

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.*

[FR Doc. 01-19347 Filed 8-1-01; 8:45 am]

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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

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-1280, 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, and 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 France are materially injuring the United States industry (*see* ITC Investigation No. 701-TA-913-918 (Publication No. 3395)).

On February 12, 2001, we selected the two largest producers/exporters of SSB from France as the mandatory respondents in this proceeding. For further discussion, *see* Memorandum from the Team to Richard W. Moreland, Deputy Assistant Secretary for Import Administration entitled, "Respondent Selection," dated February 12, 2001. We subsequently issued the antidumping questionnaires to Aubert & Duval, S.A. ("A&D") and Ugine-Savoie Imphy S.A. ("U-SI") (collectively referred to as the respondents) on February 20, 2001.

On February 13, 2001, U-SI requested that certain special profile wire product produced by its affiliate Sprint Metal, S.A. ("Sprint") be excluded from the scope of this investigation. *See* "Scope

of Investigation" section of this notice for further discussion. Also, on February 13, 2001, U-SI requested that it be relieved from the requirement to report affiliated party resales because sales of the foreign like product to affiliated parties during the POI constituted less than five percent of total sales of the foreign like product. On April 3, 2001, we granted U-SI's request to exclude these sales from reporting in accordance with 19 CFR 351.403(d). *See* Memorandum from the Team to Louis Apple, Office Director, dated April 3, 2001, for further details.

In February and March 2001, the petitioner<sup>1</sup> 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 this and 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 the 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, Office Directors, dated April 3, 2001).

On April 10, 2001, A&D requested that it be permitted to report its costs on a fiscal-year rather than POI basis. For the reasons outlined in a letter dated May 16, 2001, the Department denied this request.

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)).

During the period March through July 16, 2001, the Department received responses to Sections A, B, C, D and E

<sup>1</sup> The petitioners in this case are Carpenter Technology Corp., Crucible Specialty Metals, Electralloy Corp., Empire Specialty Steel Inc., Slater Steels Corp., and the United Steelworkers of America.

of its original and supplemental questionnaires from A&D and U-SI. On July 13, U-SI submitted revised sales and cost databases on its own initiative. For purposes of the preliminary determination, the Department did not use these revised databases in its analysis because U-SI did not provide the Department with sufficient time to examine them prior to the preliminary determination. However, the Department will examine these databases prior to verification for the final determination.

On July 9, 2001, the petitioners submitted comments on U-SI's questionnaire response for consideration in the preliminary determination. On July 18, 2000, U-SI submitted rebuttal comments in response to the petitioners' July 9, 2001, submission.

##### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on June 4, 2001, U-SI requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**, and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) U-SI accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

##### 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* (*see* 66 FR 7620–7621). The respondents in this and 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. 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. (*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.

#### Use of Facts Available

While A&D attempted to respond to the Department's questionnaires, it did not provide usable data for purposes of our preliminary margin analysis. Specifically, the databases provided in its latest submissions to the Department cannot serve as an appropriate basis for a margin calculation. Given the time limitations between the receipt of A&D's last submissions to the Department and the Department's preliminary determination, we were unable to issue A&D a supplemental questionnaire requesting revised data and receive it in time for use in the preliminary determination.

Given that the necessary information to calculate A&D's margin is not available for the preliminary determination, the Department has determined that facts available is warranted in accordance with section 776(a) of the Act. Because A&D has attempted to cooperate in this investigation, as facts available, we have assigned A&D the simple average of the margins in the petition. Prior to verification, we will give A&D an opportunity to provide revised data for use in the final determination.

Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are

reasonably at its disposal. In this case, when analyzing the petition for purposes of the initiation, we reviewed all of the data upon which the petitioners relied in calculating the estimated dumping margins, and determined that the margins in the petition were appropriately calculated and supported by adequate evidence in accordance with the statutory requirements for initiation. In order to corroborate the petition margins for purposes of using them as fact available, we re-examined the price and cost information provided in the petition in light of information developed during this investigation. (*See the Memorandum to Louis Apple from The Team entitled "Preliminary Determination of Stainless Steel Bar from France: Use of Facts Available and Corroboration of Petition Margins,"* dated July 26, 2001, for further details of our corroboration methodology.)

In accordance with section 776(c) of the Act, we were able to corroborate the information in the petition using information from independent sources that were reasonably at our disposal. As a result, we have preliminarily assigned A&D the simple average of the margins contained in the petition, 28.07 percent.

#### Fair Value Comparisons

For U–SI, to determine whether sales of SSB from France to the United States were made at less than fair value ("LTFV"), we compared the export price ("EP") or constructed export price ("CEP") to the Normal Value ("NV"), as described in the "Export Price" and "Constructed 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 EPs and CEPs to weighted-average NVs.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by U–SI 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 respondent in the following order of importance: general type of finish; grade; remelting process; type of final finishing operation; shape; and size.

With respect to grade, we matched products sold in the U.S. and home markets on the basis of the three most similar matches proposed by the respondent, where possible.

On July 10 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.

#### Sub-Contracted Sales By U-SI

In its June 11, 2001, submission, U-SI indicated that it had contracted the services of its Italian affiliate (*i.e.*, Trifilerie Bedini, S.r.l. ("Bedini")) to process non-subject merchandise (*i.e.*, stainless steel wire rod ("SSWR") of French origin) into subject merchandise which U-SI then sold either through its affiliate (*i.e.*, Ugine France Service/Ugine-Savoie France ("UFS/U-SF")) in the French market or through its affiliate (*i.e.*, Ugine Stainless & Alloys, Inc. ("US&A")) in the U.S. market. U-SI further stated that in accordance with the Department's country of origin rules, it did not report these sales as home market and/or U.S. sales in the sales listings submitted in this investigation, but rather reported them in the sales listings submitted in the concurrent investigation of SSB from Italy. After further examining U-SI's claim in the context of the Department's tolling regulation (19 CFR 351.401(h)), and based on the limited data furnished in its response, it appears that although U-SI may be the manufacturer of these sales, the product was produced by U-SI in Italy and therefore, the product is subject to the LTFV proceeding involving SSB from Italy. Therefore, for purposes of this preliminary determination, the Department has not included them in its margin analysis.

#### U.S. Resales by U-SI's Affiliate

In its June 11, 2001, supplemental questionnaire response, U-SI requested that it be excluded from reporting downstream sales in the United States made by its affiliate Techalloy (*i.e.*, a wire products manufacturer). U-SI stated that the total quantity of these sales was insignificant in terms of the total quantity reported for U-SI's U.S. sales through its principal U.S. affiliate, Ugine Stainless and Alloys, Inc. ("US&A"), during the POI. In

addition, U-SI stated that Techalloy only made these sales as a special accommodation for one of Techalloy's U.S. wire product customers. In accordance with the Department's practice, given the allegedly insignificant amount of these resales in terms of the reported total U.S. sales quantity, subject to verification, and given that the method by which these sales were made is unrepresentative of U-SI's normal U.S. sales, we did not require that U-SI report these sales for purposes of the preliminary determination (*see Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Wire Rod from Canada*, 62 FR 51572 (October 1, 1997)).

#### Constructed Export Price

We calculated CEP in accordance with section 772(b) of the Act. We found that U-SI made CEP sales during the POI because the sales were made for the account of U-SI by the respondent's subsidiary in the United States to unaffiliated purchasers. In addition, U-SI reported sales of SSB which were further processed by its affiliate US&A in the United States. For the subject merchandise further processed in the United States, we used the starting price of the subject merchandise and deducted the costs of the further processing to determine CEP for such merchandise, in accordance with section 772(d)(2) of the Act.

We based CEP on the packed CIF delivered or undelivered prices to unaffiliated purchasers in the United States. We identified the correct starting price, by adjusting for billing corrections, freight revenue and other revenue associated with the sale, and by making deductions for early payment discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight (including freight from the plant/warehouse to the port of exportation), ocean freight, marine insurance, U.S. customs duties and fees (including harbor maintenance fees, merchandise processing fees, and brokerage and handling), U.S. inland freight expenses (including freight from the U.S. port to the warehouse, freight between warehouses, and freight from the warehouse to the unaffiliated customer), and other U.S. transportation expenses (including brokerage and handling fees). In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses

(commissions, credit costs, warranty expenses, technical service expenses, and repacking expenses), and indirect selling expenses (including inventory carrying costs) incurred in the country of exportation and the United States. We recalculated US&A's reported warranty expenses on a customer-specific basis (rather than overall sales) based on the information in the record, because this recalculation is more specific to the sales in question. *See* Calculation Memorandum dated July 26, 2001. We also deducted an amount for further-manufacturing costs, where applicable, in accordance with section 772(d)(2) of the Act, and made an adjustment for profit in accordance with section 772(d)(3) of the Act.

#### 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 U-SI'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)(B) 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 its home market was viable.

##### 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 U-SI's sales to affiliates as follows.

Sales to affiliated customers in the home market not made at arm's-length prices were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* 19 CFR 351.102(b). 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); and *Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Sweden*, 63 FR 40449, 40454 (July 29, 1998). 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.

For the preliminary determination, we disallowed U-SI's claim that the movement expenses (*i.e.*, INLFTWH, WAREHSH, and INSUREH) associated with transferring semi-finished SSB from U-SI to UFS/US-F for further processing prior to the sale and/or shipment by UFS/US-F to the first unaffiliated customer in the home market should be deducted from gross unit price because we consider those expenses to be associated with the cost of manufacture of the finished product. Rather, we added the weighted-average amounts for these movement expenses to the reported variable overhead amounts on a control-number-specific basis in our calculation of COP (*see* "Cost of Production Analysis" below). With respect to the reported amount for U-SI's indirect selling expenses, inventory carrying costs, and packing expenses (*i.e.*, INDIRS1H, INVCARH, and PACKH), we treated only a portion of these expenses reported for two distribution channels associated with sales made through UFS/US-F as related to the sale of the finished product (*see* further discussion below). For the portion of indirect selling and packing expenses we considered related to the production of the semi-finished product, we recategorized those expenses as general and administrative ("G&A") expenses and added them to the reported G&A expense. As for the inventory carrying expenses at issue, we do not consider this expense to be a production or G&A cost and therefore have not included it in the reported COP.

### C. Cost of Production Analysis

Based on our analysis of an 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 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 7622 (March 14, 2001).

### 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 G&A expenses, 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 U-SI—except where noted below:

We disallowed U-SI's claim that the movement expenses (*i.e.*, INLFTWH, WAREHSH, and INSUREH) associated with transferring semi-finished SSB from U-SI to UFS/US-F for further processing prior to the sale and/or shipment by UFS/US-F to the first unaffiliated customer in the home market should be deducted from gross unit price because we consider those expenses to be associated with the cost of manufacture of the finished product. Rather, we added the weighted-average amounts for these movement expenses to the reported variable overhead amounts on a control-number-specific basis.

As explained above, we recategorized a portion of U-SI's indirect selling and packing expenses associated with transferring semi-finished SSB from U-SI to UFS/US-F for further processing as G&A expenses. See Calculation Memorandum dated July 26, 2001.

We also adjusted U-SI's G&A costs to include the provision for material price fluctuations which U-SI excluded from its G&A expense calculation. Additionally, we increased the G&A expenses by the amount for "exceptional items." While U-SI identified the "exceptional items" as income and reduced the G&A expenses by this amount, these items are shown as expenses on U-SI's income statement.

We adjusted U-SI's U.S. further manufacturing costs to include the material yield loss for all products based on output quantity. See Memorandum from Michael Harrison to Neal Halper, Director Office of Accounting, dated July 26, 2001, Re: Cost Adjustments.

### 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, rebates, discounts, and direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time, (2) in substantial quantities, and (3) at prices which 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." 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 U-SI'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 within a reasonable period of time. We therefore excluded these sales and used the remaining above-cost sales as the basis for determining NV in accordance with section 773(b)(1) 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 or CEP. 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"),<sup>2</sup> including selling functions,<sup>3</sup> 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 prices),<sup>4</sup> we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP 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. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a LOT adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *Notice of Final Determination of Sales at Less Than Fair Value*:

<sup>2</sup> 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.

<sup>3</sup> 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: (1) Sales process and marketing support; (2) freight and delivery; (3) inventory and warehousing; and (4) quality assurance/warranty services. Other selling functions unique to specific companies were considered, as appropriate.

<sup>4</sup> Where NV is based on CV, we determined the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A expenses, and profit for CV, where possible.

*Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997); see also *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent To Revoke Antidumping Duty Order in Part: Certain Pasta from Italy*, 66 FR 34414 (June 28, 2001).

We obtained information from U–SI regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution. Upon review of this information, the Department found two LOTs in the home market and one LOT in the U.S. market. Where we matched U.S. sales to home market sales at a different LOT, we made a LOT adjustment in accordance with section 773(a)(7)(A) of the Act because we found that there was a pattern of consistent price differences between the two home market LOTs. Our LOT findings are summarized below:

U–SI reported two customer categories (*i.e.*, end-users and distributors) and three channels of distribution for its home market sales (*i.e.*, direct ex-works sales, ex-inventory sales of standard SSB through its affiliate UFS/U–SF, and ex-inventory sales of SSB through its affiliate UFS/U–SF which are purchased for special applications). In its response, U–SI claims that the major difference between its ex-inventory sales of standard SSB products versus its ex-inventory sales of SSB products used for special applications ("specialized SSB") is the further manufacturing that is performed by its affiliate on the specialized SSB. Specifically, U–SI maintains that its affiliate provides the following additional services for U–SI's ex-inventory sales of specialized SSB: (1) Testing and certifications; (2) upgrading services (*i.e.*, heat treatment, machining, drilling, grinding); and (3) "other special" services (*i.e.*, special conditioning, cutting, marking, and chamfering finished SSB). U–SI further maintains that these distinctions constitute a different LOT.

U–SI also claims that, because its affiliate offers significantly different services and the orders are not limited by quantity for ex-inventory sales of specialized SSB when compared to ex-inventory sales of standard SSB products, UFS/U–SF charges higher prices for its sales of specialized SSB products. Therefore, U–SI requests a LOT adjustment on this basis.

In determining whether separate levels of trade actually existed in the home market, we examined whether the

sales made by U–SI involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions. As noted above, U–SI's ex-inventory sales are made through the same affiliated party, the same channel of distribution, and to the same categories of customers (*i.e.*, end users and distributors).

With respect to selling activities, we note that, in some instances, the activities U–SI characterized as selling functions (*e.g.*, upgrading and other special services) are not distinct selling functions which we consider to be relevant to our LOT analysis. Furthermore, based on our analysis, we note that while there are differences in selling activities between U–SI's ex-inventory sales of standard SSB products and ex-inventory sales of specialized SSB products (*i.e.*, degree of intensity reported for sales process and marketing support, and quality assurance/warranty services), we do not find that such differences are sufficient to establish a difference in marketing stage (or its equivalent). As discussed in the Department's regulations, substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. See 19 CFR 351.412; see also *Notice of Final Results: Antidumping Duty Administrative Review of Antifriction Bearings from France et al.*, 62 FR 2081, 2105 (January 15, 1997). In this case, the differences in selling activities are minor in nature and therefore, we find that U–SI's ex-inventory sales of both standard and specialized SSB in the home market comprise a single LOT.

In addition, we also examined whether U–SI's direct ex-works sales and ex-inventory sales of both standard and specialized SSB involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions reported for each claimed LOT. We note that the selling functions (*i.e.*, sales process/market research, sales calls, interactions with customers, inventory maintenance, freight, technical advice and warranty servicing) that U–SI's affiliate provided for U–SI's ex-inventory sales were either at a higher level of intensity or greater in number than the selling functions (*i.e.*, sales process/market research, interaction with customers, freight, technical advice, and warranty servicing) U–SI provided for its ex-works sales. Based on this analysis, we find that U–SI's ex-works and ex-inventory sales in the home market

constitute two distinct LOTs and that U-SI's ex-inventory sales are at a more advanced LOT level than U-SI's ex-works sales.

U-SI reported only CEP sales in the U.S. market. For its U.S. sales, U-SI reported two channels of distribution (*i.e.*, U-SI produced SSB shipped direct from France to its U.S. affiliate (*i.e.*, US&A) and subject SSB that U-SI subcontracted out to its Italian affiliate (*i.e.*, Bedini) for further processing which is then sold by U-SI to US&A<sup>5</sup>.

Based on our examination of U-SI's data, the evidence on the record suggests that U-SI performs the same selling functions (*i.e.*, sales process/market research, customer contact, freight, technical advice and warranty servicing) for sales made through the two channels of distribution to US&A, which are associated with expenses which we did not deduct from the starting price. Thus, all CEP sales constitute one LOT.

We then examined U-SI's submitted data to determine whether U-SI's U.S. sales to US&A were made at the same LOT as U-SI's direct ex-works sales were made in the home market. Based on our examination, the evidence on the record suggests, contrary to U-SI's assertion, that U-SI performs the same selling functions (*i.e.*, sales process/market research, customer contact, freight, technical advice and warranty servicing), at the same relative level of intensity for its sales of SSB to US&A and its ex-works sales in the home market. Therefore, we have determined that the LOT for all CEP sales is the same as the LOT for U-SI's ex-works sales in the home market. Accordingly, where possible, we matched CEP sales to home market ex-works sales and made no LOT adjustment because the sales were made at the same LOT. Where we matched CEP sales to home market ex-inventory sales, we made a LOT adjustment in accordance with section 773(a)(7)(A) of the Act because we found that there was a pattern of consistent price differences between the two home market LOTs.

#### *E. Calculation of Normal Value Based on Comparison Market Prices*

We calculated NV based on delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's length. We made adjustments, where appropriate, to the starting price for billing corrections and early payment

<sup>5</sup> This merchandise is subject to this investigation unlike U-SI's tolled merchandise discussed above which is included in the Italian SSB LTFV proceeding.

discounts. We made deductions, where appropriate, from the starting price for inland freight (from the plant to the warehouse or plant to the customer), warehousing expenses, and inland insurance (see discussion above regarding the Department's treatment of certain movement and selling expenses reported for two channels of distribution associated with sales made through UFS/US-F).

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. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses and warranty expenses (*i.e.*, WARR1H).

We recategorized certain expenses (*i.e.*, technical services (TECHSERH) and salary expenses reported as warranty expenses (WARR2H)) as indirect rather than direct selling expenses because it appears that these expenses were not directly related to the sale based on both the explanation given and allocation methodology used in U-SI's response.

U-SI (through its U.S. affiliate) paid commissions to unaffiliated sales intermediaries on some U.S. sales of subject merchandise but did not pay commissions on its home market sales which were at arms-length. 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 to the extent of the lesser of the commission or the indirect selling expenses. As indirect selling expenses, we used both U-SI's reported home market inventory carrying costs and indirect selling expenses.

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. Finally, we made an adjustment for differences in LOT under section 773(a)(7)(A) of the Act and 19 CFR 351.412(b)-(e) (*see* "Level of Trade" section above for a complete discussion).

#### **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 or reported by the Dow Jones, as appropriate.<sup>6</sup>

<sup>6</sup> We normally make currency conversions into U.S. dollars in accordance with section 773A(a) of

#### **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**

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Aubert & Duval, S.A. ....	28.07
Ugine-Savoie Imphy, S.A. ....	4.30
All Others* .....	4.30

\*Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all-others rate margins which are zero or *de minimis*, or determined entirely on facts available.

#### **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, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 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

the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. In this case, where home market prices, costs and expenses were reported in French francs, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales as reported by the Dow Jones because the Federal Reserve Bank does not track the franc-to-dollar exchange rate.

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.*

[FR Doc. 01-19349 Filed 8-1-01; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-830]

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

**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 Germany 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:**

Craig Matney, Meg Weems or Andrew Covington, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1778, (202) 482-2613, or (202) 482-3534, 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 and 9, 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 Germany 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 four largest producers/exporters of SSB from Germany as the mandatory respondents in this proceeding. For further discussion, *see* Memorandum from The Team to Richard W. Moreland Re: Respondent Selection dated February 21, 2001. We subsequently issued the antidumping questionnaires to Walzwerke Einsal GmbH ("Einsal"), Edelstahl Witten-Krefeld GmbH ("EWK"), BGH Edelstahl Seigen GmbH and BGH Edelstahl Freital GmbH ("BGH"), and Krupp Edelstahlprofile GmbH ("KEP") on February 21, 2001.

On February 13, 2001, EWK requested that "tool steel" be excluded from the scope of this investigation. On February 13, 2001, BGH requested that "special quality oil field equipment steel" be excluded from the scope of this investigation. *See* "Scope of Investigation" section of this notice for further discussion.

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 this and 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).

On March 6, 2001, Einsal requested that it be relieved from the requirement to report affiliated party resales because sales of the foreign like product to affiliated parties during the POI constituted less than five percent of total sales of the foreign like product. On April 3, 2001, we granted Einsal's request in accordance with 19 CFR 351.403(d). (*See* Memorandum to Richard W. Moreland, dated April 3, 2001.)