

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-583-836]

Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Stainless Steel Bar From Taiwan

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

ACTION: Notice of preliminary determination of sales at not less than fair value.

SUMMARY: We preliminarily determine that stainless steel bar from Taiwan is not being, nor is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: August 2, 2001.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv or Annika O'Hara, Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4207 and (202) 482-3798, respectively.

SUPPLEMENTARY INFORMATION:**The Applicable Statute**

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

Background

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Stainless Steel Bar from France, Germany, Italy, Korea, Taiwan and the United Kingdom*, 66 FR 7620 (January 24, 2001) ("Initiation Notice"), as amended by *Corrections, Notice of Initiation of Antidumping Investigations: Stainless Steel Bar from France, Germany, Italy, Korea, Taiwan and the United Kingdom*,

66 FR 14986 (March 14, 2001)), the following events have occurred:

On January 26, 2001, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes. We received comments on our proposed matching criteria on February 8, 2001.

On February 12, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of stainless steel bar ("SSB") from Taiwan are materially injuring the United States industry (see ITC Investigation No. 701-TA-913-918 (Publication No. 3395)).

On February 21, 2001, we selected the largest producer/exporter of SSB from Taiwan as the mandatory respondent in this proceeding. For further discussion, see *Memorandum from The Team to Richard W. Moreland*, dated February 21, 2001. We issued an antidumping questionnaire to the selected respondent, Gloria Metals Technology Corporation, ("Gloria"), on February 21, 2001.

In February and March, 2001, the petitioners in this case (*i.e.*, Carpenter Technology Corp., Crucible Specialty Metals, Electralloy Corp., Empire Specialty Steel Inc., Slater Steels Corp., and the United Steelworkers of America) made submissions requesting that the Department require the respondents to report the actual content of the primary chemical components of SSB for each sale of SSB made during the period of investigation ("POI"). Also, in February and March 2001, the respondents in the other concurrent SSB investigations requested that the Department deny the petitioners' request. The Department, upon consideration of the comments from all parties on this matter, issued a memorandum on April 3, 2001, indicating its decision not to require the respondents to report such information on a transaction-specific basis. However, the Department did require that respondents report certain additional information concerning SSB grades sold to the U.S. and home markets during the POI. (For details, see *Memorandum from The Stainless Steel Bar Teams to Louis Apple and Susan Kuhbach, Directors, Office of AD/CVD Enforcement 1/2*, dated April 3, 2001).

During the period March through June 2001, the Department received responses to Sections A, B, C and D of the Department's original and supplemental questionnaires from Gloria and its affiliate, Golden Win Steel Corporation ("Golden Win") (collectively, "Gloria").

On April 27, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on May 7, 2001, and postponed the preliminary determination until no later than July 26, 2001. (*See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Stainless Steel Bar from France, Germany, Italy, Korea, Taiwan and the United Kingdom*, 66 FR 24114 (May 11, 2001)).

Postponement of Final Determination

Pursuant to section 735(a)(2)(B) of the Act, on July 17, 2001, the petitioners requested that, in the event of a negative preliminary determination, the Department postpone its final determination in this investigation. In accordance with 19 CFR 351.210(b)(i), because our preliminary determination is negative and no compelling reasons for denial exist, we are granting the petitioners' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**.

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 the 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 products), 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 Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

In accordance with our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (66 FR at 7620-7621). The respondents in the companion SSB investigations filed comments seeking to exclude certain products from the scope of these investigations. The specific products identified in their exclusion requests are:

- Stainless steel tool steel
- Welding wire
- Special-quality oil field equipment steel (SQOFES)

Special profile wire

We have addressed these requests in a *Memorandum to Susan Kuhbach and Louis Apple from The Stainless Steel Bar Team*, dated July 26, 2001, entitled "Scope Exclusion Requests," and a *Memorandum to Louis Apple from The Stainless Steel Bar Team*, dated July 26, 2001, entitled "Whether Special Profile Wire Product is Included in the Scope of the Investigation." Our conclusions are summarized below.

Regarding stainless steel tool steel, welding wire, and SQOFES, after considering the respondents' comments and the petitioners' objections to the exclusion requests, we preliminarily determine that the scope is not overly broad. Therefore, stainless steel tool steel, welding wire, and SQOFES are within the scope of these SSB investigations. In addition, we preliminarily determine that SQOFES does not constitute a separate class or kind of merchandise from SSB.

Regarding special profile wire, we have preliminarily determined that this product does not fall within the scope as it is written because its cross section is in the shape of a concave polygon and the scope does not cover stainless steel with such cross sections in the shape of concave polygons. Therefore, we have not included special profile wire in these investigations.

Finally, we note that in the concurrent countervailing duty investigation of stainless steel bar from Italy, the Department preliminarily

determined that hot-rolled stainless steel bar is within the scope of these investigations. Because the petitioners intended for this product to be included in the scope, we have determined that the scope language is not overly-inclusive with regard to this product. As a result, we have not modified the scope of this investigation because the current scope language includes hot-rolled bar, as intended by the petitioners. (See, *Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Stainless Steel Bar from Italy*, 66 FR 30414 (June 6, 2001).

Period of Investigation

The POI is October 1, 1999, through September 30, 2000.

Fair Value Comparisons

To determine whether sales of SSB from Taiwan to the United States were made at less than fair value ("LTFV"), we compared the export price ("EP") to the Normal Value ("NV"), as described in the "Export Price" and "Normal Value" sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EP to NV.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the Gloria in the home market during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: general type of finish; grade; remelting process; type of final finishing operation; shape; and size.

On July 11 and 13, 2001, the petitioners submitted general comments on product-matching issues for the Department's consideration in the preliminary determination. These comments were not received in time to be fully analyzed for the preliminary

determination, but will be considered for the final determination.

Export Price

We calculated EP, in accordance with section 772(a) of the Act, because the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States, based on the facts of record. We based EP on the packed delivered price to unaffiliated purchasers in the United States. We made adjustments for returns. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, and U.S. customs duties (including harbor maintenance fees and merchandise processing fees). (See *Calculation Memorandum* dated July 26, 2001.)

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, whether the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent.

B. Affiliated-Party Transactions and Arm's-Length Test

The Department's standard practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are at arm's-length prices. Therefore, in accordance with that practice, we performed an arm's-length test on Gloria's sales to affiliates as follows.

Sales to affiliated customers in the home market not made at arm's-length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales

to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina* (58 FR 37062, 37077 (July 9, 1993)). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

C. Cost of Production Analysis

Based on our analysis of the allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of SSB in the home market were made at prices below their cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether sales were made at prices below their respective COP (See *Initiation Notice*, 66 FR at 7624).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (G&A), interest expenses, and home market packing costs (See "Test of Home Market Sales Prices" section below for treatment of home market selling expenses). We relied on the COP data submitted by Gloria, except in the following instances: We made adjustments to the reported direct material costs to account for costs differences between grades; we have increased the reported costs for direct materials, direct labor, and fixed and variable overhead, based on information in Gloria's financial statements; and we have recalculated the G&A expense ratio to exclude an item that was inappropriately included as an offset to the respondent's G&A calculation. (See *Calculation Memorandum* dated July 26, 2001.)

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, and direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined whether such sales were made (1) within an extended period of time, (2) in substantial quantities, and (3) at prices which did not permit the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(1), where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Pursuant to 773(b)(2)(C), "substantial quantities" exist when the volume of sales made at below the COP represents 20 percent or more of the volume of sales under consideration for the determination of normal value. Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of Gloria's home market sales were at prices less than the COP and, in addition, such sales were made within an extended period of time and did not provide for the recovery of costs. We therefore excluded these sales and used the remaining above-cost sales, if any, as the basis for determining NV, in accordance with section 773(b)(1).

For those U.S. sales of SSB for which there were no comparable home market sales in the ordinary course of trade (e.g., above-cost), we compared EP sales to constructed value ("CV"), in accordance with section 773(a)(4) of the Act.

D. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; See also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the "chain of distribution"),¹ including selling functions,² class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (i.e., NV based on either home market or third country prices³), we consider the starting prices before any adjustments. See *Micron Technology, Inc. v. United States*, 243 F. 3d 1301, 1314-1315 (Fed. Cir. 2001) (affirming this methodology).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

Gloria has reported that it sells to distributors and end users in the home

¹ The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale occurs.

² Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common SSB selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services. Other selling functions unique to specific companies were considered, as appropriate.

³ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

market and to trading companies and end users in the United States. Gloria has reported a single channel of distribution and a single level of trade in each market, and has not requested a level of trade adjustment. We examined the information reported by Gloria regarding its marketing process for making the reported home market and U.S. sales, including the type and level of selling activities performed and customer categories. As Gloria has reported, we found a single level of trade in the United States, and a single, identical level of trade in the home market. Thus, it was unnecessary to make any level-of-trade adjustment for comparison of EP and home market prices.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on delivered prices to unaffiliated customers. We adjusted the reported quantity to account for returns. We made deductions, where appropriate, from the starting price for inland freight and warehousing. We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411 of the Department's regulations. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for direct selling expenses, imputed credit expenses and warranties.

We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the comparison market or the United States, where commissions were granted on sales in one market but not in the other (the "commission offset"). Gloria paid commissions on some U.S. sales of subject merchandise but did not pay commissions on its home market sales. Therefore, in accordance with 19 CFR 351.410(e), we offset the commission incurred in the U.S. market, with indirect selling expenses incurred in the home market (*i.e.*, indirect selling expenses and inventory carrying costs) by the lesser of the commission or the indirect selling expenses. We adjusted Golden Win's reported indirect selling expense ratio to account for Gloria's overstatement of deductions to the total indirect selling expense amount. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

The weighted-average dumping margins are as follows:

<i>Exporter/manufacturer</i>	<i>Weighted-average margin percentage</i>
Gloria Metals Technology.	0.98 (<i>de minimis.</i>)
All Others	0.98 (<i>de minimis.</i>)

Because the estimated weighted-average dumping margin for Gloria, the only examined company, is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of SSB from Taiwan.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, pursuant to section 735(b)(3) of the Act, the ITC will determine within 75 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than November 2, 2001. Rebuttal briefs must be filed by November 9, 2001. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held on November 14, 2001, at the U.S. Department of

Commerce, 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.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: July 26, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-820]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Bar From France

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

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that stainless steel bar from France is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: August 2, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton, Import