

use as a discount rate the following, in order of preference:

(A) The cost of long-term, fixed-rate loans of the firm in question, excluding any loans that the Secretary has determined to be countervailable subsidies;

(B) The average cost of long-term, fixed-rate loans in the country in question; or

(C) A rate that the Secretary considers to be most appropriate.

(ii) *Exception for uncreditworthy firms.* In the case of a firm considered by the Secretary to be uncreditworthy (see § 351.505(a)(4)), the Secretary will use as a discount rate the interest rate described in § 351.505(a)(3)(iii).

§ 351.525 Calculation of *ad valorem* subsidy rate and attribution of subsidy to a product.

(a) *Calculation of *ad valorem* subsidy rate.* The Secretary will calculate an *ad valorem* subsidy rate by dividing the amount of the benefit allocated to the period of investigation or review by the sales value during the same period of the product or products to which the Secretary attributes the subsidy under paragraph (b) of this section. Normally, the Secretary will determine the sales value of a product on an f.o.b. (port) basis (if the product is exported) or on an f.o.b. (factory) basis (if the product is sold for domestic consumption). However, if the Secretary determines that countervailable subsidies are provided with respect to the movement of a product from the port or factory to the place of destination (*e.g.*, freight or insurance costs are subsidized), the Secretary may make appropriate adjustments to the sales value used in the denominator.

(b) *Attribution of subsidies*—(1) *In general.* In attributing a subsidy to one or more products, the Secretary will apply the rules set forth in paragraphs (b)(2) through (b)(7) of this section.

(2) *Export subsidies.* The Secretary will attribute an export subsidy only to products exported by a firm.

(3) *Domestic subsidies.* The Secretary will attribute a domestic subsidy to all products sold by a firm, including products that are exported.

(4) *Subsidies tied to a particular market.* If a subsidy is tied to sales to a particular market, the Secretary will at-

tribute the subsidy only to products sold by the firm to that market.

(5) *Subsidies tied to a particular product.* (i) *In general.* If a subsidy is tied to the production or sale of a particular product, the Secretary will attribute the subsidy only to that product.

(ii) *Exception.* If a subsidy is tied to production of an input product, then the Secretary will attribute the subsidy to both the input and downstream products produced by a corporation.

(6) *Corporations with cross-ownership.* (i) *In general.* The Secretary normally will attribute a subsidy to the products produced by the corporation that received the subsidy.

(ii) *Corporations producing the same product.* If two (or more) corporations with cross-ownership produce the subject merchandise, the Secretary will attribute the subsidies received by either or both corporations to the products produced by both corporations.

(iii) *Holding or parent companies.* If the firm that received a subsidy is a holding company, including a parent company with its own operations, the Secretary will attribute the subsidy to the consolidated sales of the holding company and its subsidiaries. However, if the Secretary finds that the holding company merely served as a conduit for the transfer of the subsidy from the government to a subsidiary of the holding company, the Secretary will attribute the subsidy to products sold by the subsidiary.

(iv) *Input suppliers.* If there is cross-ownership between an input supplier and a downstream producer, and production of the input product is primarily dedicated to production of the downstream product, the Secretary will attribute subsidies received by the input producer to the combined sales of the input and downstream products produced by both corporations (excluding the sales between the two corporations).

(v) *Transfer of subsidy between corporations with cross-ownership producing different products.* In situations where paragraphs (b)(6)(i) through (iv) of this section do not apply, if a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to a corporation with cross-ownership, the Secretary will attribute

the subsidy to products sold by the recipient of the transferred subsidy.

(vi) *Cross-ownership defined.* Cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. Normally, this standard will be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations.

(7) *Multinational firms.* If the firm that received a subsidy has production facilities in two or more countries, the Secretary will attribute the subsidy to products produced by the firm within the country of the government that granted the subsidy. However, if it is demonstrated that the subsidy was tied to more than domestic production, the Secretary will attribute the subsidy to multinational production.

(c) *Trading companies.* Benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm which is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated.

§ 351.526 Program-wide changes.

(a) *In general.* The Secretary may take a program-wide change into account in establishing the estimated countervailing duty cash deposit rate if:

(1) The Secretary determines that subsequent to the period of investigation or review, but before a preliminary determination in an investigation (see § 351.205) or a preliminary result of an administrative review or a new shipper review (see §§ 351.213 and 351.214), a program-wide change has occurred; and

(2) The Secretary is able to measure the change in the amount of countervailable subsidies provided under the program in question.

(b) *Definition of program-wide change.* For purposes of this section, “program-wide change” means a change that:

(1) Is not limited to an individual firm or firms; and

(2) Is effectuated by an official act, such as the enactment of a statute, regulation, or decree, or contained in the schedule of an existing statute, regulation, or decree.

(c) *Effect limited to cash deposit rate—*
(1) *In general.* The application of paragraph (a) of this section will not result in changing, in an investigation, an affirmative determination to a negative determination or a negative determination to an affirmative determination.

(2) *Example.* In a countervailing duty investigation, the Secretary determines that during the period of investigation a countervailable subsidy existed in the amount of 10 percent *ad valorem*. Subsequent to the period of investigation, but before the preliminary determination, the foreign government in question enacts a change to the program that reduces the amount of the subsidy to a *de minimis* level. In a final determination, the Secretary would issue an affirmative determination, but would establish a cash deposit rate of zero.

(d) *Terminated programs.* The Secretary will not adjust the cash deposit rate under paragraph (a) of this section if the program-wide change consists of the termination of a program and:

(1) The Secretary determines that residual benefits may continue to be bestowed under the terminated program; or

(2) The Secretary determines that a substitute program for the terminated program has been introduced and the Secretary is not able to measure the amount of countervailable subsidies provided under the substitute program.

§ 351.527 Transnational subsidies.

Except as otherwise provided in section 701(d) of the Act (subsidies provided to international consortia) and section 771A of the Act (upstream subsidies), a subsidy does not exist if the Secretary determines that the funding for the subsidy is supplied in accordance with, and as part of, a program or project funded:

(a) By a government of a country other than the country in which the recipient firm is located; or

(b) By an international lending or development institution.