

**FOR FURTHER INFORMATION CONTACT:**

Maisha Cryor and Mark Manning at (202) 482-5831, (202) 482-5253, respectively; Office 4, Group 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUMMARY:** The Department of Commerce (the Department) is postponing the preliminary determinations in the antidumping investigations on light-walled rectangular pipe and tube from Mexico and Turkey from February 16, 2004, until April 6, 2004. This postponement is made pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act).

**SUPPLEMENTARY INFORMATION:****Background**

On September 29, 2003, the Department initiated the above-referenced investigations. See Notice of Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, 68 FR 57667 (October 6, 2003).

**Postponement of Preliminary Determination**

Currently, the preliminary determinations are due no later than February 16, 2004. Under section 733(c)(1)(B) of the Act, the Department can extend the period for reaching a preliminary determination until not later than the 190th day after the date on which the administering authority initiates an investigation if:

- (B) The administering authority concludes that the parties concerned are cooperating and determines that (i) the case is extraordinarily complicated by reason of (I) the number and complexity of the transactions to be investigated or adjustments to be considered; (II) the novelty of the issues presented; or (III) the number of firms whose activities must be investigated; and (ii) additional time is necessary to make the preliminary determination.

The parties concerned are cooperating in these investigations. Additional time is necessary, however, to complete the preliminary determinations for Mexico and Turkey due to (1) the number and complexity of the transactions to be investigated and adjustments to be considered, (2) certain affiliation issues in both cases involving multiple respondents, and (3) the novelty of issues presented. Moreover, with respect to each Mexican respondent, the Department received, on January 9, 2004, allegations that sales were made

below the cost of production during the period of investigation. We are currently reviewing these allegations. Therefore, for both investigations, additional time is required to review the issues and the cost information for purposes of the preliminary determinations.

Pursuant to section 733(c)(1)(B) of the Act, we have determined that these investigations are "extraordinarily complicated." We are, therefore, postponing the preliminary determinations by 50 days to April 6, 2004.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(2).

Dated: January 28, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 04-2521 Filed 2-4-04; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-475-829]

**Stainless Steel Bar from Italy: Preliminary Results of Antidumping Duty Administrative Review**

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on stainless steel bar from Italy. The period of review is August 2, 2001, through February 28, 2003. This review covers imports of stainless steel bar from two producers/exporters.

We have preliminarily found that sales of subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection to assess antidumping duties.

We invite interested parties to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** February 5, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-4207.

**Background**

On March 7, 2002, the Department of Commerce ("the Department")

published an antidumping duty order on stainless steel bar from Italy. See *Notice of Antidumping Duty Order: Stainless Steel Bar from Italy*, 67 FR 10384 (March 7, 2002). On October 10, 2003, the Department published an amended antidumping duty order on stainless steel bar from Italy. See *Notice of Amended Antidumping Duty Orders: Stainless Steel Bar from France, Germany, Italy, Korea, and the United Kingdom*, 68 FR 58660 (October 10, 2003).

On March 3, 2003, the Department published in the **Federal Register** an *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, (68 FR 9974). On March 26, in accordance with 19 CFR 351.213(b), the Department received timely requests for administrative reviews of this order from two producers/exporters of the subject merchandise, Foroni S.p.A ("Foroni") and Cogne Acciai Speciali S.r.l. ("Cogne"), respectively. On March 31, 2003, Carpenter Technology Corp., Crucible Specialty Metals Division of Crucible Materials Corp., Electralloy Corp., Slater Steels Corp., Empire Specialty Steel and the United Steelworkers of America (AFL-CIO/CLC) (collectively, "petitioners") requested an administrative review for Foroni and Ugine Savoie-Imphy S.A ("Ugine"). On April 14, 2003, Cogne withdrew its request for an administrative review.

In accordance with 19 CFR 351.221(b)(1), we published a notice of initiation of this antidumping duty administrative review on April 21, 2003. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 68 FR 19498 (April 21, 2003). The period of this review ("POR") is August 2, 2001, through February 28, 2003.

Antidumping duty questionnaires were sent to Foroni and Ugine on May 7, 2003. We received timely responses from Foroni on June 12 and July 8, 2003. Ugine did not file a response to our questionnaire (see "Facts Available" section below for further details). We issued supplemental questionnaires to Foroni on September 11 and October 6, 2003. We received responses from Foroni on September 30 and October 21, 2003, respectively.

On October 28, 2003, in accordance with section 751(a)(3)(A) of the Act, we published a notice extending the time limit for the completion of the preliminary results in this case by 60 days (*i.e.*, until no later than January 30, 2004). See *Stainless Steel Bar from Germany and Italy: Notice of Extension of Time Limit for 2001-2003*

*Administrative Reviews*, 68 FR 61398 (October 28, 2003).

In November 2003, we conducted verification of the cost of production/constructed value questionnaire responses submitted by Foroni. We issued a verification report on December 23, 2003. See "Verification" section of this notice for further discussion.

#### SUPPLEMENTARY INFORMATION:

##### Scope of the Order

For the purposes of this order, 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 order 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 the order is dispositive.

##### Facts Otherwise Available

Section 776(a)(2) of the Act provides that the Department shall apply "facts otherwise available" if, *inter alia*, a respondent (A) withholds information that has been requested; (B) fails to

provide information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of Section 782; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified.

Section 782(e) of the Act further provides that the Department shall not decline to consider information that is submitted by an interested party and that is necessary to the determination but does not meet all the applicable requirements established by the Department if (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties.

On May 7, 2003, the Department issued the antidumping duty questionnaire to Ugine. The first page of the questionnaire established a due date of June 13, 2003, for Ugine's response. In addition, the cover letter to the questionnaire instructed Ugine to formally request an extension of time in writing before the due date if it was unable to respond to the questionnaire within the specified time limit. On June 25, 2003, the Department contacted Ugine to reiterate that the deadline for formally filing a response or extension request was June 13, 2003. Ugine stated that it would not be responding to the questionnaire. See the June 25, 2003 memorandum to the file, "Respondent Participation - Ugine Savoie-Imphy S.A" which is on file in the Department's Central Records Unit ("CRU"), Room B-099.

The Department has not received any other communication from Ugine relating to this administrative review. Ugine did not request an extension of time to respond to the Department's questionnaires prior to the June 13, 2003 response deadline nor did Ugine, at any time, inform the Department that it was having difficulties submitting the requested information. (See section 782(c) of the Act.)

In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. See, *e.g.*, *Notice of Final Determination*

*of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, at 870 (1994) ("SAA"). In this case, Ugine has failed to cooperate to the best of its ability by not responding to the Department's antidumping questionnaires. Therefore, the Department preliminarily finds that in selecting from among the facts otherwise available, an adverse inference is warranted. See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total adverse facts available where the respondent failed to respond to the antidumping questionnaires).

As adverse facts available, we have assigned Ugine a margin of 33.00 percent, the highest margin from any segment of the proceeding, which is also the highest margin alleged in the petition, in accordance with section 776(b)(1). Section 776(b) of the Act notes that an adverse facts available rate may include reliance on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review; or (4) any other information placed on the record. Thus, the statute does not limit the specific sources from which the Department may obtain information for use as facts available. The SAA recognizes the importance of facts available as an investigative tool in antidumping proceedings. The Department's potential use of facts available provides the only incentive to foreign exporters and producers to respond to the Department's questionnaires. See SAA at 868.

Section 776(c) of the Act mandates that the Department, to the extent practicable, shall corroborate secondary information (such as petition data) using independent sources reasonably at its disposal. In accordance with the law, the Department, to the extent practicable, will examine the reliability and relevance of the information used.

To corroborate the selected margin from the petition, we compared it to individual transaction margins in this administrative review. We found that the selected margin falls within the range of individual transaction margins.

This evidence supports the reliability of this margin and an inference that the selected rate might reflect Uginé's actual dumping margin.

With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)). Therefore, we also examined whether any information on the record would discredit the selected rate as reasonable facts available for Uginé. No such information exists. In particular, there is no information that might lead to a conclusion that a different rate would be more appropriate.

Finally, we note that another Italian exporter of stainless steel bar to the United States, Cogne, is currently subject to the 33.00 percent rate because it failed to respond to the Department's request for information in the *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy*, 67 FR 3155 (January 23, 2002) ("LTFV Final").

Accordingly, we have assigned Uginé, in this administrative review, the rate of 33.00 percent as total adverse facts available. This is consistent with section 776(b) of the Act which states that adverse inferences may include reliance on information derived from the petition.

#### Verification

As provided in section 782(i) of the Act, in November 2003, we verified information provided by Foroni using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales, cost and financial records, and selection of original documentation containing relevant information. The Department reported its findings from the cost verification on December 23, 2003. *See Memorandum to the File, "Verification Report on the Cost of Production and Constructed Value Data Submitted by Foroni S.p.A.,"* dated December 23, 2003

("Froni Verification Report"), which is on file in the CRU.

#### Fair Value Comparisons

To determine whether sales of stainless steel bar by Foroni to the United States were made at less than NV, we compared, as appropriate, constructed export price ("CEP"), to NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the "Normal Value" section below.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent covered by the description in the "Scope of the Order" section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 773(a)(1)(C)(ii) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. (For further details, *see* the "Normal Value" section, below.)

We compared U.S. sales to sales made in the comparison market within the contemporaneous window period, which extends from three months prior to the POR until two months after the POR. Where there were no sales of identical merchandise in the comparison 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. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market to compare to U.S. sales, we compared U.S. sales to constructed value ("CV"). In making product comparisons, consistent with the *LTFV Final*, we matched foreign like products based on the physical characteristics reported by the respondent in the following order: general type of finish; grade; remelting process; type of final finishing operation; shape; and size.

#### Constructed Export Price

We calculated CEP, in accordance with subsection 772(b) of the Act, for those sales from the respondent's U.S. subsidiary to the first unaffiliated purchaser, which took place after importation into the United States. We based CEP on the FOB warehouse price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. We deducted from the starting price foreign inland freight, international freight, marine insurance, foreign inland insurance, brokerage and handling, U.S. inland freight, U.S. customs duties, and other transportation expenses. 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 and credit expenses), U.S. inventory carrying costs, and indirect selling expenses. In accordance with section 772(d)(3) of the Act, we deducted from the starting price an amount for profit.

#### 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 Foroni'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 19 CFR 351.404(b)(2). Because Foroni'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.

##### B. Cost of Production

###### 1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Foroni's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses ("G&A"), and interest expenses, where appropriate. We relied on the COP information provided by Foroni in its questionnaire responses except in the following instances. For certain CONNUMs not included in Foroni's revised COP/CV data submission, dated October 21,

2003, we assigned the COP of the next most similar CONNUM. The assigned CONNUMs were identical in all physical characteristics other than size. For certain CONNUMs also excluded from Foroni's revised COP/CV data submission that differed from the reported, revised CONNUMs with respect to grade, we assigned costs to those products using record information verified by the Department during verification. We adjusted Foroni's reported POR direct material costs to reflect the variance between Foroni's total standard and actual direct material costs for FY 2002. We increased Foroni's reported variable expenses for the variance between standard and actual variable costs for the POR. We revised the denominator of Foroni's G&A expenses ratio to reflect the cost of goods sold rather than the cost of goods manufactured. We increased Foroni's interest expenses to include all foreign exchange gains and losses. See Memorandum from LaVonne Clark to Neal Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results" dated January 30, 2004 ("Preliminary Results COP Memo").

## 2. Test of Home Market Prices

On a product-specific basis, we compared the weighted-average COPs to home market sales of the foreign like product during the POR, as required under section 773(b) of the Act, in order to determine whether sales had been made at prices below the COP. The prices were exclusive of any applicable movement charges, billing adjustments, commissions, and indirect selling expenses. In determining whether to disregard home market sales made at prices below the 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 in substantial quantities, and (2) at prices which did not permit the recovery of costs within a reasonable period of time.

## 3. Results of the COP Test

Pursuant to section 773(b)(1) of the Act, where less than 20 percent of a respondent's sales of a given product are made at prices below 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 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 are 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 Foroni, for certain specific products, more than 20 percent of the comparison market sales were at prices less than the COP and, thus, the below-cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 772(b)(1).

For U.S. sales of subject merchandise for which there were no comparable home market sales in the ordinary course of trade (e.g., sales that passed the costs test), we compared those sales to constructed value ("CV"), in accordance with section 773(a)(4) of the Act.

## C. Calculation of Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, when sales of comparison products could not be found, either because there were no sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on CV.

In accordance with section 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the subject merchandise, plus amounts for selling expenses, G&A, including interest, and profit. We made the same adjustments to the CV costs as described in the "Calculation of COP" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

## 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 CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 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>1</sup> including selling functions,<sup>2</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 CEP and comparison market sales, (i.e., NV based on either home market or third country prices<sup>3</sup>) we consider only the selling expenses 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 to sales of the foreign like product in the comparison market at the same LOT as the CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing 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, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade 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: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

Foroni reported that it made direct sales to distributors, machine shops and forging shops in the home market. We found that the sales to each customer

<sup>1</sup> The marketing process in the United States and home market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain.

<sup>2</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 these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

<sup>3</sup> 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.

category were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. We therefore, preliminarily determine that these home market sales constitute a single level of trade.

In the U.S. market, Foroni only reported CEP sales. Foroni's constructed CEP level of trade was its sales to its affiliated reseller, and since it performed the same selling functions for these sales, we found that these CEP sales constitute one level of trade. This CEP level of trade was similar to that of the home market with respect to sales process, warehouse/inventory maintenance and warranty service, and differed only slightly with respect to freight and delivery. Since we found the CEP LOT to be similar to the home market level of trade, we matched CEP sales to normal value based on home market sales and made no CEP offset adjustment. See section 773(a)(7)(A) of the Act.

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

We calculated NV based on the FOB mill price to unaffiliated customers in the home market. We identified the starting price and made adjustments for early payment discounts. We also made adjustments, where appropriate, in accordance with 19 CFR 351.410(e), for

indirect selling expenses incurred in the home market or United States where commissions were granted on sales in one market but not in the other (the commission offset).

Furthermore, 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 for differences in circumstances of sale ("COS") in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments, where appropriate, by deducting direct selling expenses incurred on comparison market sales (credit expenses), and adding U.S. direct selling expenses (credit expenses and commissions).

**F. Calculation of Normal Value Based on Constructed Value**

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for Foroni, when comparison market sales could not be found because there were no sales in the ordinary course of trade of a comparable product, we based NV on CV.

In accordance with sections 773(e)(1), (e)(2)(A), and (e)(3) of the Act, we

calculated CV based on the sum of the cost of materials and fabrication for the merchandise, plus amounts for selling expenses, G&A (including interest), and profit. We calculated the cost of materials and fabrication based on the methodology described in the "Calculation of COP" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A, and profit on the amounts incurred and realized by Foroni in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For a discussion of the calculation of G&A and interest expense ratios for Foroni, see *Preliminary Results COP Memo*.

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. Where we compared CV to CEP, we made circumstance-of-sale adjustments by deducting from CV the weighted-average home market direct selling expenses.

**Preliminary Results of the Review**

We preliminarily find that the following dumping margins exist for the period August 2, 2001, through February 28, 2003:

Exporter/manufacturer	Weighted-average margin percentage
Foroni S.p.A and Foroni Metals of Texas .....	3.72
Ugine Savoie-Imphy S.A .....	33.00

**Assessment Rates**

Upon completion of this administrative review, the Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer (or customer)-specific assessment rates calculated in the final results are above *de minimis* (i.e., at or above 0.5 percent), the Department will issue appraisal instructions directly to CBP to assess antidumping duties on appropriate entries. To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(1), we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins

calculated for all U.S. sales to that importer (or customer) and dividing this amount by the entered value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.

**Cash Deposit Requirements**

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of stainless steel bar from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash

deposit rates for the reviewed companies will be the rates established in the final results of this administrative review (except no cash deposit will be required if its weighted-average margin is *de minimis*, i.e., less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation, the cash deposit will continue to be the most recent rate published in the final determination for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be 3.81 percent, the "all others" rate established in the *LTFV Final*.

## Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held 37 days after the publication of this notice, or the first workday thereafter. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included. The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing, within 120 days of publication of these preliminary results.

## Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 29, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 04-2527 Filed 2-4-04; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-830]

#### **Stainless Steel Bar From Germany: Preliminary Results of Antidumping Duty Administrative Review**

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on

stainless steel bar from Germany. The period of review is August 2, 2001, through February 28, 2003. This review covers imports of stainless steel bar from one producer/exporter.

We have preliminarily found that sales of subject merchandise have not been made at less than normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection ("CBP") to liquidate entries of stainless steel bar from BGH Edelstahl Freital GmbH, BGH Edelstahl Lippendorf GmbH, BGH Edelstahl Lugau GmbH, and BGH Edelstahl Siegen GmbH without regard to antidumping duties.

We invite interested parties to comment on these preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** February 5, 2004.

#### **FOR FURTHER INFORMATION CONTACT:**

Andrew Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1276.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On March 7, 2002, the Department of Commerce ("the Department") published an antidumping duty order on stainless steel bar from Germany. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Bar from Germany*, 67 FR 10382 (March 7, 2002). On October 10, 2003, the Department published an amended antidumping duty order on stainless steel bar from Germany. *See Notice of Amended Antidumping Duty Orders: Stainless Steel Bar from France, Germany, Italy, Korea, and the United Kingdom*, 68 FR 58660 (October 10, 2003).

On March 3, 2003, the Department published in the **Federal Register** an *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 9974 (March 3, 2003). On March 27, in accordance with 19 CFR 351.213(b), the Department received a timely request for review from BGH Edelstahl Freital GmbH, BGH Edelstahl Lippendorf GmbH, BGH Edelstahl Lugau GmbH, and BGH Edelstahl Siegen GmbH (collectively "BGH"), four affiliated German producers of the subject merchandise.

In accordance with 19 CFR 351.221(b)(1), we published a notice of

initiation of this antidumping duty administrative review on April 21, 2003. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 68 FR 19498 (April 21, 2003). The period of review ("POR") is August 2, 2001 through February 28, 2003.

An antidumping duty questionnaire was sent to BGH on May 7, 2003. We received a timely response from BGH on June 13, 2003. We issued supplemental questionnaires to BGH on August 22, September 3, September 24, and September 29, 2003. We received responses from BGH on September 22, September 26, October 3, and October 8, 2003.

On June 2, 2003, BGH 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 POR constituted less than five percent of total sales of the foreign like product. On June 11, 2003, we granted BGH's request in accordance with 19 CFR 351.403(d). *See Memorandum to Jeffrey May, "Reporting of BGH's Home Market Sales by an Affiliated Party,"* dated June 11, 2003 which is in the Department's Central Records Unit, located in Room B-099 of the main Department building ("CRU").

On October 28, 2003, in accordance with 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), we published a notice extending the time limit for the completion of the preliminary results in this case by 60 days (*i.e.*, until no later than January 30, 2004). *See Stainless Steel Bar from Germany and Italy: Notice of Extension of Time Limit for 2001-2003 Administrative Reviews*, 68 FR 61398 (October 28, 2003).

On October 28 through November 6, and December 10-11, 2003, we conducted verifications of the questionnaire responses submitted by BGH. We issued a verification report on January 20, 2004. *See "Verification"* section of this notice for further discussion.

#### **Scope of the Order**

For the purposes of this order, 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,