*2. Grants Provided to VAAG: 1981–86*

The GOA provided grants to VAAG through ÖIAG pursuant to Law 602/1981, Law 589/1983, and Law 298/1987. In Certain Steel, the Department found grants disbursed under Law 602/1981, Law 589/1983 and Law 298/1987 to be provided specifically to the steel industry and, hence, countervailable (58 FR 37221). Respondents have not challenged the countervailability of these grants in this proceeding.

The grant received in 1981 was less than 0.50 percent of VAAG's sales in that year. Hence, as explained in § 355.44(a) of our *Proposed Regulations* and the *GIA*, at 37217, we have expensed the grant received in 1981 in that year. To calculate the benefit from the other grants, we used the methodology described in *Equity Infusions to VAAG: 1983–84, 1986* section, above. On this basis, we determine the net subsidies under this program to be 3.68 percent *ad valorem* for all manufacturers, producers, and exporters in Austria of OCTG.

*3. Assumption of Losses at Restructuring by VAAG on Behalf of Kindberg*

In Certain Steel, we determined that, in connection with the 1987 restructuring, VAAG retained all the losses carried forward on its balance sheet and that no losses were assigned to its newly created subsidiaries. VAAG later received funds from the GOA under Law 298/1987 to offset these losses. We found that VAAG's subsidiaries benefitted because VAAG retained these losses when the company was restructured. In the present investigation, petitioners allege that this assumption of losses provided a countervailable subsidy to Kindberg, a subsidiary of VAAG.

In our preliminary determination, respondents argued that the assumption of losses did not provide a benefit to Kindberg because Kindberg could have used such losses to reduce income-tax liabilities in the future. We stated that this argument would be more closely analyzed for our final determination.

At verification, we learned that Austrian Commercial Law and Austrian Tax Law distinguish between two types of losses: tax losses and commercial losses. Kindberg's tax losses *were* carried forward after the restructuring and were used to offset income taxes in future years. The losses which were retained by VAAG and countervailed in Certain Steel, were commercial losses. All commercial losses were retained by VAAG after the restructuring. Hence we conclude that the losses retained by VAAG could not be used to reduce the future tax liabilities of Kindberg.

Respondents now argue that these commercial losses were not generated by Kindberg and, therefore, the assumption of losses by VAAG does not benefit Kindberg. At verification, however, respondents were unable to identify how the losses which remained on VAAG's books were incurred. Moreover, Kindberg's auditor's report states that Kindberg incurred significant commercial losses in 1985 and 1986. Hence, we find no basis for concluding that the losses retained by VAAG should not be attributed in part to Kindberg.

We concluded in Certain Steel that, ''if VAAG had assigned these losses to its new companies, then each of the new companies would have been in a * * * precarious financial position'' (Certain Steel, 37221). Similarly, we determine that the assumption of losses provided a benefit to Kindberg.

To calculate the benefit, we have treated the losses not distributed to Kindberg as a grant received in 1987. Kindberg's share of the losses was determined by reference to its asset value relative to total VAAG assets. To allocate the benefit, we used the methodology described in *Equity Infusions to VAAG: 1983–84, 1986* section, above. On this basis, we determine the net subsidies for this program to be 1.26 percent *ad valorem* for all manufacturers, producers, and exporters in Austria of OCTG.

*4. Equity Infusion to Kindberg: 1987*

A direct equity infusion from ÖIAG to Kindberg was made on January 1, 1987, pursuant to Law 298/1987. As under Law 589/1983, funds under Law 298/1987 were provided solely to the steel industry. Therefore, we find this infusion to be specific. Moreover, since we have determined that Kindberg was unequityworthy in 1987, this infusion was made on terms inconsistent with commercial considerations. Thus, we determine this infusion to be countervailable.

To calculate the benefit for the POI, we treated the equity amount as a grant and allocated the benefit over 15 years. Because the equity investment was made directly in Kindberg, and because Kindberg was separately incorporated as of that year, the entire benefit has been attributed to Kindberg. The portion allocated to the POI was divided by total sales of Kindberg during the POI to determine the *ad valorem* benefit. On this basis, we determine the net subsidies for this program to be 5.13 percent *ad valorem* for all manufacturers, producers, and exporters in Austria of OCTG.

**B. Programs Determined not to Benefit the Subject Merchandise**

We included in our investigation subsidies provided after 1987 to VA Linz, VAAG and VAS based on petitioners' allegation that subsidies to these companies benefitted Kindberg. Based on information provided in the responses and our findings at verification, we determine that no subsidies were being transmitted to Kindberg from its related companies. Therefore, the following programs did not bestow a benefit on Kindberg. For a discussion of the transmittal of subsidies, see the Department's Concurrence Memorandum dated June 19, 1995.

1. 1987 Equity Infusion to VA Linz.
2. Post-Restructuring Equity Infusions to VAAG.
3. Post-Restructuring Grants to VAAG.
4. Post-Restructuring Grants to VAS.

**C. Analysis of Upstream Subsidies**

The petitioners have alleged that manufacturers, producers, or exporters of OCTG in Austria receive benefits in the form of upstream subsidies. Section 771A(a) of the Tariff Act of 1930, as amended (the Act), defines upstream subsidies as follows:

The term ''upstream subsidy'' means any subsidy * * * by the government of a country that:

(1) Is paid or bestowed by that government with respect to a product (hereinafter referred to as an ''input product'') that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

(2) In the judgment of the administering authority bestows a competitive benefit on the merchandise; and

(3) Has a significant effect on the cost of manufacturing or producing the merchandise.

Each of the three elements listed above must be satisfied in order for the Department to find that an upstream subsidy exists. The absence of any one element precludes the finding of an upstream subsidy. As discussed below, respondents have shown that a competitive benefit does not exist. Therefore, we have not addressed the first and third criteria.

*Competitive Benefit*

In determining whether subsidies to the upstream supplier(s) confer a competitive benefit within the meaning of section 771A(a)(2) on the subject merchandise, section 771A(b) directs that:

* * * a competitive benefit has been bestowed when the price for the input product * * * is lower than the price that the manufacturer or producer of merchandise