

to the calculations for the final results. These changes are discussed in the *Decision Memorandum* and in the final referenced calculation memorandum. See "Final Results Calculation Memorandum for the BGH Group of Companies" dated June 4, 2004 which is on file in the CRU; see also *Decision Memorandum*.

#### Final Results of the Review

We determine that the following percentage margin exists for the period August 2, 2001, through February 28, 2003:

Exporter/manufacturer	Weighted-average margin percentage
BGH .....	0.52

#### Assessment Rates

The Department shall determine, and United States Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated exporter/importer (or customer)-specific assessment rates for merchandise subject to this review. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), 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 total value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate was greater than *de minimis*, we calculated a per-unit assessment rate by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

#### Cash Deposit Rates

The following antidumping duty deposits will be required on all shipments of stainless steel bar from Germany entered, or withdrawn from warehouse, for consumption, effective on or after the publication date of the final results of this administrative review, as provided by section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 rate for the reviewed company will be the rate

listed above (except no cash deposit will be required if a company's weighted-average margin is *de minimis*, i.e., less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, the previous 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 or any previous reviews, the cash deposit rate will be 16.96 percent, the "all others" rate established in *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Germany*, 67 FR 3159 (January 23, 2002) and *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).

These cash deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 doubled antidumping duties.

#### Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: June 14, 2004.

**James J. Jochum,**  
Assistant Secretary for Import Administration.

#### Appendix I—List of Comments in the Issues and Decision Memorandum

Comment 1: Level of Trade Adjustment  
Comment 2: Indirect Selling Expenses  
Comment 3: U.S. Commissions  
Comment 4: Gross Unit Price Clerical Error  
Comment 5: Adjustment in Quantity Clerical Error  
Comment 6: Arm's Length Test Matching Criteria

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#### DEPARTMENT OF COMMERCE

#### International Trade Administration

[A-475-829]

#### Stainless Steel Bar from Italy: Final Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of final results of 2001-2003 administrative review.

**SUMMARY:** On February 5, 2004, the Department of Commerce published the preliminary results of the 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. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and an examination of our calculations, we have made certain changes for the final results. The final weighted-average dumping margins for the two manufacturer/exporters are listed below in the "Final Results of the Review" section of this notice.

**EFFECTIVE DATE:** June 14, 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.

#### SUPPLEMENTARY INFORMATION:

#### Background

Since the publication of the preliminary results in this review (see *Stainless Steel Bar from Italy: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 5488 (February 5, 2004)) ("Preliminary

Results’)), the following events have occurred:

We invited parties to comment on the preliminary results of the review. On March 9, 2004, 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”), filed a case brief. On March 15, 2004, the respondent Foroni S.p.A. (“Froni”) filed a rebuttal brief. At the request of the Department, the petitioners filed a revised case brief on March 19, 2004.

### 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 have 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), 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.

### Period of Review

The period of this review (“POR”) is August 2, 2001, through February 28, 2003.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the “Issues and Decision Memorandum” from Jeffrey May, Deputy Assistant Secretary, Import Administration to James J. Jochum, Assistant Secretary, Import Administration, dated June 4, 2004 (“*Decision Memorandum*”), which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Department’s Central Records Unit (“CRU”). In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

### Facts Otherwise Available

Section 776(a)(2) of the Tariff Act of 1930, as amended (“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.

As discussed in the *Preliminary Results*, Ugine Savoie-Imphy S.A. (“Ugine”) did not respond to the Department’s questionnaire. For the reasons stated in the *Preliminary Results* (69 FR at 5489), we continue to find that the use of adverse facts available is appropriate in this review. As noted in the *Preliminary Results*, Ugine has failed to cooperate to the best of its ability by not responding to the Department’s antidumping questionnaires. As adverse facts available, we have assigned Ugine a margin of 33.00 percent for the final results, 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) of the Act.

### Fair Value Comparisons

To determine whether sales of stainless steel bar by Foroni to the United States were made at less than normal value (“NV”), we compared, as appropriate, constructed export price (“CEP”) to NV. Our calculations followed the methodologies described in the *Preliminary Results*, except as noted below and in the final results calculation memoranda cited below, which are on file in the CRU.

### Changes from the Preliminary Results

For Foroni, in our calculation of NV, we have adjusted the financial expense factor. See Memorandum from Blanche Ziv to the File, “Final Results Calculation Memorandum for Foroni S.p.A. and Foroni Metals of Texas,” dated June 4, 2004 (“*Final Calc Memo*”); Memorandum to Neal Halper from LaVonne Clark, “Cost of Production and Constructed Value Calculation Adjustments for the Final Results,” dated June 4, 2004; and *Decision Memorandum*, at Comment 3. We revised Foroni’s U.S. indirect selling expenses to include property taxes. See *Final Calc Memo* and *Decision Memorandum*, at Comment 1. We also corrected clerical errors in the calculation program that resulted in an understatement of CEP profit. See *Final Calc Memo* and *Decision Memorandum*, at Comment 5.

### Final Results of the Review

We determine that the following percentage margins exist for the period August 2, 2001, through February 28, 2003:

Exporter/manufacturer	Weighted-average margin percentage
Froni S.p.A. and Foroni Metals of Texas .....	4.03
Ugine Savoie-Imphy S.A. ....	33.00

### Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries. In accordance with 19 C.F.R. § 351.212(b)(1), we have calculated importer (or customer)-specific assessment rates for merchandise subject to this review. To determine whether the duty assessment rates were *de minimis* (*i.e.*, at or above 0.5 percent), in accordance with the requirement set forth in 19 C.F.R. § 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 will 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 these final results of review.

#### Cash Deposit Rates

The following antidumping duty deposits will be required on all shipments of stainless steel bar from Italy entered, or withdrawn from warehouse, for consumption, effective 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) for Bedini, because its estimated weighted-average final dumping margin established in the *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy*, 67 FR 3155 (January 23, 2002), *as amended*, 67 FR 8288 (February 22, 2002) ("*LTFV Investigation*") was *de minimis*, no antidumping duty deposit will be required on merchandise produced and exported by Bedini; (2) the cash deposit rates for the reviewed companies will be the rates listed above (except no cash deposit will be required if a company's weighted-average margin is *de minimis*, *i.e.*, less than 0.5 percent); (3) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (4) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, for manufacturers other than Bedini, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (5) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, or an exporter without its own rate is exporting Bedini merchandise, the cash deposit rate will be 3.81 percent, the "all others" rate established in the *LTFV Investigation*.

These cash deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility

under 19 C.F.R. § 351.402(f)(2) 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 doubled antidumping duties.

#### Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 C.F.R. § 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: June 4, 2004.

**James J. Jochum,**  
Assistant Secretary for Import Administration.

#### Appendix I

##### List of Comments in the Issues and Decision Memorandum

*Comment 1:* Foroni S.p.A.'s Indirect Selling Expenses

*Comment 2:* Foroni's Director's Fees and Auditor's Fees in its Reported Cost Data

*Comment 3:* Foroni's Financial Expense Ratio

*Comment 4:* Additional Adjustments to Foroni's Cost Data

*Comment 5:* Understatement of Foroni's Constructed Export Price Profit

*Comment 6:* Total Adverse Facts Available for Ugine Savoie-Imphy S.A.

*Comment 7:* Collapsing of Ugine and Trafileries Bedini S.p.A.

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

##### North American Free Trade Agreement, Article 1904 NAFTA Panel Reviews; Notice of Panel Decision

**AGENCY:** NAFTA Secretariat, United States Section, International Trade

Administration, Department of Commerce.

**ACTION:** Notice of panel decision.

**SUMMARY:** On June 7, 2004, the binational panel issued its decision in the review of the final results of the affirmative countervailing duty re-determination on remand made by the International Trade Administration (ITA) respecting Certain Softwood Lumber Products from Canada (Secretariat File No. USA-CDA-2002-1904-03) affirmed in part and remanded in part the determination of the Department of Commerce. The Department will return the second determination on remand no later than July 30, 2004. A copy of the complete panel decision is available from the NAFTA Secretariat.

**FOR FURTHER INFORMATION CONTACT:** Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

#### Panel Decision

On March 5, 2004, the Binational Panel remanded the Department of Commerce's final countervailing duty determination on remand. The following issues were remanded to the Department at the Department's request:

With the exception of its requests to correct a conversion factor, which is rendered moot by our decision, and to revise its profit adjustment with respect to Alberta, which is addressed in our discussion of profit adjustments, the Panel grants the remand sought by the Department to reconsider certain