

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-475-830]

Notice of Initiation of Countervailing Duty Investigation: Stainless Steel Bar from Italy

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

ACTION: Initiation of countervailing duty investigation.

EFFECTIVE DATE: January 25, 2001.

FOR FURTHER INFORMATION CONTACT:

Suresh Maniam or Greg Campbell at (202) 482-0176 and (202) 482-2239, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigation*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. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to the provisions codified at 19 CFR part 351 (April 2000).

The Petition

On December 28, 2000, the Department received a petition filed in proper form by Carpenter Technology Corp., Crucible Specialty Metals, Electralloy Corp., Empire Specialty Steel Inc., Slater Steels Corp., and the United Steelworkers of America, AFL-CIO/CLC (collectively, the petitioners). The Department received supplemental information to the petition on January 8, 2001.

In accordance with section 702(b)(1) of the Act, the petitioners allege that manufacturers, producers, or exporters of the subject merchandise from Italy receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support. *See infra*,

"Determination of Industry Support for the Petition."

Scope of Investigation

For purposes of this investigation, the term "stainless steel bar" includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times in thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled product), and angles, shapes and sections.

The stainless steel bar subject to this investigation is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedules of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of these investigations is dispositive.

During our review of the petition, we discussed the scope with the petitioners and the Customs Service (*see* Memorandum to Paula Ilardi, "Scope Language for Stainless Steel Bar Petitions," dated January 9, 2001) to ensure that the scope in the petition accurately reflects the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise

issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of Italy (GOI) and the European Commission (EC) for consultations with respect to the petition filed. The Department held consultations with the GOI and EC on January 10, 2001. The points raised in the consultations are described in the Memorandum to File, "CVD Consultations with Officials from the Government of Italy and the European Commission," dated January 10, 2001 and in the subsequent submission by the EC, dated January 10, 2001. These points are addressed in the Import Administration Countervailing Duty Investigation Initiation Checklist, dated January 17, 2001 (hereafter the Initiation Checklist), on file in the Central Records Unit, Room B-099 of the main Department of Commerce building.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department

shall either poll the industry or rely on other information in order to determine if there is support for the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.¹

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

We reviewed the description of the domestic like product presented in the petition with Customs and the ITC. Based upon our review of the petitioners' claims, we concur that there is a single domestic like product, which is defined, *supra*, in the "Scope of Investigation" section. Moreover, the Department has determined that the petition contains adequate evidence of industry support and, therefore, polling is unnecessary (see Initiation Checklist). The Department received no opposition to the petition. The petitioners established industry support representing over 50 percent of total production of the domestic like product. Accordingly, we determine that this petition is filed on behalf of the domestic industry within the meaning of section 702(c)(4)(A) of the Act.

Injury Test

Because Italy is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise. The petitioners contend that the industry's injured condition is evident in the declining trends in net operating income, net sales volume and value, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence, and meet the statutory requirements for initiation (see Initiation Checklist).

Allegations of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under sections 701(a), and (2) is accompanied by information reasonably available to the petitioners supporting the allegations.

Initiation of Countervailing Duty Investigation

The Department has examined the countervailing duty petition on stainless steel bar from Italy and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of stainless steel bar from Italy receive countervailable subsidies (see Initiation Checklist).

A. Equityworthiness

The petitioners allege that, consistent with *Wire Rod*,² the Department should find Cogne Acciai Speciali S.r.l. (CAS) and its predecessors unequityworthy from 1985 through 1988 and from 1991 through 1992.

B. Creditworthiness

The petitioners allege that, consistent with *Wire Rod*, the Department should find CAS and its predecessors uncreditworthy from 1985 through 1993. The petitioners also request that the Department investigate the creditworthiness of Gruppo Falck S.p.A. (Falck) and Acciaierie di Bolzano S.p.A. (Bolzano) from 1993 through 1994 and from 1995 through 1996, respectively. The petitioners note that in *Wire Rod*, the Department initiated an uncreditworthy investigation on Falck and Bolzano for the years in question, but did not make a final determination because these companies were found to have not received any long-term loans or loan guarantees in those years (see Petitioners Supplement, dated January 8, 2001, at Attachment 1.) If, in the course of this investigation, we discover that Falck or Bolzano received equity infusions, loans or loan guarantees were provided in these years, we will investigate whether they were uncreditworthy.

C. Change in Ownership

The petitioners allege that Finsider S.p.A. (Finsider)/ILVA and Falck, received non-recurring grants prior to their changes in ownership and that, after the changes in ownership, CAS and Acciaierie Balbruna S.r.l. (Valbruna)/Bolzano are, for all intents and purposes, the same "person" as Finsider/ILVA and Falck, respectively. Consequently, according to the petitioners, consistent with the Department's recent *AST Remand Redetermination*,³ the past countervailable subsidies received by these business entities continue to be countervailable after the changes in ownership. In support of the their allegation for CAS, the petitioners note that CAS, like the respondent in the *AST Remand Redetermination*, was created as a separately incorporated subsidiary of ILVA pursuant to the restructuring of the Italian steel industry. All assets and certain

¹ See *Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

² See *Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy*, 63 FR 40474 (July 29, 1998) (*Wire Rod*).

³ See *Final Results of Redetermination Pursuant to Court Remand in Acciai Speciali Terni S.p.A. v. United States*, et al., (Ct. No. 99-06-00364) (December 19, 2000) (*AST Remand Redetermination*).

liabilities associated with the production facilities of these companies were contributed to the newly formed companies in preparation for privatization.

With regard to Bolzano, the petitioners argue that the company's financial statements demonstrate the continuity in the company's business activities before and after its sale. In particular, the company's production of merchandise continued unimpeded during the period of ownership change. Therefore, the petitioners request, consistent with the methodology in the *AST Remand Redetermination*, that all non-recurring subsidies provided to Finsider/ILVA and Falck be attributed in full to CAS and Valbruna/Bolzano, respectively.

D. Programs

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Italy:

Government of Italy Subsidies

1. Capacity Reduction Payments under Law 193/1984
2. Law 796/76 Exchange Rate Guarantees
3. Article 33 of Law 227/77, Export Credit Financing Under Law 227/77, and Decree Law 143/98
4. Law 451/94 Early Retirement Benefits
5. Grants under Laws 46/82 and 706/85
6. Law 181/89 and Law 120/89
7. Law 488/92, Legislative Decree 96/93 and Circolare 38522
8. Law 341/95 and Circolare 50175/95
9. Law 675/77
10. Export Marketing Grants under Law 394/81
11. Law 10/91
12. Law 481/94 "Law on Dismantling of the Private-Sector Steel Industry"
13. Law 549/95

Government of Bolzano Subsidies

14. Bolzano Law 25/81 Articles 13 through 15

Government of Valle d' Aosta Subsidies

15. Valle d' Aosta Law 64/92
16. Valle d' Aosta Law 12/87

European Union Subsidies

17. ECSC Article 54 Loans
18. European Social Fund
19. ECSC Article 56 Conversion Loans, Interest Rebates and Restructuring Grants
20. European Regional Development Fund

21. Commission Decision 88/588 and Resider II

Company Specific Subsidies Conferred by the Government of Italy

22. Restructuring Subsidies Provided to CAS

A. Equity Infusions to Finsider and ILVA

B. Pre-Privatization Assistance and Debt Forgiveness

Company Specific Subsidies Conferred by the Government of Bolzano

23. Purchase and Leaseback of Bolzano Industrial Site

A. Lease of Bolzano Industrial Site to Valbruna

B. Lease Exemption under Valbruna/Bolzano Lease

C. Environmental and Research and Development Assistance to Bolzano

Company Specific Subsidies Conferred by the Government of Valle d' Aosta

24. Assistance Associated with Sale of CAS

A. Lease of Cogne Industrial Site

B. Provision of Electricity

C. Waste Plant

D. Loans to CAS to Transfer its Property

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition have been provided to the GOI and the EC. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under § 351.203(c)(2) of the Department's regulations.

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine no later than February 12, 2001, whether there is a reasonable indication that import of stainless steel bar from Italy is causing material injury, or threatening to cause material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: January 17, 2001.

Troy H. Cribb,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012201B]

Fishing Vessel Capital Construction Fund Agreement, Application, and Certificate of Construction/ Reconstruction

AGENCY: National Oceanic and Atmospheric Administration (NOAA)

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 26, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Forms Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW., Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Charles L. Cooper, Financial Services Division, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, phone 301-713-2396.

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents will be commercial fishing industry individuals, partnerships, and corporations that want to enter into Capital Construction Fund agreements with the Secretary of Commerce. Such agreements allow deferral of Federal taxation on fishing vessel income deposited into a fund for the respondent for use in the acquisition, construction, or reconstruction of a fishing vessel. Deferred taxes are recaptured by reducing an agreement vessel's basis for depreciation by the amount withdrawn from the fund for its acquisition, construction, or reconstruction. The information collected from agreement holders is used to determine their eligibility to participate in the Capital Construction Fund Program pursuant to