materials used in their manufacture from materials and exports to other markets financed with ECR loans. However, according to the respondents, the Department was presented with exactly the same issue in *Crankshafts from Brazil* and in that case the Department did not require that the exporters segregate raw materials purchased with export financing.

Department's Position: The GOM provides ECR financing based on export performance. The explicit purpose of this program is to promote the export of manufactured and approved agricultural products. Two types of ECR financing are available: pre-shipment and post-shipment financing. There is no evidence that the GOM limits these ECR loans to increase exports to markets other than the United States, nor is there evidence of a provision that prevents exporters from receiving ECR loans for exports to the United States.

During the review period, both Heveafil and Filmax applied for and used pre-shipment financing based on certificates of performance (CP). Preshipment financing based on CPs is a line of credit based on previous exports and, when received, cannot be tied to specific sales in specific markets. Because pre-shipment loans were not shipment-specific, we included all loans in calculating the country-wide duty rate. By excluding exports to the United States from their application for export financing, the companies merely reduced the amount of financing they received.

We disagree with respondents that in similar circumstances the Department has concluded that the exclusion of U.S. exports from applications in the manner described by respondents eliminates any countervailable subsidy that would otherwise be present. Where a benefit is not tied to a particular product or market, it is the Department's practice to allocate the benefit to all products exported by a firm where the benefit is received pursuant to an export program. See 19 C.F.R. 355.47(c) of the *Proposed* Regulations (54 FR 23375, May 31, 1989). A benefit is tied to a particular product or market at the time of receipt. Respondents cannot demonstrate that, at the time of receipt, ECR loans were tied solely to non-U.S. exports. Further, respondents' reliance on the Crankshafts from Brazil suspension agreement is misplaced. Suspension agreements are unusual, negotiated arrangements in which parties to a proceeding agree to renounce countervailable subsidies. As such, unlike final determinations, they do not serve as administrative precedent. Moreover, the Crankshafts from Brazil

suspension agreement is consistent with our allocation practice, as described in the *Proposed Regulations*.

Comment 4: Respondents argue that the Department previously found the Pioneer Status Program not countervailable. See, Carbon Steel Wire Rod from Malaysia; Final Results of Countervailing Duty Administrative Review (Wire Rod from Malaysia) (56 FR 14927; April 12, 1991). Respondents assert that it is not countervailable because tax benefits under this program are not limited to any sector or region of the Malaysian economy, nor is the program exclusively available to exporting companies. They contend that the Department confirmed in the first administrative review, both the *de jure* and *de facto* availability of this program to the entire Malaysian economy, and that the pioneer status tax benefits are not targeted to specific industries or companies in a discriminatory manner. Furthermore, the Department verified in the original investigation that the internal guidelines used to grant pioneer status are characterized by neutral criteria unrelated to exports, location or any other factors that could require a determination that the program is countervailable.

Respondents further argue that the Department verified in the first administrative review that the GOM does not require export commitments, or view them as preponderant, in evaluating applications; that export potential is merely one of 12 factors considered in granting status; and that a product will not be accepted based on export potential alone. Furthermore, respondents argue that the Department verified in the first administrative review that the GOM commonly approves companies who do not make export commitments as well as some who do make them. Therefore, export performance is not viewed as a preponderant factor, but as one of many neutral criteria.

Department's Position: We addressed this identical argument in the previous review. In Wire Rod from Malaysia, we concluded that benefits were not used by a specific industry or group of industries and that no industry or group of industries used the program disproportionately and found the program not to be countervailable. That determination, however, did not specifically address situations where companies had a specific export condition attached to their pioneer status approval. In the Wire Rod investigation, petitioner raised the issue of an export requirement. Although the requirement per se is not new, it was

not at issue with the companies investigated in *Wire Rod*.

As stated in the Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Extruded Rubber Thread from Malaysia, 57 FR 38472 (August 25, 1992) (Malaysian Final Determination), we continue to view the "domestic" side of the Pioneer Statue Program to be not countervailable. However, in this instance, recipients of the tax benefits conferred by this program can be divided into two categories: industries and activities that will find market opportunities in Malaysia and elsewhere, and those that face a saturated domestic market. At verification of the first administrative review, we established that an export requirement may sometimes be applied to certain industries after it is determined that the domestic market will no longer support additional producers. The extruded rubber thread industry is among these industries.

The combination of the necessary export orientation of the industry due to lack of domestic market opportunities and the explicit export condition attached to pioneer status approval in the rubber thread industry lead us to conclude that the "export" side of the Pioneer Status Program constitutes an export subsidy to the rubber thread industry. Whether or not the commitment was voluntary, as respondents suggest, the company has obligated itself to export a very large portion of its production, and that commitment was a condition for approval of benefits. For further information, see Malaysian Final Determination.

Comment 5: Respondents argue that the Department overstated the benefit from the Pioneer Status Program because it fails to deduct normal capital allowance that would have been allowed if the program had not been used. Respondents claim that Rubberflex, in fact, received no cash benefits from this program. Furthermore, they claim, the Department incorrectly allocated pioneer status tax benefits over only export sales even though pioneer status tax benefits are also applicable to profits on domestic sales. According to the respondents, this is consistent with the Department's practice to allocate benefits over total sales to which they are "tied."

Department's Position: We disagree with respondents. When a company receives pioneer status, it is allowed to accumulate normal capital allowance for use in future years. Thus, these allowances were not used to offset