

C-475-825  
Sunset Review  
Public Document

December 17, 2004

MEMORANDUM TO: James J. Jochum  
Assistant Secretary  
for Import Administration

FROM: Ronald K. Lorentzen  
Acting Director, Office of Policy

SUBJECT: Issues and Decision Memorandum for the Full Sunset Review of the  
Countervailing Duty Order on Stainless Steel Sheet and Strip in Coils from  
Italy: Preliminary Results

Summary:

We analyzed the substantive responses and rebuttals to those responses of the interested parties in the full sunset review of the countervailing duty order on Stainless Steel Sheet and Strip in Coils (“SSSSC”) from Italy. We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum for these preliminary results of review. Below is the complete list of the issues in this full sunset review for which we received substantive responses by parties:

1. Likelihood of continuation or recurrence of countervailable subsidies
2. Net countervailable subsidy likely to prevail
3. New Subsidy Allegation
4. Nature of the Subsidy

History of the Order:

On August 6, 1999, the Department of Commerce (“the Department”) published the countervailing duty order on SSSSC from Italy. See Amended Final Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip in Coils from France, Italy, and Republic of Korea, 64 FR 42923 (August 6, 1999). In the final affirmative countervailing duty determination, the following eleven

programs were found to confer countervailable subsidies:

*Government of Italy*

1)	<i>Equity Infusions to Terni, TAS, and ILVA</i>	<i>0.99 percent</i>
2)	<i>Benefits from the 1988-90 Restructuring of Finsider</i>	<i>2.71 percent</i>
3)	<i>Debt Forgiveness: ILVA-to-AST</i>	<i>6.79 percent</i>
4)	<i>Law 796/76 Exchange Rate Guarantees</i>	<i>0.82 percent</i>
5)	<i>Law 675/77</i>	<i>0.07 percent</i>
6)	<i>Law 10/91</i>	<i>0.00 percent</i>
7)	<i>Law 451/94 Early Retirement Benefits</i>	
	<i>AST</i>	<i>0.69 percent</i>
	<i>Arinox</i>	<i>0.57 percent</i>
8)	<i>Law 181/89 Worker Adjustment and Redevelopment Assistance</i>	<i>0.00 percent</i>
9)	<i>Law 488/92 (Arinox)</i>	<i>0.12 percent</i>

*European Union:*

1)	<i>ECSC Article 54 Loans (AST)</i>	<i>0.11 percent</i>
2)	<i>European Social Fund</i>	
	<i>AST</i>	<i>0.04 percent</i>
	<i>Arinox</i>	<i>0.34 percent</i>

See Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from Italy, Part II, 64 FR 30624 (June 8, 1999), (“Investigation”). The Department determined a countervailing duty rate of 12.22 percent *ad valorem* for ThyssenKrupp Acciai Speciali Terni, S.p.A. (“TKAST”) (formerly Acciai Speciali Terni, S.p.A. (“AST”)) and 1.03 percent for Arinox S.r.l (“Arinox”). The Department determined an “all others rate” of 12.09 percent *ad valorem*.

Respondents appealed the Department’s final determination to the U.S. Court of International Trade (“CIT”) with respect to privatization issues. See Acciai Speciali Terni S.p.A. v. United States, CIT No. 99-00567. The appeal is currently stayed pending a final and conclusive court opinion in the stainless steel plate-in-coils from Italy litigation. See Acciai Speciali Terni S.p.A. v. United States, CIT No. 99-00364.

The Department completed no administrative reviews of the subject countervailing duty order. One review was requested but later rescinded. See Stainless Steel Sheet and Strip in Coils from Italy: Rescission of Countervailing Duty Administrative Review, 65 FR 76986 (December 8, 2000).

In the Issues and Decision Memorandum for the Determination under Section 129 of the Uruguay Round Agreements Act: Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from Italy, October 24, 2003, (“Section 129 Memo”), the Department determined that the privatization of AST (currently TKAST) was at arm’s-length and for fair-market-value and that allegations of broader market distortions were not sufficiently supported. Accordingly,

any allocable, non-recurring subsidies granted to AST prior to its privatization were extinguished and, therefore, are non-countervailable. On November 7, 2003, the U.S. Trade Representative requested the Department, pursuant to section 129(b)(4) of the Uruguay Round Agreements Act, to implement the determination in the Section 129 Memo. See Notice of Implementation under Section 129 of the Uruguay Round Agreements Act, 68 FR 64858, (November 17, 2003). Accordingly, the Department revised the cash deposit rate for TKAST to 1.62 percent to reflect the following programs in the Investigation that were not extinguished as a result of the Section 129 Determination.

<i>European Social Fund</i>	0.04 percent
<i>Law 451/94 Early Retirement Benefits</i>	0.69 percent
<i>Law 675/77</i>	0.07 percent
<i>Law 796/76 Exchange Rate Guarantees</i>	<u>0.82</u> percent
	1.62 percent

The “All Others” rate from the Section 129 Determination was revised to 1.61 percent.

This preliminary sunset determination reflects the Department’s implementation with regard to the exclusion of programs relating to pre-privatization subsidies from this order pursuant to the Department’s Section 129 determination. We note that petitioners have appealed the Department’s Section 129 Determination to the CIT challenging our decision to lower the net subsidy rate. See Allegheny Ludlum v. United States, Court No. 03-00919.

There have been no changed circumstances reviews of this order. Thus, the order remains in effect for all known producers and exporters of SSSSC from Italy.

The programs that will be considered in this sunset review are:

- 1) *Law 796/76 Exchange Rate Guarantees*
- 2) *Law 675/77*
- 3) *Law 451/94 Early Retirement Benefits*
- 4) *European Social Fund*

Background:

On June 1, 2004, the Department published the notice of initiation of the sunset review of the countervailing duty (“CVD”) order on SSSSC from Italy pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”).<sup>1</sup> The Department received a Notice of Intent to Participate from the domestic interested parties Nucor Corporation; Allegheny Ludlum Corporation; North American Stainless; the United Steelworkers of America, AFL-CIO; the local 3303 United Auto Workers; and Zanesville Armco Independent Organization, Inc. (collectively “the domestic interested parties”) within

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<sup>1</sup> Initiation of Five-Year (“Sunset”) Reviews, 69 FR 30874 (June 1, 2004).

the deadline specified in section 351.218(d)(1)(i) of the Department's Regulations ("Sunset Regulations"). The domestic interested parties claimed interested party status under section 771(9)(C) and (D) of the Act, as domestic manufacturers of SSSSC or certified unions whose workers are engaged in the production of SSSSC in the United States. On July 1, 2004, we received a complete substantive response collectively from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). See Domestic Response.

The Department received a complete substantive response to the notice of initiation on behalf of three respondent interested parties: the Government of Italy ("GOI"), the Delegation of the European Commission ("EC"), and TKAST. See Responses of the GOI (unpaginated), June 30, 2004, ("GOI Response"); EC (unpaginated), June 30, 2004, ("EC Response"); and TKAST, July 1, 2004, ("TKAST Response"), at 1. All respondent interested parties note that they participated in the original investigation as well as the Section 129 review.

We received rebuttal comments from the domestic interested parties on July 9, 2004 ("Rebuttal"). No rebuttal comments were received from the respondent interested parties.

On July 21, 2004, the Department issued its determination that respondent parties provided an adequate response in the sunset review of the CVD order on SSSSC from Italy. Therefore, the Department is conducting a full sunset review based on the adequate responses from all interested parties in accordance with section 351.218(e)(1)(ii)(A) and (e)(2)(i) of the Department's regulations.

#### Discussion of the Issues:

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether any change in the program which gave rise to the net countervailable subsidy has occurred and is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the ITC the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6) of the Act, the Department shall provide to the International Trade Commission ("ITC") information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization ("WTO") Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement").

Below we address the substantive responses and rebuttal comments of the interested parties. Due to numerous programs determined to be countervailable during the investigation, we address the interested parties' comments in the following order.

### Continuation or Recurrence of a Countervailable Subsidy

*Comment 1: Termination of Countervailable Programs*

*Comment 2: Law 796/76 Exchange Rate Guarantees*

*Comment 3: Law 675/77*

*Comment 4: Law 451/94 Early Retirement Benefits*

*Comment 5: European Social Fund*

### Net Countervailable Subsidy Likely to Prevail

*Comment 6: The Use of the Net Subsidy Rate from the Section 129 Process*

*Comment 7: Reduction of Rate for Law 451/94 Early Retirement Benefits:*

### New Subsidy Allegation

*Comment 8: Newly Alleged Subsidies - Power Rate to Electrical Steel Operations Plant*

## 1. Continuation or Recurrence of a Countervailable Subsidy: Interested Parties' Comments

*Comment 1: Termination of Countervailable Programs*

In their July 1, 2004 substantive response, the domestic interested parties argue that the revocation of the CVD order on SSSSC from Italy would lead to unfair subsidization by the GOI as well as material injury to the U.S. industry. See Domestic Response at 45. We note that the domestic interested parties did not comment on a specific program in their substantive response; however, they argued that there is evidence of a likelihood of continuation or recurrence of subsidies if this order were revoked based on the respondents' dramatic reduction in export volumes to the United States. Id. In addition, the domestic parties argue that the discipline of the order has forced subject producers either to increase their prices or to reduce significantly the volumes exported to the United States. Id. at 48. Moreover, the Department's determination regarding Section 129 provides evidence of continued subsidization. Id. at 51. Thus, the domestic interested parties conclude that subsidization would continue and imports from Italy would return to pre-order levels if this order were revoked. Id.

In its substantive response, the EC contends that it does not foresee any negative impact from revocation of the order or termination of the suspended investigation under review because previous investigations regarding other steel products from Italy have demonstrated that the Italian sector and TKAST, in particular, no longer benefit from any subsidy, and there is no likelihood whatsoever that the situation may change in the foreseeable future. See EC Response.

The EC states that revocation of the order is not likely to lead to recurrence of subsidization because the European Union ("EU") steel sector has undergone a major restructuring in recent years under the careful monitoring of the EC, and steel producers in the EU are now fully privately operated and compete on commercial terms in international markets. See GOI Response and the EC Response. Moreover, Arinox has always been privately owned since its incorporation in 1990. Id.

In addition, the GOI and EC state that revocation of the order will not impact the EC policy on aid to the steel sector, which is one of the strictest among WTO Members following the adoption of a series of Commission Decisions (“the Community Steel Aid Code”). Id. Further, the GOI submits that Commission Decision 2496/96 of December 18, 1996 (recently updated as “the Multilateral Steel Framework”), prohibits the granting of aid to the steel industry, except under three distinct circumstances: for the closing of facilities, for environmental reasons, and for research and development. The GOI and EC state that there is no allegation that any of these types of subsidies have been made available to Italian producers in this case. See GOI Response and EC Response. The GOI and EC also state that the now 100 percent privately-owned steel industry has not received substantial assistance since 1992. Id.

The GOI and EC further state that TKAŠT did not benefit from pre-privatization subsidies, competes on the basis of commercial criteria and did not benefit from aid from its predecessor, ILVA, and received minimal financial assistance after privatization. Id. They further assert that most of the specific programs found countervailable in the investigation are now terminated, as they involved a one-time government action of the then state-owned steel sector, and are therefore no longer available for the Italian steel industry. Id. Thus, the benefits allocated under those programs must have been substantially reduced or even eliminated by the passing of time, such as the expiration of the European Coal and Steel Community (“ECSC”) Treaty in 2002, and no new loans were granted after 1998. Id. The GOI adds that almost every Italian program found to be countervailable in the investigation is either formally terminated with no residual benefits, or, by its own nature, no longer conferring benefits and will not confer any benefit on TKAŠT in the future. See GOI Response. Therefore, all respondents assert that because most of the programs deemed countervailable have been terminated or unlikely to be restarted, revocation of the CVD order would not be likely to lead to continuation or recurrence of a countervailing subsidy.

The domestic interested parties rebut the respondent interested parties’ claims that the subsidies provided to TKAŠT have terminated. See Rebuttal at 2. The domestic interested parties state that the Department has not conducted a review examining those claims, citing the Policy Bulletin and the SAA. Id. at 3. Therefore, the domestic interested parties state that the Department should reject the respondent interested parties’ contentions and report the original investigation net subsidy rate to the ITC.

*Department Position:* We note that no allegations regarding environmental and research and development subsidies have been submitted in this case. Nonetheless, the GOI and EC state that the Multilateral Steel Framework does permit subsidies for environmental purposes and for research and development. Accordingly, the Department must state that subsidies regarding the environment and research and development under the Multilateral Steel Framework may be actionable. The green light provisions of Article 8 of the Community Steel Aid Code expired on December 31, 1999, and when in force, only applied to programs that met certain strict requirements. Thus, the green light provision is not relevant to this case.

The Department found eleven programs countervailable in the investigation. See Investigation. However, as a result of the exclusion of programs relating to privatization, pursuant to Department's Section 129 Determination, only four programs from the investigation remain for consideration in this sunset review. Of these remaining programs, some have residual benefits beyond the period of the sunset review. The Department normally will determine that a countervailable subsidy will continue to exist when a benefit stream will continue beyond the completion date of the sunset review. In this case, we preliminarily determine that benefits from certain countervailable subsidies on Italian producers/exporters are likely to continue were the order revoked.

*Comment 2: Law 796/76 Exchange Rate Guarantees*

The GOI states that this program was terminated on July 10, 1992, by Decree Law 333/92 and is no longer available to the Italian steel industry. See GOI Response at Annex 1(D). (TKAST and the EC defer to the GOI for all explanations of the programs in this preliminary determination.) The GOI contends that the Department recognized in the final determination of this case that the exchange rate guarantee program was terminated. See GOI Response; see also Investigation. The GOI refers to the Department's administrative review in 2001 of grain-oriented electrical steel from Italy to explain that the benefit provided to TKAST, then AST, under Law 796/76 was linked to the exchange risks of the Article 54 loans and that the last outstanding Article 54 loans were repaid on April 11, 1998. Id. The GOI concludes that its repayment of the exchange rate guarantee loans coupled with the expiration of the ECSC Treaty provide enough evidence for the Department to determine definitively that this program is terminated, unlikely to be reinstated, and no longer provides residual benefits.

The domestic interested parties did not specifically address the countervailable programs in their substantive response or rebuttal.

*Department Position:* In the original investigation, we determined that AST had two outstanding ECSC loans in 1997, the period of our investigation of imports of stainless steel plate in coils from Italy that qualified for the law 796/76 exchange rate guarantees. See Investigation, 64 FR at 30628 citing Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils from Italy ("Plate Final"), 64 FR at 15513. We calculated the total countervailable benefit as the difference between the total loan payment due in foreign currency, converted at the current exchange rate, less the sum of the total loan payment due in foreign currency converted at the guaranteed rate and the exchange rate commission; then, we divided this amount by AST's total consolidated sales during that period of review. Id. Because the exchange rate converted the payments at the current exchange rate during the life of the loans, we treated the repayments as recurring grants. Id.

In this sunset review, the Department determines that this program was terminated, and TKAST would have been unable to acquire new loans after the expiration of the ECSC Treaty. Our review of this program led us to the stainless steel plate in coils investigation. Upon review, we found that the AST verification report and the corresponding information referred to in the verification report

from an administrative review of grain-oriented steel imports from Italy provide sufficient information that the loans associated with these exchange rate guarantees have been repaid. See AST Exhibit 13 of the Investigation, CVD Verification of AST, C-475-823, C-475-825, ECSC Article 54 Loans, p. S-1500. Thus, the Department determines that there is sufficient evidence to find that the Law 796/96, Exchange Rate Guarantees, has been terminated and the loans associated with these guarantees have been repaid. Therefore, we find that this program is not likely to continue or recur.

*Comment 3: Law 675/77*

The GOI states that TKAST repaid the last of loans provided under Law 675/77 on July 1, 2000, and therefore TKAST no longer receives benefits from this program. See GOI Response at Annex 1(E). AST received these pre-privatization loans when it was still the state-owned company, IRI. Id. The GOI argues that the likelihood for the receipt of benefits disappeared when IRI privatized and was later dissolved. Id.

*Department Position:* The Department found that loans provided under Law 675/77 were recurring, non-allocable countervailable loans in the original investigation. See Investigation, 64 FR at 30628 citing Plate Final, 64 FR at 15513. As explained in the Plate Final, IRI issued bonds to finance restructuring measures of companies within the IRI group during its privatization. Id. During the period of the stainless steel plate investigation, the Department found that AST had outstanding loans in which it was responsible for making semi-annual interest payments and annual bond payments. Id. In this sunset review, the respondent interested parties simply asserted but provided no evidence that these loans were repaid in 2000. Without such evidence, we preliminarily determine benefits continue under this program.

*Comment 4: Law 451/94 Early Retirement Benefits*

The GOI explains that steelworkers could apply for the early retirement benefits under this early retirement program only between 1994 and 1996 to receive benefits until their normal ages of retirement for a maximum of ten years. See GOI Response at Annex 1(G). The GOI also contends that there can be no benefit from this program after 2006 and the remaining benefits are so small as to be *de minimis*. Id. The GOI states that information from the Ministry of Labor indicates that 58 workers will still receive benefits at the end of this sunset review. Id. According to the GOI, these 58 workers represent less than 10 percent of the original number of former AST employees that were entitled to Law 451 benefits. As a result, any remaining benefits from the program would calculate to 0.049 percent, a level that would be *de minimis* in the absence of any other subsidies. Id.

Regarding Arinox, the GOI points out that the holding group Arvedi, a company that controls Arinox, received benefits from this program in 1994 through the Decree of December 9, 1994. Id. The Decree authorized Arvedi to early retire up to 200 workers, 42 of which were Arinox workers.

Id. Based on information from the Ministry of Labor, no Arinox workers now benefit from this program. Id.

The domestic interested parties did not comment on this program.

*Department Position:* In our investigation, we found that early retirement benefits under Law 451/94 were recurring grants and expensed them in the years of receipt. See Investigation, 64 FR at 30630. As the respondent parties state, we found that Law 451/94 benefits were granted to individuals who applied during 1994-1996 until the individuals reached their regular retirement age, up to a maximum of ten years. Id. at 30629. The respondent interested parties acknowledge that workers could still receive early retirement benefits beyond the period of this sunset review. Therefore, this record evidence indicates that this program may continue to provide benefits after this review period.

*Comment 5: European Social Fund*

The EC states that the reform of the European Structural Funds (“Agenda 2000”) has consolidated legislation into new general regulations to cover all the principles common to the Structural Funds as well as new regulations specific to each of the funds, including the European Social Fund (“ESF”), to provide economic and social conversion of regional areas facing structural difficulties and support the European Employment Strategy; thus, the reform underlines the lack of specificity of assistance. See EC Response, Annex 1 at 0-1 and 0-7. Thus, the respondent interested parties argue that the ESF has substantially changed, so that it is no longer specific, and therefore, not countervailable. See EC Response, Annex 1.

The GOI responds that the ESF has been substantially modified and can no longer be considered to provide a countervailable subsidy due to lack of specificity. See GOI Response at Annex 2, para. I. Further, Arinox received benefits under the ESF in the years 1990-92 under the old program period which no longer exists. Id.

*Department Position:* We found benefits under the ESF Objectives 2 and 4 to be countervailable in the original investigation. See Investigation, 64 FR at 30630-1. Although there have been no administrative reviews of this order, the program has continued to be found countervailable in other proceedings. See, e.g., Grain-Oriented Electrical Steel from Italy; Final Results of Administrative Review of Countervailing Duty Order, 66 FR 2885 (January 12, 2001). Thus, we find that the European Social Fund still exists and continues to provide a countervailable subsidy.

2. Net Countervailable Subsidy Likely to Prevail: Interested Party Comments

*Comment 6: Applicability of Section 129 Review:*

The domestic interested parties assert that the Department should report the rate calculated in

the investigation as the rate most indicative if the order were revoked. See Domestic Response at 58. The domestic parties urge the Department to use the investigation rates instead of the Section 129 review rates because the Section 129 review rates are not equivalent to an administrative review for sunset review purposes. See Rebuttal at 3. The domestic interested parties argue that Section 129 reviews are not discussed in the Policy Bulletin and do not give the Department the opportunity to issue questionnaires concerning existing subsidies and verify new subsidies, as in administrative reviews. Id. In any case, the Department should not revoke the order as 1) subsidies continue to exist – even the Department’s section 129 Determination indicates that TKAST continues to receive subsidies at a 1.62 percent rate; and 2) the Section 129 Determination is on appeal in the CIT, and if overturned, would result in an even higher level of subsidization. Id. at 4-5.

In their responses, the respondent interested parties assert that the likelihood of continuation or recurrence of subsidization is nil and does not justify the maintenance of CVD measures on exports of the subject merchandise at any rate for the reasons stated above. See GOI Response. The EC specifically states that it does not foresee any negative impact from revocation of the order. See EC Response. TKAST argues, at a minimum, that the Department should reduce the countervailable benefits from the Section 129 Determination to reflect reductions in the actual benefit stream. See TKAST Response at 2.

*Department Position:* The Department normally will report to the ITC, as the net countervailable subsidy likely to prevail if the order is revoked, a rate selected from the investigation because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place. However, this rate may not be the most appropriate to report if, for example, the rate was derived (in whole or part) from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate does not take into account a program found to be countervailable in a subsequent administrative review. Therefore, under appropriate circumstances, the Department may make adjustments to the net countervailable subsidy determined.

In the original investigation the Department found a net subsidy rate of 12.22 percent for TKAST, 1.03 percent for Arinox, and 12.09 percent for “all others.” Eleven programs were found to be countervailable for TKAST. However, in the Section 129 Determination, the Department applied its modified privatization methodology and found that TKAST’s pre-privatization subsidies were terminated as a result of an arm’s length, fair market sale. Accordingly, the Department revised TKAST’s rate from 12.22 percent to 1.62 percent and the “all others” rate from 12.09 percent to 1.61 percent, effective November 7, 2003. See Notice of Implementation Under Section 129 of the Uruguay Round Agreements Act; Countervailing Measures Concerning Certain Steel Products From the European Communities, 68 FR 64858 (November 17, 2003). Thus, the Department believes that it is appropriate to take into account the Section 129 results in this subsequent sunset review.

*Comment 7: Reduction of Rate for Law 451/94 Early Retirement Benefits:*

TKAST contends that this program is the only program under which benefits could be attributed to TKAST. See TKAST Response at 2. The GOI contends that there can be no benefit from this program after 2006 and the remaining benefits are so small – 0.049 percent based on its calculations – as to be *de minimis* in the absence of any other subsidies. See GOI Response at Annex 1(G).

*Department Position:* The Department may make adjustments to the net countervailable subsidy determined in the investigation under certain circumstances, including, but not limited to, where the Department has conducted an administrative review of the order and found that a program was terminated with no residual benefits and no likelihood of reinstatement. For the CVD order on SSSSC from Italy, the Department conducted no administrative reviews. We agree with GOI and the EC that Law 451/94 has officially been terminated and that Arinox no longer receives benefits from this program. See GOI Response at Annex 3(C) and Calculation Memorandum for Arinox, Final Countervailing Duty Determination of Stainless Steel Sheet and Strip in Coils from Italy - Law 451/94 Early Retirement Program. However, record evidence shows that TKAST workers continue to receive benefits under this program. See GOI Response at Annex 1(G). As a result, we will not adjust the net subsidy rate that we report to the ITC. Even if it were appropriate to adjust the rate for declining benefits to TKAST, the respondent interested parties provide no data that would allow an accurate adjustment. However, record evidence shows that this program has terminated and benefits have ceased for Arinox; therefore, we will adjust the rate for Arinox.

### 3. New Subsidy Allegation

#### *Comment 8: Newly Alleged Subsidy - Energy Subsidies to Electrical Steel Operations Plant*

Domestic interested parties request that the Department investigate the possible provision of electricity at subsidized rates to TKAST. The domestic interested parties submitted several press articles containing statements from the European Parliament and the Italian Ministry of Industry calling for possible assistance to TKAST to keep it from shutting down a portion of its Terni facility that produces grain-oriented electrical steel and laying off several hundred workers. See Rebuttal at 6 and attached articles. The articles discussed the possibility that such assistance could extend to local infrastructure improvements and the possible renegotiation of the company's electricity contracts. Id. The domestic interested parties contend that such assistance contradicts the EC and GOI's assurances that steel sector subsidy assistance is prohibited. See Rebuttal at 6. The domestic interested parties, therefore, request an investigation into these new subsidies because they are granted to a particular company and involve a financial contribution at less than adequate remuneration at market price. Id. at 7.

*Department Position:* In accordance with section 752(b)(2)(B) of the Act, the Department will consider programs newly alleged to provide countervailable subsidies where good cause is shown. Good cause may be shown where information on such program came into existence after the most

completed administrative review, and interested parties provided information or evidence to warrant consideration of the newly alleged program.

In this case, because there have been no administrative reviews, and the information regarding the alleged subsidy program did not come into existence until after the last opportunity to request an administrative review, we find good cause to consider the domestic interested parties' allegation. However, the information provided by the domestic interested parties does not indicate that such programs have been actually established by either the EC, the GOI or the provincial governments, only that they may be desirable to resolve the potential plant closure, layoffs and current strife in the workplace. Further, the statements regarding the possible renegotiation of electricity rates were from TKAST officials not government officials, and there is no indication that any renegotiated rate would provide a benefit, (e.g., would be for less than adequate remuneration). Therefore, we preliminarily determine that the information by domestic interested parties does not warrant initiation of an investigation of this subsidy allegation within the context of this sunset review.

#### Nature of the Subsidy

Consistent with section 752(a)(6) of the Act, the Department will provide information to the ITC on the nature of the subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. No receipt of benefits under these countervailable programs are contingent upon exports or the substitution of domestic over imported goods; therefore, these programs do not fall within the definition of a subsidy under Article 3 of the Subsidies Agreement. Furthermore, our review of the determinations on the record does not lead us to conclude that these programs fall within the definition of a subsidy under Article 6.1.<sup>2</sup>

#### Preliminary Results of Review:

We preliminarily determine that benefits from the following programs would be likely to continue or recur were the order revoked.

- 1) *Law 675/77*
- 2) *Law 451/94 Early Retirement Benefits*
- 3) *European Social Fund*

Accordingly, for the reasons discussed above, we preliminarily determine there is a likelihood that countervailable subsidies will continue or recur were the order revoked. See Policy Bulletin, Section III(A)(3)(a). We also preliminarily determine that such countervailable subsidies will continue or recur at the rates listed below:

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<sup>2</sup>We note Article 6.1 of the Subsidies Agreement expired effective January 1, 2000.

<u>Manufacturer/Producer/Exporter</u>	<u>Net Countervailable Subsidy (percent)</u>
TKAST	0.80
Arinox	0.34
All Others	1.61

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(d)(1). Any hearing, if requested, will be held on February 16, 2005. Interested parties may submit case briefs no later than February 8, 2005, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than February 14, 2005, in accordance with 19 CFR 351.309(d)(1). The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such briefs not later than April 27, 2005.

Recommendation: Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the Preliminary Results of Review in the Federal Register.

AGREE \_\_\_\_\_X\_\_\_\_\_

DISAGREE\_\_\_\_\_

**ORIGINAL SIGNED**

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James J. Jochum  
Assistant Secretary  
for Import Administration

**12/17/04**

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Date

**PRELIMINARY RESULTS OF SUNSET REVIEW**  
**Countervailing Programs and Margins for TKAST**  
**STAINLESS STEEL SHEET AND STRIP IN COILS FROM ITALY**  
**C-475-825**

<b>Programs</b>	<b>Investigation Rate</b>	<b>Section 129 Implementation</b>	<b>Preliminary Sunset Review</b>
Equity Infusions to Terni, TAS, and ILVA	0.99 percent for AST	Excepted	Excepted
Benefits from the 1988-90 Restructuring of Finsider	2.71 percent for AST	Excepted	Excepted
Debt Forgiveness: ILVA-to-AST	6.79 percent for AST	Excepted	Excepted
Law 796/76 - Exchange Rate Guarantees	0.82 percent for AST	0.82 percent	Excepted
Law 675/77	0.07 percent for AST	0.07 percent	0.07 percent
Law 10/91	0.00 percent	Excepted	Excepted
Law 451/94 - Early Retirement Benefits	0.69 percent for AST 0.57 percent for Arinox	0.69 percent	0.69 percent for TKAST Excepted for Arinox
Law 181/89 - Worker Adjustment and Redevelopment Assistance	0.00 percent	Excepted	Excepted
Law 488/92	0.12 percent for Arinox	Excepted	Excepted
ECSC Article 54 Loans	0.11 percent for AST	Excepted	Excepted
European Social Fund	0.04 percent for AST 0.34 percent for Arinox	0.04 percent	0.04 percent for TKAST 0.34 percent for Arinox

TOTAL RATES	12.22 percent for AST 1.03 percent for Arinox	1.62 percent for AST	0.80 percent for TKAST 0.34 percent for Arinox
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