were ''not in harmony'' with the Department's original results.

EFFECTIVE DATE: July 8, 2003.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230; telephone: (202) 482–5831.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1999, the Department of Commerce (the Department) published a notice of the final results of the sixth administrative review of the antidumping duty order on silicon metal from Brazil. *See Silicon Metal From Brazil: Final Results of Antidumping Duty Administrative Review*, 64 FR 6305 (February 9, 1999) (*Final Results*). Subsequent to the Department's *Final Results*, the respondent filed a lawsuit with the CIT challenging these results. Thereafter, the CIT issued an Order and Opinion dated July 17, 2000, in *American Silicon Technologies, et al.* v. *United States*, 110 F. Supp. 2d 992, 1003–1004 (Ct. Int'l Trade 2000) (*American Silicon I*), remanding three issues to the Department. Pursuant to *American Silicon I*, the Department filed its remand results on January 29, 2001. The CIT reviewed the Department's redetermination on remand and issued an Order and Opinion dated October 17, 2002, in *American Silicon Technologies, et al.* v. *United States*, No. 99–03–00149, Slip Op. 02–123 (Ct. Int'l Trade 2002) (*American Silicon II*), remanding one issue to the Department. Pursuant to *American Silicon II*, the Department filed its remand results on January 22, 2003. The respondent challenged the Department's redetermination on remand. On June 27, 2003, the CIT affirmed the Department's final results of redetermination in *American Silicon Decision*.

Timken Notice

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish notice of a decision of the CIT which is ''not in harmony'' with the Department's results. The CIT's decision in *American Silicon Decision* was not in harmony with the Department's final antidumping duty results of review. Therefore, publication of this notice fulfills the obligation imposed upon the Department by the decision in *Timken*. In addition, this notice will serve to continue the suspension of liquidation. If this decision is not appealed, or if appealed, if it is upheld, the Department will publish amended final antidumping duty results.

Dated: July 2, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Grant Aldonas, Under Secretary.

[FR Doc. 03–17376 Filed 7–7–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part

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

ACTION: Preliminary results of antidumping duty administrative review and notice of intent to rescind in part.

SUMMARY: In response to a request from respondent Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen'') and from Markovitz Enterprises, Inc. (Flowline Division), Shaw Alloy Piping Products Inc., Gerlin, Inc., and Taylor Forge Stainless, Inc., collectively (''petitioners''), the Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. Specifically, the petitioners requested that the Department conduct the administrative review for Ta Chen, Liang Feng Stainless Steel Fitting Co., Ltd. (''Liang