

basis for believing that the transaction price was meaningfully different from what it would otherwise have been absent the distortive government action, we will find all subsidies to be extinguished and, therefore, to be non-countervailable.

We recognize that there are many important details of this proposed new methodology that require further elaboration. We encourage parties, in their comments, to provide suggestions on these details and, in particular, to address the following issues:

1. *Continuing benefit amount:* In those instances where we determine that the privatization did not result in the extinguishment of the benefits of pre-privatization subsidies, how should we quantify the amount of the benefit from those subsidies that the privatized company continues to enjoy?

2. *Concurrent subsidies:* The Department has long wrestled with the issue of subsidies given to encourage, or that are otherwise concurrent with, a privatization. Should a subsidy, *e.g.*, debt forgiveness, given to a company to encourage or facilitate a privatization be considered a "pre-privatization" subsidy that can be extinguished during the privatization, or a new subsidy to the new owner(s)?<sup>10</sup>

3. *Private sales:* Our proposed methodology only addresses government-to-private sales of all or substantially all of a company or its assets. However, changes in ownership can take a variety of forms, for instance, private-to-private transactions. In *Delverde III*, the Federal Circuit stated that there are significant differences between privatization and private-to-private sales and that a case involving privatization does not necessarily govern a private-to-private situation. Can a private-to-private sale extinguish pre-sale subsidy benefits?

4. *Partial or gradual sales:* What, if any, percentage of shares or assets sold should the threshold be for triggering application of this proposed methodology? How should our proposed methodology be applied in situations where assets or shares are

sold incrementally over months or years?<sup>11</sup> What if certain incremental sales are for fair market value and others are not?

5. *Effective control:* What factors should be considered in determining whether the government has relinquished effective control over the company or assets sold? One possibility here is to apply a standard similar to the "use or direct" standard of our cross-ownership provision, though that standard may not be fully applicable in the case of a government-to-private sale for both theoretical and practical reasons. In analyzing any transfer of control, however, we would propose examining closely any mechanisms (*e.g.*, special or "golden" shares) that allow the government to retain effective (if implicit) control over the company's commercial decisions after the privatization regardless of the explicit share of the government's ownership in the property.

6. *Holding or parent companies:* Another complicated change-in-ownership variation we have encountered is the situation where the ownership changes occur at a level several times removed from the actual respondent in a particular countervailing duty case. Should application of our methodology be triggered when a partial owner of a holding company that, in turn, owns another holding company that owns the recipient, sells its shares?

Dated: March 17, 2003.

**Joseph Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Proposed Information Collection; Comment Request; Generic Clearance of Usability Data Collections

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on

the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before May 20, 2003.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Forms Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to the attention of Phyllis Boyd, NIST, 100 Bureau Drive, Stop 3220, Gaithersburg, MD 20899-3220, telephone 301-975-4062. In addition, written comments may be sent via e-mail to [phyllis.boyd@nist.gov](mailto:phyllis.boyd@nist.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

In accordance with Executive Order 12862, the National Institute of Standards and Technology (NIST), a non-regulatory agency of the Department of Commerce, proposes to conduct a number of data collection efforts—both quantitative and qualitative—to determine requirements and evaluate usability and utility of NIST research for measurement and standardization work. These data collection efforts may include, but may not be limited to electronic methodologies, empirical studies, video and audio data collections, interviews, and questionnaires. For example, data collection efforts will be conducted at search and rescue training exercises for rescue workers using robots. Other planned data collection efforts include evaluations of software for use by the intelligence community. Participation will be strictly voluntary. Regulated information will not be collected. The results of the data collected will be used to guide NIST research. Steps will be taken to ensure anonymity of respondents in each activity covered under this request.

##### II. Method of Collection

NIST will collect this information by electronic means when possible, as well as by mail, fax, telephone, and person-to-person interviews.

##### III. Data

*OMB Number:* None.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Individuals or households; State, local, or tribal government; Federal government.

<sup>10</sup> Speaking to this issue in the Preamble to the CVD Regulations (63 FR 65348, 35355), the Department stated that

[w]hile we have not developed guidelines on how to treat this category of subsidies, we note a special concern because this class of subsidies can, in our experience, be considerable and can have a significant influence on the transaction value, particularly when a significant amount of debt is forgiven in order to make the company attractive to prospective buyers. As our thinking on changes in ownership continues to evolve we will give careful consideration to the issue of whether subsidies granted in conjunction with planned changes in ownership should be given special treatment.

<sup>11</sup> See, *e.g.*, Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from France, 64 FR 73277 (December 29, 1999); Final Affirmative Countervailing Duty Determination: Pure Magnesium from Israel, 66 FR 49351 (September 27, 2001).