

We note that AHMSA was unable to make timely interest payments on several occasions during the 2001 POR, and, pursuant to the terms of its loan agreement, was forced to make penalty interest payments. During verification, we confirmed that the penalty interest rate established under the terms of the renegotiation was 25 percent lower than that established under the original terms of the Bancomext loans. During verification, we asked Bancomext officials why, in the midst of AHMSA's financial difficulties, they decided to lower the penalty interest rate that they charged AHMSA for late interest payments. Bancomext officials explained that the revised moratorium interest rate was the rate that was agreed to between the two parties during the renegotiation process.

For purposes of these preliminary results, we find that, given that AHMSA defaulted on its commercial debt in 1999, its uncreditworthy status at the time of the 2000 renegotiation process, and its history of failing to adhere to its contractual obligations with Bancomext, the terms of the renegotiated Bancomext loans did not reflect the amount of penalty interest that AHMSA would have paid on a comparable commercial loan.<sup>12</sup>

We attempted to obtain information from AHMSA and the GOM regarding penalty interest rates charged in Mexico during 2000. AHMSA explained that, while it was late on several loans prior to 2000, it did not make any penalty interest payments to commercial institutions immediately prior to or during the 2001 POR. See page 11 of AHMSA's May 22, 2003, supplemental questionnaire response. In its supplemental questionnaire response, the GOM stated that it was, " \* \* \* unable to provide such information \* \* \*" on the grounds that, " \* \* \* Mexican bank secrecy laws prohibit the disclosure of company-specific repayment information." See page 1 of the GOM's May 21, 2003, questionnaire response. During verification, we attempted to meet with a commercial lending institution in Mexico to discuss, among other things, the typical practices of Mexican banks, as they apply to the establishment of penalty interest payments. However, the officials at the commercial lending institution refused to answer our questions. See the September 2, 2003, report entitled, "Meeting with Banking Officials from Banamex," a public document on file in

room B-099 of the CRU. Thus, in accordance with section 776(a) of the Act, we are using as facts available the penalty interest rate that was established between Bancomext and AHMSA pursuant to the original terms of the 1995 Bancomext loan agreement. See Exhibit 4 of AHMSA's July 8, 2003, supplemental questionnaire response.

To determine the benefit attributable to AHMSA's reduced penalty interest payments, we subtracted the amount of penalty interest AHMSA actually paid during the 2001 POR from the amount of penalty interest the company would have paid during the POR pursuant to its initial 1995 loan agreement with Bancomext.

In their December 16, 2003, submission, petitioners alleged that the GOM forgave principal due on the Bancomext loans when AHMSA and Bancomext renegotiated the terms of the Bancomext loans in 2000. In our *New Subsidy Memorandum*, we determined that an examination of petitioners' allegations was warranted. See page 8 of the *New Subsidy Memorandum*. During this review, we have issued multiple supplemental questionnaires to AHMSA and the GOM concerning petitioners' allegation that the government forgave a portion of AHMSA's Bancomext debt. In addition, we thoroughly examined this issue during verification. For example, we reviewed source documents that indicated the balance of principal that AHMSA owed on the Bancomext loans before and after the 2000 loan renegotiation. See the "Bancomext Loans" section of the AHMSA Verification Report. Based on the questionnaire responses submitted by the GOM and AHMSA and on the source documents reviewed during verification, we preliminarily find that no debt was forgiven on AHMSA's Bancomext loans.

Because eligibility under this program is contingent upon exports, we divided the benefit (*i.e.*, the difference between the benchmark interest/penalty payments and AHMSA's actual interest/penalty payments) by AHMSA's total export sales. We note that we have used an unconsolidated export sales figure because the program was contingent on AHMSA's export sale. Because AHMSA's total export sales were denominated in pesos, we converted the benefit AHMSA received under this program to pesos using the peso/U.S. dollar exchange rate that was outstanding on the date of the interest payments. On this basis, we preliminarily determine the net subsidy for this program to be 6.55 percent *ad valorem* for AHMSA.

## *II. Programs Preliminarily Determined Not to Confer Subsidies*

### *A. Petroleos Mexicanos (PEMEX) Guaranteed Provision of Natural Gas for Less Than Adequate Remuneration*

Based on our *New Subsidies Memorandum*, we initiated an investigation into whether PEMEX sold natural gas to AHMSA for less than adequate remuneration during the POR. In particular, we examined a program under which the state-owned PEMEX agreed to provide a certain fixed quantity of natural gas for the price of US\$4 per million British Thermal Units (MMBTU) to AHMSA for a period of three years beginning on February 8, 2001. This contract was applicable from January 1, 2001, to December 31, 2003.

During verification, we met with officials from PEMEX and discussed the manner in which the program operated during the POR. In addition, we identified and examined the distribution of companies and industries that used the program during the POR. See the "PEMEX" section of the GOM Verification Report. During verification, we confirmed that, as the GOM had stated in its questionnaire responses, the program was provided to wide variety of industries and that neither AHMSA nor the Mexican steel industry was singled out or disproportionately represented in terms of usage. Thus, based on the questionnaire responses submitted by the GOM and on information collected during verification, we preliminarily determine that this program is not specific within the meaning of section 771(5A) of the Act and, therefore, is not countervailable.

### *B. PITEX Duty-Free Imports for Companies That Export*

In prior segments of this proceeding, we found that the Programa de Importacion Temporal Para Producir Productos Para Exportar (PITEX), also known as the Program for Temporary Importation to Produce Products for Export, provides countervailable export subsidies to the extent that the program offers duty exemptions on products not consumed in the production of the exported product. In its questionnaire responses, the GOM claimed that this aspect of the program was terminated pursuant to Article 303 of the North American Free Trade Agreement (NAFTA). In particular, the GOM asserted that, after 2001, PITEX no longer offered duty-free exemptions on capital goods and machinery. See, *e.g.*, page II-44 of the GOM's November 25, 2002. During verification, we investigated the GOM's claims regarding

<sup>12</sup> Regarding AHMSA's history of failing to adhere to its contractual obligations with Bancomext, see the "Bancomext Loan" section of the AHMSA Verification Report.