

party can show that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry. If a party can show that either of these time periods differs from the AUL in the IRS tables by one year or more, the Department will use the company-specific AUL or the country-wide AUL for the industry as the allocation period.

Neither NHCI nor the petitioner has contested using the AUL reported for the magnesium industry in the IRS tables. Therefore, we continue to allocate non-recurring benefits over 14 years.

Analysis of Programs

I. Program Preliminarily Determined to Confer Countervailable Subsidies

A. Article 7 Grant from the Québec Industrial Development Corporation ("SDI")

SDI (*Société de Développement Industriel du Québec*) administers development programs on behalf of the GOQ. SDI provides assistance under Article 7 of the SDI Act in the form of loans, loan guarantees, grants, assumptions of costs associated with loans, and equity investments. This assistance is provided for projects that are capable of having a major impact upon the economy of Québec. Article 7 assistance greater than 2.5 million dollars must be approved by the Council of Ministers and assistance over 5 million dollars becomes a separate budget item under Article 7. Assistance provided in such amounts must be of "special economic importance and value to the province." (*See Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada*, 57 FR 30946, 30948 (July 13, 1992) ("*Magnesium Investigation*").)

In 1988, NHCI was awarded a grant under Article 7 to cover a large percentage of the cost of certain environmental protection equipment. In the *Magnesium Investigation*, the Department determined that NHCI received a disproportionately large share of assistance under Article 7. On this basis, we determined that the Article 7 grant was limited to a specific enterprise or industry, or group of enterprises or industries, and, therefore, countervailable. In these reviews, neither the GOQ nor NHCI has provided new information which would warrant reconsideration of this determination.

In the *Magnesium Investigation*, the Department found that the Article 7 assistance received by NHCI constituted a non-recurring grant because it represented a one-time provision of

funds. In the *Preliminary Results of First Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada*, 61 FR 11186, 11187 (March 19, 1996), we found this determination to be consistent with the principles enunciated in the Allocation section of the *General Issues Appendix* ("GIA") appended to the *Final Countervailing Duty Determination: Certain Steel Products from Austria*, 58 FR 37225, 37226 (July 9, 1993). In the current review, no new information has been placed on the record that would cause us to depart from this treatment. Therefore, in accordance with section 351.524(b)(2) of our regulations, we continue to allocate the benefit of this grant over time. We used our standard grant methodology as described in section 351.524(d) of the regulations to calculate the countervailable subsidy. We divided the benefit attributable to the POR by NHCI's total sales of Canadian-manufactured products in the POR. On this basis, we preliminarily determine the countervailable subsidy from the Article 7 SDI grant to be 1.68 percent *ad valorem* for NHCI.

II. Programs Preliminarily Determined To Be Not Used

We examined the following programs and preliminarily determine that NHCI did not apply for or receive benefits under these programs during the POR:

- St. Lawrence River Environment Technology Development Program
- Program for Export Market Development
- The Export Development Corporation
- Canada-Québec Subsidiary Agreement on the Economic Development of the Regions of Québec
- Opportunities to Stimulate Technology Programs
- Development Assistance Program
- Industrial Feasibility Study Assistance Program
- Export Promotion Assistance Program
- Creation of Scientific Jobs in Industries
- Business Investment Assistance Program
- Business Financing Program
- Research and Innovation Activities Program
- Export Assistance Program
- Energy Technologies Development Program
- Transportation Research and Development Assistance Program

III. Program Previously Determined To Be Terminated

- Exemption from Payment of Water Bills

In the administrative reviews covering calendar year 1997, the Department

found that this program was terminated during the POR. In our final results, we stated that we, therefore, did not intend to continue to examine this program in the future (see *Pure Magnesium and Alloy Magnesium from Canada: Final Results of Countervailing Duty Administrative Reviews*, 64 FR 48805, 48806 (September 8, 1999)).

Alleged Over-assessment of Countervailing Duties

In its January 27, 2003 questionnaire response, NHCI contends that the Department should adjust the assessment rate applied to the value of entries made during the POR in order to avoid alleged over-countervailing in connection with cash deposits retained on 1997 entries. NHCI states that the Department issued appropriate liquidation instructions to the Customs Service ("Customs") following the completion of the 1997 administrative review, but that Customs erroneously liquidated hundreds of NHCI entries at the cash deposit rate at the time of entry, rather than at the rate established in the final results of the 1997 administrative review.

The Department does not have the authority to address what is essentially a customs protest issue concerning entries from a prior, completed review in the context of this administrative review. Parties cannot revive an issue for which the deadlines for a proper challenge have already passed by raising it in an on-going administrative proceeding. Therefore, the Department will not address an issue which is not properly before the agency in this review.

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(I), we calculated a subsidy rate for NHCI, the sole producer/exporter subject to these administrative reviews. For the period January 1, 2001, through December 31, 2001, we preliminarily find the net subsidy rate for NHCI to be 1.68 percent *ad valorem*. We will disclose our calculations to the interested parties in accordance with section 351.224(b) of the regulations.

Assessment Rates

If the final results of these reviews are affirmative, the Department intends to instruct Customs to assess countervailing duties at the net subsidy rate. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of the final results of these reviews. For the period January 1, 2001, through December 31, 2001, the assessment rates applicable to