duties of the Assistant Secretary for Import Administration.

Dated: May 7, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–428–829; C–421–809; C–412–821]

Notice of Preliminary Affirmative Countervailing Duty Determinations and Alignment With Final Antidumping Duty Determinations: Low Enriched Uranium From Germany, the Netherlands, and the United Kingdom

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

ACTION: Notice of Preliminary Affirmative Countervailing Duty Determination.

EFFECTIVE DATE: May 14, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Copyak (Germany) at (202) 482–2209, Stephanie Moore (the Netherlands) at (202) 482–3692, and Eric B. Greynolds (United Kingdom) at (202) 482–6071, 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, NW., Washington, DC 20230.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of low enriched uranium (subject merchandise) from Germany, the Netherlands, and the United Kingdom. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by USEC Inc., its wholly-owned subsidiary, United States Enrichment Corporation (USEC), and Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, and Local 5–550 and Local 5–689 (collectively PACE) (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom,* 66 FR 1085 (January 5, 2001) (*Initiation Notice*)), the following events have occurred: Beginning on January 16, 2001, we issued countervailing duty questionnaires to the Government of Germany (GOG), the Government of the Netherlands (GON), and the Government of the United Kingdom (UKG).[1] Beginning on March 22, 2001, we received questionnaire responses from Urenco Deutschland GmbH of Germany (Urenco Deutschland), Urenco Nederland BV of the Netherlands (UNL), and Urenco (Capenhurst) Limited (UCL), the GOG, the GON, and the UKG (collectively referred to as respondents). Beginning on April 9, 2001, we issued supplemental questionnaires to respondents. Beginning on April 23, 2001, we received supplemental questionnaire responses from respondents.

On February 21, 2001, we issued an extension of the due date for this preliminary determination from March 2, 2001 to May 7, 2001. *See Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations,* 66 FR 11000 (February 21, 2001) *(Extension Notice).*

On May 3, 2001, consultations in accordance with Article 13.2 of the Agreement on Subsidies and Countervailing Measures were held in Geneva, Switzerland with the Governments of Germany, the Netherlands, the United Kingdom, and the Delegation of the European Commission.

In our *Initiation Notice,* we invited interested parties to comment on the scope of these investigations. We received comments from respondents on January 17, 2001, and from petitioners on January 23, 2001. In addition, we received comments from the Ad Hoc Utilities Group, an industrial user/consumer, on April 5, 2001. Our analysis of these comments can be found in the May 7, 2001 Public Memorandum to Bernard Carreau, entitled *Low Enriched Uranium from France, Germany, the Netherlands and the United Kingdom; Comments on the Scope of the Investigations,* on file in the Central Records Unit, room B–099, of the Main Commerce Building.

Petitioners' New Subsidy Allegations

On April 23, 2001, petitioners submitted a new subsidy allegation involving Urenco Deutschland, UNL, and UCL (collectively referred to as the Urenco Group). In their submission, they alleged that the one-third ownership obtained by British Nuclear Fuels Limited (BNFL) and Ultra-Centrifuge Nederland (UCN) along with the shareholder loans made by the two government-owned companies constituted equity infusions into the Urenco Group, which they assert was unequityworthy at the time the alleged infusions were made. In support of their allegation, petitioners cite to various annual reports of BNFL, UCN, and Uranitisotopentrennungsgeselleschaft mbH (Uranit) (the privately-held German arm of the Urenco Group) as well as several corporate studies which they claim indicated a bleak outlook for the LEU industry in the years preceding the impending merger. In addition, petitioners claim that, prior to the merger there was no objective evidence before BNFL or UCN indicating that the planned restructuring and merger would do anything to improve the efficiency and financial prospects of the companies involved. On this basis, petitioners request that the Department investigate whether the investments constituted countervailable equity infusions into an unequityworthy company.

We have determined not to initiate an investigation of this allegation. As discussed in further detail below in the ''Urenco Group Corporate History'' section, immediately preceding the creation of the Urenco Group, the enrichment operations were controlled by BNFL in the United Kingdom, UCN in the Netherlands, and Uranit in Germany. Both BNFL and UCN were owned and controlled by their respective governments while Uranit was privately-held. On September 1, 1993, pursuant to the terms of the merger agreement, BNFL, UCN, and Uranit transferred their enrichment operations to the Urenco Group. In return, BNFL, UCN, and Uranit each received a one-third ownership interest in the Urenco Group. Thus, based on the information submitted by respondents, we find that this aspect of the merger did not constitute an equity infusion but rather represented a restructuring of the Urenco Group in which the three companies, BNFL, UCN, and Uranit,

[1] Upon the issuance of the questionnaire, we informed the GOG, GON, and the UKG that it was their governments' responsibility to forward the questionnaires to all producers/exporters that shipped subject merchandise to the United States during the period of investigation.

contributed their respective assets in return for one-third ownership of the Group.

In addition to the allegation involving the E23 asset write down, which we are addressing in this preliminary determination, on April 27 and 30, 2001, petitioners made an allegation with respect to the Netherlands and the United Kingdom involving an additional asset write down. We are not addressing this allegation in this determination due to the lateness of the allegation. We will address it after this determination. If we decide to initiate on this allegation then prior to making our final determination, we will issue a preliminary analysis memorandum regarding this allegation and allow the parties to comment.

Scope of the Investigation

For purposes of these investigations, the product covered is low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of the investigation. Specifically, this investigation does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these investigations. For purposes of this investigation, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of the investigation.

The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

In our notice of initiation we invited parties to comment on scope issues raised by these investigations. These comments are addressed in a scope memo dated May 7, 2001. However, to the extent that some of the comments on scope issues re-argue the determination of industry support for the petition, we draw parties attention to section 702(c)(4)(E) and 732(c)(4)(E) which states in pertinent part: ''after the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.''

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Injury Test

Because Germany, the Netherlands, and the United Kingdom are ''Subsidy Agreement Countries'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from these countries materially injure or threaten material injury to a U.S. industry. On January 31, 2001, 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 is threatened with material injury, by reason of imports from Germany, the Netherlands, and the United Kingdom of subject merchandise. *See Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom,* 66 FR 8424 (January 31, 2001).

Alignment With Final Antidumping Duty Determination

On May 4, 2001, petitioners submitted a letter requesting alignment of the final determination in these investigations with the final determinations in the companion antidumping duty investigations. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in these investigations with the final determinations in the antidumping duty investigations of low enriched uranium from Germany, the Netherlands, and the United Kingdom.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 1999, through December 31, 1999.

Urenco Group: Corporate History

Pre-Merger

Prior to the Treaty of Almelo, the production group of the U.K. Atomic Energy Authority (UKAEA) was responsible for the U.K. enrichment program. BNFL was created from the existing assets of UKAEA. The Capenhurst site assets and all of the British centrifuge enrichment development work were transferred to BNFL. In the Netherlands, UCN was incorporated in November 1969, as a limited company, with the Dutch government holding 55 percent and the remaining 45 percent held by various industrial interests. UCN was designated by the Dutch government to develop ultracentrifuge technology for uranium enrichment in the Netherlands. By the time the Treaty of Almelo (the Treaty) came into effect in 1971, Germany already had two centrifuge companies dedicated to the enriched uranium industry: Gesellschaft fur Nuklearverfahrestechnik mbH (GnV), which was involved in centrifuge development and manufacturing and plant design; and Uranit, which took over earlier R&D and cascade work. Both companies were owned by private industrial shareholders.

Treaty of Almelo

In March 1970, the GOG, the GON, and the UKG signed the Treaty, which became effective in July 1971. The purpose of the Treaty was for the three governments to collaborate in the development and exploitation of the gas centrifuge process for producing enriched uranium. Prior to 1971, the centrifuge R&D programs in each country were independent.

Pursuant to Article 1(2) of the Treaty, the three governments agreed that there should be two ''joint industrial enterprises'' to carry out the centrifuge collaboration: one to conduct R&D and to design and build centrifuge equipment, and the other, an enrichment organization to own and operate the enrichment plants and market the output. Centec GmbH was established in Germany, its shareholders being BNFL, UCN and GnV, to conduct R&D and plant design work. Urenco Ltd., located in the U.K., gained responsibility for the marketing. Urenco Ltd. was incorporated in September 1971, and its shareholders were BNFL, UCN and Uranit.

In addition, in 1971, the production organization had two established partnerships. The first was Urenco

(U.K.), a partnership under English Law, between BNFL (75 percent), UCN (12.5 percent) Uranit (12.5 percent), and Urenco Ltd. with a nominal share. The second was the Dutch partnership, Urenco Nederland v.o.f., which then consisted of UCN (43.75 percent), Uranit (43.75 percent), BNFL (12.5 percent), and Urenco Ltd. with a nominal share. In the late 1970s, a third partnership, Urenco Deutschland was established under German law. The partners were Uranit (96 percent), BNFL and UCN with two percent shares each, and Urenco Ltd. with a nominal share. In 1980, ownership in Urenco Nederland v.o.f. changed; UNC and Uranit increased their share in the company to 49 percent each, while BNFL reduced its participation to 2 percent. Likewise, for Urenco (U.K.), BNFL's share increased to 96 percent, while UCN and Uranit decreased their participation to two percent each.

In preparation for the merger, each of the three operating partnerships was combined and their assets transferred into a limited company, owned in each case by the managing partner. Specifically, BNFL changed the name of its subsidiary BNFL Enrichment Ltd. to Urenco (Capenhurst) Ltd. (UCL), and transferred to UCL the relevant portion of the Capenhurst site, buildings and equipment related to the enrichment business. The activities of the former Urenco Nederland v.o.f. (enrichment) and of UCN (centrifuge manufacturing) were transferred into a new company, Urenco Nederland B.V. (UNL). At the request of Uranit, the German shareholder, the enrichment plant was initially leased to Urenco Deutschland on a basis comparable to UCL and UCN. Each of these limited companies became the sole owner of the relevant plants, including the sites, buildings, R&D facilities and centrifuge manufacturing.

1993 Merger

Subsequently, in September 1993, the Urenco operations in the three countries were merged.[2] This was accomplished by a two-step process whereby the partnerships in each country were collapsed and replaced by newly created limited companies, UCL of the United Kingdom managed by International Nuclear Fuels Limited (INFL), BNFL's wholly-owned subsidiary, Urenco Deutschland of Germany managed by Uranit, and UNL of the Netherlands managed by UCN and Uranit. The limited companies became the sole owners of the enrichment facilities. On September 1, 1993, the voting shares of the limited companies were transferred to Urenco Ltd. in exchange for one-third interest in Urenco. Therefore, Urenco Ltd., became the parent company and, indirectly, ultimate owner of the plants, R&D facilities, and centrifuge manufacturing facilities.

Joint Committee

Pursuant to Article II 5(e) of the Treaty, a Joint Committee of government representatives was created to ensure that the terms of the Treaty were carried out. Through the Joint Committee and under the Treaty, each of the member countries had to give their consent and approval for the merger. Since the merger, Urenco Ltd. provides status reports to the Joint Committee twice a year. These reports include a description of operations, volume of production and secured service contracts as well as any health and safety issues, and capacity extension and major production milestones.

Post Merger

Urenco Ltd. is a private limited company which wholly owns four subsidiary companies: UCL, Urenco Deutschland, UNL and Urenco Inc. (UI). Urenco Ltd. owns 100 percent of the voting shares and exercises control over the subsidiaries. Urenco Ltd. functions as the ''headquarters'' for the Urenco Group and is also the worldwide marketing arm of the Urenco Group. The Board of Directors (Board) is made up of four Executive Directors, ten non-Executive Directors, nine of which are appointed by the shareholders of Urenco and one of which is elected by the board as an independent Director. The Board meets four times a year, during which it sets major policies, monitors financial performances, and monitors the performance of the executive directors. The Board is further divided into three sub-committees: The Executive Board, which is responsible for conducting day-to-day management, the Remuneration Committee, which decides the terms of employment and remuneration of the Executive Directors, and the Audit Committee.

UCL, Urenco Deutschland, UNL

While Urenco Ltd. is responsible for the marketing and contracting of the Urenco Group, it is the responsibility of each of the subsidiaries to produce and deliver the product based upon the contractual terms. The day-to-day responsibilities of running the operations, meeting the agreed targets and implementing the group strategies lies with each of the companies. Each of the companies continues to provide the enrichment products sold by Urenco Ltd. While the enrichment facilities were transferred to the managing partnerships and then to Urenco's subsidiaries, local business activities were not transferred to Urenco Ltd. and are not shared across the group. Each company within the Urenco Group is a separate legal entity, with its own directors and senior management team; however, they work under the direction and in close co-operation with the Executive Board.

International Consortium

As discussed above, the Treaty of Almelo was signed in 1970 by the Governments of Germany, the Netherlands, and the United Kingdom in order to collaborate in the development and exploitation of the gas centrifuge process for producing enriched uranium. Towards this end, the three governments provided subsidies for the research and development of gas centrifuge technology and for the construction and support of enrichment production operations. For example, the GOG provided grants specifically to help construct enrichment plants used by the Urenco Group in the Netherlands and the United Kingdom. Further, as a result of the 1993 merger, each of the respective participants in Germany, the Netherlands, and the United Kingdom owns a one-third interest in Urenco Ltd. Therefore, given that the Treaty of Almelo was specifically entered into by the three governments to produce and sell the subject merchandise and that each of these participating companies share R&D, as well as share in the production and marketing of the subject merchandise, we preliminarily determine that such an arrangement constitutes an international consortium.

Under section 701(d) of the Act, if the members of an international consortium engaged in the production of the subject merchandise receive countervailable subsidies from their respective home countries to assist, permit, or otherwise enable their participation through production or manufacturing operations in their respective home countries, then

[2] Respondents have argued that this merger constituted a ''change in ownership'' under section 771(5)(F) of the Act. However, in both the Netherlands and the UK, the assets at the enrichment operations were directly owned by their respective governments before the merger and indirectly after the merger. We preliminarily determine that there was no change in ownership in 1993 but merely a merging and restructuring of assets by the three Urenco Group partners, *i.e.,* the Government of the Netherlands, the Government of the United Kingdom, and the private German shareholders of the Group, each of whom remained as owners in Urenco Ltd.

the Department will cumulate all such countervailable subsidies, as well as subsidies provided directly to the international consortium, in determining any countervailing duty upon such merchandise. Based upon the information on the record, section 701(d) of the Act is applicable to these investigations. As explicitly instructed by Congress in the legislative history of this provision, section 701(d) of the Act ''is applicable to cases in which foreign governments provide subsidized assistance for participation in international production and marketing ventures.'' [3]

Therefore, because we find the Urenco Group of companies to constitute an international consortium, pursuant to section 701(d) of the Act, we have cumulated all countervailable subsidies received by the member companies from the GOG, GON, and the UKG in order to calculate one countervailing duty rate applicable to the production and exportation of the subject merchandise from this consortium.

Subsidies Valuation Information

Allocation Period

Under section 351.524(d)(2) of the Department's CVD Regulations, we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System (IRS Tables), as updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant. In this instance, however, the IRS Tables do not provide a specific asset guideline class for the uranium enrichment industry.

In their questionnaire responses, the Urenco Group companies have calculated company-specific AULs by dividing their respective aggregate, annual, average gross book values of their depreciable productive fixed assets by their aggregated annual charge to accumulated depreciation for a ten-year period in the manner specified by section 351.524(d)(2)(iii) of the CVD Regulations. Based on this calculation, Urenco Deutschland reports an AUL of 13 years, UNL reports an AUL of 12 years, and UCL reports an AUL of 10 years. Based on information submitted by respondents, we have preliminarily used company-specific AUL data when calculating the AUL of the Urenco Group.

As discussed above, we preliminarily determine that the companies of the Urenco Group operate as an international consortium within the meaning of section 701(d) of the Act. We note that our decision to apply the international consortium provision affects the manner in which we must calculate the AUL in this investigation. The legislative history clarifies the application of that provision. It points out that the amendment, i.e., section 701(d) of the Act, explicitly authorized the Department to ''* * * cumulate the amounts of subsidies from all {participating countries in an international consortium} in determining the relevant countervailing duty to be applied to the product subject to that investigation.'' *See* Conference Report at 589. Thus, consistent with the Congressional intent, which directed the Department to cumulate the subsidies received from countries in an international consortium, we have calculated a single AUL for the Urenco Group by weight-averaging the company-specific AULs of the Urenco Group companies by their respective total average gross book values. On this basis, we derived an AUL of 12 years for the Urenco Group.

We note that at verification we will closely examine the AUL information submitted by the Urenco Group companies. In addition, we welcome any comments interested parties may have with regard to our approach on this issue.

In the *Initiation Notice,* we stated that, with respect to petitioners' allegations regarding UNL's receipt of certain research and development (R&D) subsidies, we would determine during the course of this investigation whether the provisions of section 351.524(d)(2)(iv) of the CVD Regulations should apply to this case. *See* page 14 of the December 27, 2000, Initiation Checklist, the public version of which is on file in room B–099 of the main Commerce Building (Initiation Checklist). Section 351.524(d)(2)(iv) of the CVD Regulations states that under certain ''extraordinary circumstances'' the Department may consider an allocation period other than the AUL or it may determine that the benefit stream of a non-recurring subsidy should begin at a date other than the date at which the subsidy was bestowed. In the Preamble to the CVD Regulations, we explain that when a government provides a subsidy to fund the development of certain new technologies, or to fund an extraordinarily large project for the development of new products that encompasses not only basic research and development, but also implementation and commercialization, the duration of the benefit may not necessarily be related to the AUL of assets for that industry. *See* the Preamble, 63 FR 65348, 65396 (November 25, 1998). We further state in the Preamble that there could be a significant lead time between receipt of the subsidy and development of the product and the product's commercialization. We have explained that, in those instances, even if we were to rely on the AUL of assets, there is a question as to whether the benefit stream should begin at the time the grant is received or at the time the product reaches commercial production. *Id.* at 65396.

As stated above, we have preliminarily determined that the AUL for the Urenco Group companies is 12 years. Thus, in using a 12-year AUL, 1988 marks the last year in which one of the Urenco Group companies could have received a non-recurring grant and still have those subsidies be allocable to the POI. With respect to R&D subsidies received by the Urenco Group companies, namely those of UNL and Urenco Deutschland, in which the application of the ''extraordinary circumstances'' provision under section 351.524(d)(2)(iv) of the CVD Regulations might have been an issue, we note that all of the production plants for which the R&D subsidies were received began commercial production prior to 1988. In other words, even if the Department were to apply the ''extraordinary circumstances'' provision under section 351.524(d)(2)(iv) of the CVD Regulations to the R&D subsidies received by the Urenco Group companies, the use of a 12-year AUL would result in the benefit streams of the respective subsidies being fully allocated prior to the POI. Accordingly, we preliminarily determine that section 351.524(d)(2)(iv) of the CVD Regulations is not relevant to this case.

Benchmarks for Loans and Discount Rate

In accordance with section 351.524(d)(3)(i)(A) of the CVD Regulations, we used, where available, discount rates that were based on the cost of long-term, fixed-rate financing for commercial loans received by the Urenco Group companies. Where the

[3] H.R. No. 100–576, 100th Cong., 2d Sess. 589 (1988) (''Omnibus Trade and Competitiveness Act of 1988,'' Conference Report) (Conference Report).

Urenco Group companies had no comparable commercial loans, we used national average interest rates as provided by the companies' corresponding government as specified by section 351.505(a)(3)(ii) of the CVD Regulations. In addition, we note that one countervailable program used by the Urenco Group required the use of discount rate benchmarks denominated in several foreign currencies. In those instances where the Urenco Group did not report a comparable, commercial discount rate benchmark for a particular foreign currency, we used currency-specific ''Lending Rates'' from private creditors as published in the *International Financial Statistics* as the foreign currency denominated discount rate.

Treatment of the Denominator

Based on our review of the responses, it appears as though respondents did not report a value for the natural uranium component of certain LEU sales. Therefore, in order to determine more accurately the level of subsidy applicable to the subject merchandise, we have estimated a value for this component. Based on petitioners' estimation that the enrichment component accounts for 60 percent of the value of LEU, we have increased the reported sales value to include an estimated value for the natural uranium component. We recognize that this is an estimate of the value of LEU sold by respondents. We intend to seek additional information from respondents prior to our final determination.

I. Programs Preliminarily Determined To Confer Subsidies From the Government of Germany

A. Enrichment Technology Research and Development Program

Under this program, the Government of Germany promoted the research and development of uranium enrichment technologies. The Federal Ministry for Research and Technology provided Urenco Deutschland a series of grant disbursements for the funding of research and development projects. The funds were provided to encourage continuous improvements of centrifuge technologies and to fund the research of lasers and other advanced technologies. The grant disbursements under this program were made during the years 1980 through 1993. The total amount of grant disbursements made under both this program equaled DM 244.3 million.

Assistance under this program was provided for in two agreements entitled ''Financing Agreement'' and ''Terms and Conditions for Allocations on a Cost Basis to Companies in Industry for Research and Development Projects' (Laser R&D Agreement). According to Article 4, Section 6, of the Financing Agreement, the funds provided to Urenco Deutschland under this agreement had repayment obligations. The funds were repayable within five years of disbursement, contingent upon the company's earnings. If the funds were not repaid within five years, then the repayment obligation lapsed. The second agreement covered grants for laser enrichment R&D. Under the Laser R&D Agreement, the obligation to make repayment began three years after the project's completion, and repayment was to be made in five equal annual installments. However, the obligation for repayment would be terminated if the objective of the project was not achieved. According to the responses of both the company and the government, no portion of any of the disbursements received by Urenco Deutschland was repaid.

We preliminarily determine that the assistance provided under this program constitutes countervailable subsidies within the meaning of section 771(5) of the Act. The grant disbursements constitute a financial contribution and confer a benefit, as described in sections 771(5)(D)(i) and 771(5)(B) of the Act. Also, we preliminarily determine that this program is specific under section 771(5A)(D)(i) of the Act because provision of assistance under this program was limited to one company. In addition, we preliminarily determine that this program provided non-recurring benefits to Urenco Deutschland under section 351.524(c)(2) of the CVD Regulations because the assistance provided to Urenco Deutschland was made pursuant to specific government agreements and was not provided under a program that would provide assistance on an ongoing basis from year to year.

Under the Financing Agreement, there was a contingent repayment obligation attached to each of the grant disbursements. Within the first five years of receipt of the funds, Urenco Deutschland had an obligation to repay the government contingent upon the company's earnings. At the end of the five-year period, the repayment obligation expired. Because the company was no longer obligated to repay the assistance, the amount of the funds disbursed became a grant equal to the amount of the disbursement. Consistent with our treatment of ''contingent liabilities,'' we determine the year of receipt of the grant to be the year in which the five-year time frame for repayment expired, that is, the fifth year from the day the funds were disbursed to the company. (*See e.g.*, the treatment of the ''Export Promotion Capital Goods Scheme'' in the *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From India,* 64 FR 73131 (December 29, 1999); and ''Government Debt Forgiveness in 1989'' in the *Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Germany,* 58 FR 6233 (January 27, 1993)). With respect to the grant disbursements made under the Laser R&D Agreement, we find that the obligation for repayment ended when the GOG terminated the project in 1993 because it was determined the project would not achieve commercial results. Therefore, consistent with our treatment of contingent liabilities, we determine that the R&D funds provided under this Agreement should be treated as grants having been received in 1993 when the repayment obligation effectively ended.

In order to calculate the benefits received under this program, we first determined the total amount of grants provided each year under both the Financing Agreement and the Laser R&D Agreement. We then applied the Department's standard grant methodology and allocated the grants over the AUL. *See* the allocation period discussion under the ''Subsidies Valuation Information'' section, above. We used as our discount rates the long-term corporate bond rates in Germany because the grants were denominated in Deutschmarks. We then summed the benefits received by Urenco Deutschland during 1999, from each of the grant disbursements. We then divided the total benefit attributable to the POI by the Urenco Group's total sales for the POI.[4] On this basis, we preliminarily determine the countervailable subsidy rate under this program to be 0.77 percent *ad valorem* for the Urenco Group.

B. Forgiveness of Centrifuge Enrichment Capacity Subsidies

In accordance with the ''Risk Sharing Agreement'' and the ''Profit Sharing Agreement'' signed between the GOG and Urenco Deutschland, the GOG agreed to provide funds to Urenco Deutschland to support the promotion of an uranium enrichment industry.

[4] Because we have determined that the Urenco Group constitutes an international consortium as defined by section 701(d) of the Act, we have calculated the *ad valorem* rates by dividing the benefits received by the companies of the Urenco Group by the applicable sales denominator of the Urenco Group.

These two Agreements were signed on July 18, 1975. Under the Risk Sharing Agreement and the Profit Sharing Agreement, the GOG provided contributions totaling DM 338.3 million to Urenco Deutschland in support of the Treaty of Almelo's goal of creating and promoting the enrichment industry. An amount of DM 158.8 million was provided during the years 1980 through 1993 with regard to expanding the enrichment capacity of the Urenco Group. Prior to 1980, the GOG provided Urenco Deutschland with a total amount of funds equal to DM 179.5 million, which was used for the construction of enrichment facilities in Almelo and Capenhurst.

Under the terms of the assistance provided by the GOG under the Risk Sharing Agreement and Profit Sharing Agreement, the funds were conditional in that Urenco Deutschland was required to make repayments to the GOG based upon the financial performance of the company. However, in no case was the amount of the total repayments to exceed twice the amount of the funds provided to Urenco Deutschland by the GOG under these Agreements. Repayment obligations were of indefinite duration. During the years 1980 through 1992, Urenco Deutschland made repayments to the GOG equal to DM 5.6 million.

In 1987, Urenco Deutschland and the GOG signed an Adjustment Agreement, under which the GOG would be relieved of providing further funding under the program and Urenco Deutshland's repayment obligations would be capped at MDM 370.

According to the response of the company, with the 1993 merger of the Urenco Group enrichment operations, the German enrichment operation would be merged with its counterparts in the Netherlands and the United Kingdom. Prior to the merger, the GOG and Urenco Deutschland negotiated a basis to terminate the repayment obligations of the Risk Sharing Agreement and the Profit Sharing Agreement. Based upon the negotiations between the GOG and Urenco Deutschland, a ''Termination Agreement'' was signed on July 13, 1993, and amended on October 27, 1993. Under the terms of the Termination Agreement, Urenco Deutschland was to pay the government DM 101.1 million in final payment of the funds provided under the Risk Sharing and Profit Sharing Agreements. With this payment under the Termination Agreement, the repayment obligations under the Risk Sharing and Profit Sharing Agreements terminated. On July 1, 1994, the entire amount of the DM 101.1 million was repaid by the company to the GOG.

We preliminarily determine that assistance provided under this program to Urenco Deutschland is specific under section 771(5A)(D)(i) of the Act because the program was limited to one company. In addition, we determine that a financial contribution was provided under section 771(5)(D)(i) of the Act. A benefit was also provided to the company, within the meaning of section 771(5)(E) of the Act to the extent that the repayments made to the GOG were less than the amount of assistance provided to the company under this program.

Under this program, the company was provided with a total of DM 338.3 million in repayable funds and was obligated in a 1987 Agreement signed with the GOG to repay the GOG DM 370 million for this assistance. Prior to the Termination Agreement, the company had made repayments totaling DM 5.6 million. Under the Termination Agreement, which terminated the company's repayment obligations, Urenco Deutschland made a final repayment of DM 101.1 million to the government. However, Urenco Deutschland was obligated to make DM 370 million in repayments for the assistance it received under this program, but only repaid DM 106.7 million by the time the repayment obligation was terminated in 1993. Therefore, we preliminarily determine that the difference, DM 263.3 million, constitutes a grant provided to Urenco Deutschland in 1993, the year in which the repayment obligation under the program was terminated. Therefore, we preliminarily determine that a countervailable benefit was provided to Urenco Deutschland under this program. Because the termination of the repayment obligation was a one-time government action, we preliminarily determine the resultant benefit arising from this program to be non-recurring under section 351.524(c)(2) of the CVD Regulations.

To determine the benefit conferred by this program during the POI, we applied the Department's standard grant methodology and allocated the grant amount of DM 263.3 million over the AUL. *See* the allocation period discussion under the ''Subsidies Valuation Information'' section, above. We used as our discount rate the long-term corporate bond rate in Germany for 1993. We then took the benefit attributable to Urenco Deutschland during the POI from the grant and divided that benefit by the Urenco Group's total sales for the POI. On this basis, we preliminarily determine the net countervailable subsidy under this program to be 1.98 percent *ad valorem* for the Urenco Group.

C. Investment Allowance Act

Urenco Deutschland received grants from the GOG under the Investment Allowance Act. This program is administered by the Federal Ministry of Economics. Under this program, grants are provided by the GOG to companies located in identified regional development areas within the country. Urenco Deutschland received grants under this program for its enrichment plant in Gronau and for its R&D facility in Julich. Under the Investment Allowance Act, both Gronau and Julich qualified as regional development areas. A total of DM 51.403 million in grant disbursements was received by Urenco Deutschland during the years 1982 through 1990.

We preliminarily determine this program to be specific under section 771(5A)(D)(iv) of the Act because grants provided under this program are limited to companies located in designated regions within Germany. A financial contribution is also provided by this program under section 771(5)(D)(i) of the Act. In addition, a benefit is provided to Urenco Deutschland within the meaning of section 771(5)(E) of the Act in the amount of grant disbursements it received under this program. Therefore, we preliminarily determine this program to be countervailable. We also preliminarily determine that this program provided non-recurring benefits to Urenco Deutschland under section 351.524(c)(2) of the CVD Regulations because the assistance provided to Urenco Deutschland was tied to the capital assets of the company and assistance under this program was not provided on an ongoing basis from year to year.

To determine the benefit during the POI, we applied the Department's standard grant methodology and allocated the grants it received over the AUL. *See* the allocation period discussion under the ''Subsidies Valuation Information'' section, above. We used as our discount rate the long-term corporate bond rate in Germany at the time of the grant approval. We then took the benefit attributable to Urenco Deutschland during the POI from the grants and divided that amount by the Urenco Group's total sales for the POI. On this basis, we preliminary determine the net countervailable subsidy rate under this program to be 0.18 percent *ad valorem* for the Urenco Group.

II. Program Preliminarily Determined To Confer Subsidies From the Government of the Netherlands

A. Regional Investment Premium

Under the Regional Investment Premium (IPR) program, the GON provided UCN grants for the expansion of its centrifuge manufacturing facilities. Grants under this program are only available to companies located in certain regions of the Netherlands. UCN received four grants under this program. Although grants under this program were first approved by the GON in 1982, the disbursement of the grants occurred during the years 1982 through 1993.

We preliminarily determine that this program is specific under section 771(5A)(D)(iv) of the Act because grants provided under this program are limited to companies in designated regions of the country. A financial contribution is also provided by this program under section 771(5)(D)(i) of the Act. In addition, a benefit is provided to UCN under section 771(5)(E) of the Act in the amount of grants it received under this program. Therefore, we preliminarily determine this program to be countervailable. We also preliminarily determine that this program provided non-recurring benefits to UCN under section 351.524(c)(2) of the CVD Regulations because the assistance provided to UCN was tied to the capital assets of the company and the assistance under this program was not provided on an ongoing basis from year to year.

To determine the benefit during the POI, we applied the Department's standard grant methodology and allocated the grants UCN received over the AUL. *See* the allocation period discussion under the ''Subsidies Valuation Information'' section, above. We used as our discount rate the long-term government bond rate in the Netherlands at the time of the grant approval. The Department took the allocated benefits received during the POI for the two grant amounts and converted this amount to Pounds using the average Dutch Guilder to Pounds exchange rate for the POI. We then took this amount over the adjusted total sales of Urenco Group. Based on the information on the record, the Department preliminarily determines that the net countervailable subsidy rate under this program to be 0.06 percent *ad valorem* for the Urenco Group.

III. Program Preliminarily Determined To Confer Subsidies From the Government of the United Kingdom

A. Assumption of Debt: European Investment Bank Loans

Beginning in 1978, BNFL received four long-term loans from the European Investment Bank that were guaranteed by the UKG under the Nuclear Industry (Finance) Act (NIFA). According to UCL's questionnaire response, the loans were extended to finance the construction of two enrichment plants at the Capenhurst facility.

As explained above in the ''Urenco Group: Corporate History'' section of this notice, in preparation for the 1993 merger, BNFL changed the name of its subsidiary BNFL Enrichment Ltd. to UCL, and transferred to UCL the relevant portion of the Capenhurst site (the buildings and equipment related to the enrichment business), which included the buildings that were constructed with the EIB financing. Though BNFL transferred the enrichment operations to UCL, it retained the liabilities for the EIB loans that were tied to those facilities.

Because BNFL is owned by the UKG, we find that BNFL's retention of the EIB liabilities constitutes a government assumption of debt. Therefore, we preliminarily determine that BNFL's failure to transfer those liabilities to UCL constituted a financial contribution and conferred a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. Furthermore, because the benefit stemming from this event was limited to UCL, we preliminarily determine that it was specific to a particular enterprise within the meaning of section 771(5A)(D)(i) of the Act. We note that this approach is consistent with the approach taken by the Department in past proceedings involving the assumption or retention of debts that resulted in the bestowal of countervailable subsidies. *See, e.g., Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From Italy,* 64 FR 30624, 30628 (June 8, 1999).

Under section 351.508(a) of the CVD Regulations, in the case of an assumption or forgiveness of a firm's debt obligation, a benefit exists equal to the amount of the principal and/or interest (including accrued, unpaid interest) that the government has assumed or forgiven. Furthermore, section 351.508(c) states that the benefit from an assumption of debt will be treated as a non-recurring subsidy. Therefore, for purposes of this preliminary determination, we are treating the benefit attributable to UCL under this program as a non-recurring subsidy that is equal to the principal payments made by BNFL after the merger.

According to information in the questionnaire responses of the UKG and UCL, the transfer of the enrichment operations took place in September of 1993. Therefore, for purposes of this preliminarily determination, we are using September 1993 as the date of bestowal. In addition, in accordance with section 351.508(c) of the CVD Regulations, we are treating the principal outstanding retained by BNFL as a non-recurring subsidy received as of the date of the merger.

Because the subsidy amounts were denominated in foreign currencies, we allocated the subsidies over time in their original currency. We used as our discount rates the rates discussed in the ''Benchmarks for Loans and Discount Rate'' section of this notice. Once we allocated the foreign currency-denominated benefit to the POI, we converted the benefit amount into pounds using the average annual exchange in effect during the POI. We then divided the amounts of the benefits attributable to the POI by the Urenco Group's total sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy under this program to be 0.73 percent *ad valorem* for the Urenco Group.

IV. Programs Preliminarily Determined Not To Confer a Benefit From the Government of Germany

Based upon the information in the response, the programs listed below meet the requirements for specificity and provision of a financial contribution under the Act.[5] However, based upon a 12 year AUL, we have preliminarily determined that no benefit was received under these programs during the POI.

A. Regional Government Provision of Industrial Site

B. Regional Development Grants

V. Programs Preliminarily Determined Not To Confer a Benefit From the Government of the Netherlands

Based upon the information in the response, the programs listed below meet the requirements for specificity

[5] The Regional Government Provision of Industrial Site program is specific under section 771(5A)(D)(i) of the Act because the program was limited to one company. A financial contribution was also provided under section 771(5)(D)(iii) of the Act. The Regional Development Grant program is specific under section 771(5A)(D)(iv) of the Act because grants under this program are issued to companies located in designated regions. A financial contribution is also provided under section 771(5)(D)(i) of the Act.

and provision of a financial contribution under the Act.[6] However, based upon a 12 year AUL, we have preliminarily determined that no benefits were received under these three programs during the POI.

A. Centrifuge Enrichment Technology Research and Development

B. 1981 Equity Conversion

VI. Program Preliminarily Determined Not To Confer a Benefit From the Government of the United Kingdom

A. Regional Development Grants

Based upon the information in the response, this program meets the requirements for specificity and provision of a financial contribution under the Act.[7] However, based upon a 12 year AUL, we have preliminarily determined that no benefits were received under this program during the POI.

B. Centrifuge Development Grant

Petitioners alleged that BNFL/E received a grant of £47.8 million from the UKG to fund the development work and plant construction of a tripartite gas centrifuge project. According to UCL's questionnaire response, the Centrifuge Development Grant received by BNFL was repaid in 1987 as a lump sum. Supporting documentation confirms that in 1987 a payment of £47.5 million was made to the UKG in full and final settlement of the grant.

We note that information submitted by UCL indicates that it paid back £47.5 million of the original grant amount of £47.8 million, leaving £300,000 unpaid. Although this £300,000 could be considered a subsidy to UCL, the amount is so small that, pursuant to section 351.524(b)(2) of the CVD Regulations, it would be expensed in the year of receipt, 1987. Therefore, we preliminarily determine that no benefits were provided under this program during the POI.

C. Fossil Fuel Levy

Petitioners state that pursuant to the Electricity Act of 1989, the UKG established a governmental levy known as the Fossil Fuel Levy (FFL) that was in place from 1990 until the late 1990s. This tax was placed on electricity sales to make up the difference between the price of fossil-fuel fired electricity and the cost of nuclear-generated electricity. Petitioners allege that the portion of the levy received by the nuclear power companies was dedicated, in principle, to fund the future decommissioning of the United Kingdom's nuclear electrical power plants.

UCL states in its questionnaire response that neither Urenco Ltd. nor UCL was eligible to receive benefits under the FFL. According to UCL's questionnaire response, the money for the levy was paid out to generators of electricity from non-fossil fuel sources, such as producers of nuclear power. UCL states that because Urenco and UCL are not nuclear generators, they were not eligible to receive monies under the FFL. They add that BNFL did receive such benefits from the FFL solely with respect to electricity generated by its Calder Hall Sellafield Power Station.

We preliminarily determine that this program did not confer countervailable benefits on subject merchandise during the POI. According to information in its questionnaire response, BNFL received FFL levies with respect to a power-generating plant that was not related to the production or exportation of LEU. Therefore, we preliminarily determine that any assistance received by BNFL under this program was tied to non-subject merchandise, and, therefore, did not provide a benefit to subject merchandise.

D. Forgiveness of Decommissioning Debt

Starting in 1983, the year after the facility ceased operations, and continuing to the present day, BNFL decommissioned its gaseous diffusion plant which was located at the Capenhurst enrichment plant. Petitioners allege that the retention by BNFL of responsibility for decommissioning the older gaseous diffusion enrichment plant was a liability that should have been borne by Urenco and UCL, and, therefore, constitutes, in effect, a financial contribution that bestowed a countervailable grant to Urenco in the form of debt forgiveness. According to UCL's questionnaire response, the decommissioning liabilities of BNFL relating to its gaseous diffusion plant were not transferred to UCL because that plant was built to produce high enriched uranium (HEU) for defense purposes, and, therefore, is not related to the business and asset base of the Urenco organization. According to UCL's questionnaire response, BNFL's gaseous diffusion plant was never used to produce subject merchandise, LEU, and neither Urenco nor any of the predecessor entities within BNFL had any involvement in its operation.

Because the plant in question was never related to the production of LEU, we preliminarily determine that any benefits received by BNFL under this program are tied to non-subject merchandise, and, therefore, do not confer a benefit on the subject merchandise.

VII. Program Preliminarily Determined Not Countervailable From the Government of the Netherlands

A. Subordinated Shareholder Loan Provided to Urenco Ltd. by UCN

Petitioners allege that the Dutch government directly subsidized the Urenco Group through a 1993 shareholder loan made by UCN on non-commercial terms. As part of the 1993 restructuring arrangements a loan was made by the shareholders of Urenco Ltd. UCN, as one-third shareholder in Urenco Ltd., granted one-third of the loan.

According to information in UCL's questionnaire response, the shareholders of the Urenco Ltd., (International Nuclear Fuels Limited (INFL),[8] UCN, and Uranit), advanced subordinated shareholder loans to the company. Each shareholder contributed equal principal amounts and each charged the same interest rate. In its questionnaire response, UCN further explains that in the event of the liquidation of Urenco Ltd., the subordinated loans would be repaid only after all other creditors had been repaid, but before share capital would be returned to investors. Information in UCN's questionnaire response also indicates that the repayment terms (principal, interest rates charged, repayment periods) are set by reference to a number of factors, including likely period of the loans and the risks attached to the loans.

Section 771(5)(E)(ii) of the Act and section 351.505(a)(1) of the CVD Regulations stipulate that in the case of a loan, a benefit exists to the extent that the amount a firm pays on the

[6] The Centrifuge Enrichment Technology Research and Development Programs (R&D Program), funding given from 1969 through 1981, and the 1981 Equity Conversion are specific under section 771 (5A)(D)(i) of the Act because these programs are limited to one company. The R&D program provided a financial contribution under section 771(5)(D)(i) and the 1981 Equity Conversion Program provided a financial contribution under section 771(5)(D)(i) of the Act because we determine that no objective studies of the company had been prepared prior to the GON's 1981 equity infusion as reuqired under section 351.5079(a)(4)(ii) of the CVD Regulations.

[7] The Department found this program countervailable in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Preliminary Results of Countervailing Duty Administrative Review,* 64 FR 16920, 16923 (April 7, 1999). Affirmed in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Countervailing Duty Administrative Review,* 64 FR 43673, 43675 (August 11, 1999).

[8] INFL is a wholly-owned subsidiary of the UKG-owned BNFL.

government-provided loan is less than the amount the firm would pay on a comparable commercial loan that the firm could actually obtain on the market. Under section 351.505(a)(2) of the CVD Regulations, a comparable commercial loan is defined as a loan that is comparable to the government-provided loan. The provision goes on to state that the Department will place primary emphasis on similarities in the structure of the loans.

There are three shareholders of Urenco Ltd., with each shareholder owning one-third interest in the company. Two of the shareholders are government-owned, one by the UKG and one owned by the GON. The third shareholder, Uranit, is a privately-owned company in Germany. According to information on the record, this private shareholder also extended a loan to Urenco Ltd., in the same amount, at the same terms and on the same date as the UCN loan to Urenco Ltd. The Department finds that this loan from Uranit, a private source, constitutes a comparable commercial loan to use as the benchmark. *See* section 351.505(a)(2)(ii) of the CVD Regulations. Because the two government loans were on the same terms as the Uranit loans, we preliminarily determine that this loan was made on a commercial basis and is not countervailable. We note that for the final determination, we will examine the use of this benchmark closely, given the nature of the three governments' involvement in the consortium.

B. 1998 Shareholder Loan

Petitioners alleged that a loan on Urenco Ltd.'s annual report may be a shareholders loan made by UCN. Petitioners further alleged that the loan may be non-commercial and not consistent with the usual practices of private investors. In UNL's questionnaire response, it stated that the 1998 loan is not a shareholder loan; it was provided from a commercial bank and did not carry a government guarantee. Based upon this information, we preliminarily determine that this loan does not constitute a countervailable subsidy under 701(a)(1) of the Act.

VIII. Programs Preliminary Determined Not Countervailable From the Government of the United Kingdom

A. Loan-Stock Debt Forgiveness Program

Petitioners allege that UCL received countervailable benefits when its obligation to repay loan stock issued to BNFL was nullified in the 1993 corporate restructuring of the Urenco Group.

In its questionnaire response, UCL stated that all loans from BNFL to UCL were repaid with the exception of a £16.2 million ''loan waiver.'' [9] With respect to the £16.2 million ''loan waiver,'' which is referred to in Urenco's 1994 Annual report, UCL explains that the figure reflects the loss incurred by BNFL in connection with the merger. Specifically, UCL explains that the £16.2 million represents the difference between the total sum owed to BNFL in the books of UCL on the merger date and the agreed merger valuation of UCL. UCL further states that the £16.2 million appears on its financials as a ''loan waiver'' because, according to its accounting practices, the amount had to be accounted for either as a loss on a disposal of assets or a failure to recover money advanced.

Based on information submitted by UCL, it appears that the 6.2 million at issue is the result of a difference in the manner in which the assets that were transferred from BNFL to Urenco Ltd. were valued rather than the result of a loan waiver. Therefore, we preliminarily determine that there was no debt forgiveness under this program. However, we must also examine whether there was a potential countervailable subsidy provided in this transaction.

We addressed a similar program in the *Initiation Notice* involving the transfer of assets from BNFL and whether the transfer provided a subsidy on enrichment production. In the *Initiation Notice,* we determined not to initiate on petitioners' allegation that the transfer of one of the enrichment plants from BNFL to Urenco Ltd. was at less than adequate remuneration. Specifically, in the *Initiation Notice,* we stated that ''{t}he mere fact that the A3 plant was allegedly sold at a price that was below its book value is not enough information to warrant initiating an investigation of less than adequate remuneration allegation without any reference to prevailing market conditions for the good in question.'' *See,* 66 FR at 1087.

With respect to the program under investigation, the amount of £16.2 million is due to the transfer or sale of assets to Urenco at below the book value as recorded by BNFL. Similar to the situation with the sale of the A3 plant addressed in the *Initiation Notice,* there is no evidence on the record that indicates that these assets were sold for less than adequate remuneration. Therefore, based on the information on the record and on our approach in the *Initiation Notice,* we preliminarily determine that this program is not countervailable. We will, however, examine all aspects of the restructuring and subsequent merger of the Urenco Group during verification.

B. Subordinated Shareholder Loan Provided to Urenco Ltd. by INFL

Petitioners allege that the UKG directly subsidized Urenco Ltd. through a 1993 shareholder loan made on non-commercial terms by INFL.

According to information in UCL's questionnaire response, the shareholders of Urenco Ltd., INFL, UCN, and Uranit, advanced subordinated shareholder loans to the company. Each shareholder contributed equal principal amounts and each charged the same interest rate. In its questionnaire response, UCL further explains that in the event of the liquidation of Urenco Ltd., the subordinated loans would be repaid only after all other creditors had been repaid, but before share capital would be returned to investors. Information in UCL's questionnaire response also indicates that the repayment terms (principal interest rates charged, repayment periods) are set by reference to a number of factors, including duration of the loans and the risks attached to the loans.

Section 771(5)(E)(ii) of the Act and section 351.505(a)(1) of the CVD Regulations stipulates that in the case of a loan, a benefit exists to the extent that the amount a firm pays on the government-provided loan is less than the amount the firm would pay on a comparable commercial loan that the firm could actually obtain on the market. Under section 351.505(a)(2) of the CVD Regulations, a comparable commercial loan is defined as a loan that is comparable to the government-provided loan. The provision goes on to state that the Department will place primary emphasis on similarities in the structure of the loans.

There are three shareholders of Urenco Ltd., with each shareholder owning one-third interest in the company. Two of the shareholders are government-owned, one by the UKG and one owned by the GON. The third shareholder, Uranit, is a privately-owned company in Germany. According to information on the record, this private shareholder also extended a loan to Urenco Ltd., in the same amount, at

[9] In the *Initiation Notice,* we also initiated an investigation of the 1993 Debt Forgiveness of £16.2 million as a separate program. *See* 66 FR at 1087. According to information in UCL's questionnaire response, this loan is the same loan that was involved in the Loan Stock Debt Forgiveness program.

the same terms and on the same date as the INFL loan to Urenco Ltd. The Department finds that this loan from Uranit, a private source, constitutes a comparable commercial loan to use as the benchmark. *See* section 351.505(a)(2)(ii) of the CVD Regulations. Therefore, we preliminarily determine that the loan provided to Urenco Ltd. by INFL was made on a commercial basis and is not countervailable. We note that for the final determination, we will examine the use of this benchmark closely, given the nature of the three governments' involvement in the consortium.

C. Extraordinary Asset Write Downs Prior to Transfer of BNFL Enrichment Facilities

Petitioners explain that the 1992–1993 Annual Report of UCL indicates that the value of the physical assets of the Capenhurst enrichment operations decreased to £196 million as of March 31, 1993, due in large part to a extraordinary depreciation charge of £20 million. Petitioners allege that this extraordinary depreciation charge could have conferred a benefit upon UCL.

In its questionnaire response, UCL states that the extraordinary depreciation relates to the value of a building known as the E23 building, which was constructed in the mid-1980s for the purpose of housing centrifuge operations. UCL further explains in its response that due to a downturn in market conditions, the centrifuge machines were never installed in the E23 building. Because it was estimated during the merger that there was little chance that production of LEU would ever take place in the E23 building, the parties to the merger agreed to write down the value of the building.

According to information provided in the response, the write down of the E23 plant was required by law. Under the Companies Act of 1985, Schedule 4 Paragraph 19(2), the government requires that:

> Provisions for diminution in value shall be made in respect of any fixed asset which has diminished in value if the reduction in its value is expected to be permanent. * * * and any such provisions which are not shown in the profit and loss account shall be disclosed (either separately or in aggregate) in a note to the accounts.

Furthermore, UCL's questionnaire response indicates that the extraordinary write downs taken by BNFL on the E23 building did not give rise to any changes in the corporation tax computation or any benefits on the tax returns filed in fiscal years 1992–1993 or 1993–1994 for UCL.

According to information on the record of this investigation, pursuant to UKG corporate law, BNFL was apparently required to write down the value of the E23 building in order to more accurately reflect its true value. On this basis, we preliminarily determine that this program is not countervailable.

IX. Programs Preliminarily Determined Not To Be Not Used in the Netherlands

A. Wet Investeringsrekening Law (WIR)

B. Subsidized Loan Forgiveness

X. Program Preliminarily Determined Not To Be Not Used in the United Kingdom

A. Financial Assistance Under the Electricity Act of 1989

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for the Urenco Group. The ''all others'' rate is the same as the rate for UCL. These rates are summarized in the table below:

Producer/exporter	Net subsidy rate
Urenco Group Ltd.	3.72% *ad valorem.*
All Others	3.72% *ad valorem.*

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from the UK, 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 bond for such entries of the merchandise in the amounts 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, NW., Washington, DC 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, NW., Washington, DC 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 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. Effective January 20, 2001, Bernard T. Carreau is fulfilling the

duties of the Assistant Secretary for Import Administration.

Dated: May 7, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–12064 Filed 5–11–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of approval and availability of revision to the Final Revised Management Plan for the Jobos Bay National Estuarine Research Reserve, 2001–2005.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, has approved the revised Management Plan for the Jobos Bay National Estuarine Research Reserve (JBNERR). The JBNERR was designated in 1981 and has been operating under a Management Plan approved in 1982. Pursuant to Section 315 of the Coastal Zone Management Act, 16 U.S.C. Section 1461, and Section 921.33(c) of the implementing regulations, a state must revise its management plan at least every five years, or more often if necessary. This revision is Puerto Rico's effort to comply with this requirement.

FOR FURTHER INFORMATION CONTACT: Nathalie Peter, OCRM, Estuarine Reserves Division, 1305 East-West Highway, 11th Floor (N/ORM5), Silver Spring, Maryland 20910. (301) 713–3155, Extension 119.

SUPPLEMENTARY INFORMATION: The JBNERR Management Plan Revision contains the program mission, goals and objectives of the JBNERR, and establishes policies that will protect the natural resources and ecological integrity of the reserve. It provides guidance for reserve operation and management with the objective of providing long-term opportunities for research, education and stewardship.

The JBNERR Management Plan Revision was prepared by the Puerto Rico Department of Natural and Environmental Resources (DNER). It was presented at a public hearing at the JBNERR Visitors Center on March 30, 1999. The Puerto Rico Planning Board adopted the plan on March 3, 2000, under Resolution Number JB–2000–PM–JOBANERR. It was subsequently approved by an Executive Order signed by the Governor on December 29, 2000. The Planning Board approval process renders the JBNERR Management Plan an enforceable document to be upheld by the Government of Puerto Rico.

The JBNERR Management Plan Revision submitted for the Planning Board approval process contained an action plan covering the years 2000–2004. NOAA is approving the Management Plan revision for the years 2001–2005. To remedy the discrepancy in the five-year time period, NOAA has requested and DNER has agreed to submit a supplemental 2005 action plan and update for NOAA approval in 2004.

Revisions to the JBNERR Management Plan include the following:

1.Updated and detailed boundary maps and maps of natural resources and land uses within and adjacent to the reserve.

2. A full discussion of the management issues at the reserve.

3. A section detailing staffing needs, roles, and responsibilities.

4. A facilities description. Under a NOAA matching grant, the DNER has renovated a historic building to serve as the Visitors Center. This central facility consists of administrative offices, an information center, a conference and exhibit area, and a laboratory.

5. A new section addressing resource protection that includes goals and objectives; a management sector zoning plan establishing preservation, conservation, and limited use sectors; and resource protection guidelines that prohibit jet skis and allow seasonal hunting in designated areas.

6. Appendices that provide a set of regulations for the use and protection of JBNERR resources; summaries of the commonwealth legal authorities applicable to the reserve; a surveillance and enforcement plan for the DNER Ranger Corps; and guidelines for research, monitoring, manipulation, and education activities to be undertaken at the reserve.

The chief areas of concentration for the JBNERR in the next four years are as follows:

1. Establishing a Citizens' Advisory Committee, Research Advisory Committee, and Education Advisory Committee.

2. Increasing coordination among Federal and local agencies related to surveillance and enforcement.

3. Expanding the reserve's role in protecting and restoring reserve resources through boundary delineation and increased signage, acquisition, the special area planning process, and action on the U.S. Environmental Protection Agency consent order related to the northern boundary of the reserve.

4. Improving the transfer of estuarine information between reserve programs and external groups (e.g. local neighbors, local and commonwealth decision-makers in the scientific, governmental and educational communities) through exhibits, newsletters, interpretive trails, teaching guides and curriculum materials, and coastal decision-maker workshops.

5. Encouraging community stewardship of the estuary and watershed through an expanded outreach program and enhanced access to the reserve.

6. Initiating a reserve volunteer program.

7. Completing an environmental characterization and site profile for the reserve.

8. Designing and implementing a long-term environmental monitoring program that incorporates the national System-Wide Monitoring Program.

9. Actively promoting collaborative research activities.

Copies of the document can be obtained from the Jobos Bay National Estuarine Research Reserve, Department of Natural and Environmental Resources, Call Box B, Aguirre, Puerto Rico, 00704. (787) 853–4617.

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Dated: May 3, 2001.

Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Office of Oceanic and Atmospheric Research; Notice of Solicitation for NOAA Science Advisory Board Members

ACTION: Notice of solicitation for NOAA Science Advisory Board members.

SUMMARY: The Under Secretary for Oceans and Atmosphere is soliciting nominations for membership on the NOAA Science Advisory Board (SAB). The SAB is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on long- and