

DEPARTMENT OF COMMERCE**International Trade Administration****[C-549-818]****Certain Hot-Rolled Carbon Steel Flat Products From Thailand: Notice of Court Decision and Suspension of Liquidation**

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

SUMMARY: On July 27, 2004, the United States Court of International Trade issued an order to the Department to find that no countervailable subsidies are being provided for the production or exportation of certain hot-rolled carbon steel flat products from Thailand. Specifically, the Court reversed the Department's finding of a countervailable subsidy relating to a duty drawback program. The effect of removing this countervailable subsidy finding is the reduction of the overall countervailable subsidy rate to 1.80 percent *ad valorem*, which is *de minimis* for Thailand. *Royal Thai Government, et al., v. United States*, Consol. Court No. 02-00026, Slip. Op. 04-91 (CIT 2004) ("*Royal Thai*").

Consistent with the decision of the United States Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), the Department is notifying the public that the *Royal Thai* decision was "not in harmony" with the Department's final determination.

EFFECTIVE DATE: August 6, 2004.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Dara Iserson, AD/CVD Enforcement Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1391 or (202) 482-4052, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On October 3, 2001, the Department of Commerce ("the Department") issued a countervailing duty determination covering hot-rolled steel from Thailand. *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001). On December 3, 2001, the countervailing duty order was published. *Notice of Countervailing Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From Thailand* 66 FR 60197 (December 3, 2001).

On February 1, 2002, respondents, the Royal Thai Government (RTG) and

Sahaviriya Steel Industries (SSI), filed their complaint, appealing the final determination and countervailing duty order. *Royal Thai Government, et al., v. United States*, Court. No. 02-00027. Petitioners, National Steel Corporation, Bethlehem Steel Corporation, and United States Steel Corporation, also appealed the final determination. *National Steel Corp., et al., v. United States*, Court No. 02-00026, consolidated into *Royal Thai Government, et al., v. United States*, Consol. No. 02-00026.

On May 19, 2004, the RTG and SSI obtained an injunction, applicable during the pendency of this litigation in the Court of International Trade, enjoining the United States from liquidating or causing or permitting liquidation of any entries of certain hot-rolled carbon steel flat products from Thailand that: (1) Were affected by the Department's investigative proceeding; (2) were produced and exported by SSI; (3) were entered or withdrawn from warehouse, for consumption, from January 1, 2002 through December 31, 2002; and, (4) remain unliquidated as of 5 p.m. on May 20, 2004.

On July 27, 2004, the CIT found that the Department's determination to countervail the duty drawback program in its entirety was not supported by substantial evidence and is not in accordance with law. Because the Court found that the drawback program is not countervailable, and the revised subsidy rate is *de minimis* (1.80 percent), it ordered the Department to find that no countervailable subsidies are being provided to the production or exportation of certain hot-rolled carbon steel flat products from Thailand. See *Royal Thai*.

Timken Notice

In its decision in *Timken*, the Federal Circuit held that, pursuant to 516a(c)(1) and (e) of the Act, the Department must publish notice of a decision of the CIT which is not in harmony with the Department's determination. The CIT's decision in *Royal Thai* was not in harmony with the Department's *Final Determination*. Therefore, publication of this notice fulfills the statutory obligation.

Suspension of Liquidation

This notice will serve to continue the suspension of liquidation pending the expiration of the period to appeal the CIT's July 27, 2004, decision, or, if that decision is appealed, pending a final decision by the Court of Appeals for the Federal Circuit. Because the CIT issued an injunction on May 19, 2004, the Department will continue to suspend

entries of hot-rolled steel from Thailand as specified in the injunction. The Department will revoke the Order and issue instructions covering these entries if the CIT's decision is not appealed, or if it is affirmed on appeal.

Dated: August 26, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4-2012 Filed 8-31-04; 8:45 am]

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DEPARTMENT OF COMMERCE**International Trade Administration****[C-427-815]****Stainless Steel Sheet and Strip in Coils From France: Notice of Amended Final Determination Pursuant to Final Court Decision and Revocation of Order**

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

ACTION: Notice of Amended Final Determination Pursuant to Final Court Decision and Revocation of Order.

SUMMARY: On September 24, 2002, the United States Court of International Trade ("CIT") sustained the Department of Commerce's ("the Department") second remand determination of the *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from France*, 64 FR 30774 (June 8, 1999) ("*French Stainless*"). See *Allegheny Ludlum Corp. v. United States*, 182 F. Supp. 2d 1357 (2002) ("*Allegheny II*"). The Department appealed this decision to the United States Court of Appeals for the Federal Circuit ("Federal Circuit"). On May 13, 2004, the Federal Circuit affirmed the CIT's decision in *Allegheny II*. See *Allegheny Ludlum Corp. v. United States*, 367 F.3d 1339 (Fed. Cir. 2004) ("*Appellate Decision*"). Because all litigation in this matter has concluded, the Department is issuing this amended final determination in *French Stainless* in accordance with the CIT's decision and revoking the countervailing duty order.

EFFECTIVE DATE: September 1, 2004.

FOR FURTHER INFORMATION CONTACT: Jesse Cortes at (202) 482-3986, AD/CVD Operations 1, Office I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1999, the Department published the final affirmative countervailing duty determination in *French Stainless*. The Department published the related countervailing duty order on August 6, 1999. See *Amended Final Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip in Coils From France, Italy, and the Republic of Korea*, 64 FR 42923 (August 6, 1999) (“*CVD Order*”). In its final determination, the Department found that a portion of the countervailable subsidy benefits bestowed on French steel producer Usinor Sacilor prior to a stock sale privatization passed through to Usinor, the privatized company and the respondent in the investigation. Usinor and one of the petitioners, Allegheny Ludlum Corporation (“Allegheny” or “the petitioner”), challenged this determination before the CIT. See *Usinor v. United States*, Court No. 99–09–00573 and *Allegheny Ludlum v. United States*, Court No. 99–09–00566. The cases were subsequently consolidated as *Allegheny Ludlum v. United States*, Court No. 99–09–00566 (also referred to as “*French Stainless*”). On December 22, 1999, the CIT issued an injunction enjoining the Department from liquidating Usinor’s, Ugine S.A.’s and Uginox’s entries of subject merchandise that were entered, or withdrawn from warehouse, for consumption (1) on or after November 17, 1998, and before March 17, 1999; and (2) on or after August 6, 1999.

On February 2, 2000, while *French Stainless* was pending before the CIT, the Federal Circuit issued a ruling in *Delverde SRL v. United States*, 202 F.3d 1360 (Fed. Cir. 2000), *reh’g granted in part*, (June 20, 2000) (“*Delverde III*”), which had a direct impact on the change-in-ownership methodology at issue in *French Stainless*. Specifically, the Federal Circuit ruled that the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (“the Act”), did not allow the Department to presume, pursuant to a *per se* ruling, that subsidies granted to the former owner of a company’s assets automatically “passed through” to the new owner following a sale; rather, the statute required the Department to examine the particular facts and circumstances of the sale, and determine whether the new owner directly or indirectly received both a financial contribution and a benefit. *Id.* at 1364. In light of *Delverde III*, the Department asked the CIT to remand

French Stainless for reconsideration of the change-in-ownership issues. On August 15, 2000, with the parties’ consent, the CIT remanded *French Stainless* to the Department to issue a determination consistent with U.S. law and *Delverde III*. See *Allegheny Ludlum Corp. v. United States*, Court No. 99–09–00566, Remand Order (August 15, 2000).

On December 13, 2000, having taken *Delverde III* into consideration, the Department issued the *Final Results of Redetermination Pursuant to Court Remand, Allegheny Ludlum Corp., et al., v. United States*, Consol. Court No. 99–09–00566, Remand Order (CIT August 15, 2000) (December 13, 2000) (“*Remand Determination I*”). In that redetermination, having found (based on an analysis of certain factors) that Usinor was the same legal person before and after privatization, the Department determined that pre-privatization subsidy benefits remained attributable to Usinor following privatization. See *Remand Determination I* at 20.

On January 4, 2002, rejecting the Department’s same-person analysis as contrary to the requirements of *Delverde III*, the CIT again remanded *French Stainless* to the Department. See *Allegheny Ludlum Corp. v. United States*, 182 F. Supp. 2d 1357 (2002) (“*Allegheny I*”).

Despite disagreement with the CIT’s interpretation of *Delverde III*, the Department proceeded with a further redetermination as remanded and, on June 3, 2002, issued the *Results of Redetermination Pursuant to Court Remand, Allegheny Ludlum Corp. et al., v. United States*, Court No. 99–09–00566, Remand Order (CIT January 4, 2002) (June 3, 2002) (“*Remand Determination II*”). In that redetermination, applying a fair-market-value analysis, the Department concluded that the purchasers/new owners of Usinor did not receive new countervailable subsidies as a result of the privatization transaction.

On September 24, 2002, upon consideration of *Remand Determination II*, the CIT issued *Allegheny Ludlum Corp. v. United States*, 246 F. Supp. 2d 1304 (2002) (“*Allegheny II*”) sustaining the results of *Remand Determination II*.

The Department subsequently appealed the case to the Federal Circuit. On May 13, 2004, the Federal Circuit issued the *Appellate Decision*, which affirmed the CIT’s *Allegheny II* decision sustaining the results of *Remand Determination II*. Because there is now a final and conclusive decision in the court proceeding, effective as of the publication date of this notice, we are amending the final determination and

establishing the revised countervailing duty rates set forth below.

In a contemporaneous but separate proceeding, on November 17, 2003, the Department published a *Notice of Implementation Under Section 129 of the Uruguay Round Agreements Act; Countervailing Measures Concerning Certain Steel Products from the European Communities*, 68 FR 64858 (Nov. 17, 2003). The Department implemented, among other determinations, its Section 129 determination with respect to the *CVD Order*. The result was a revocation of the *CVD Order* effective November 7, 2003. The Department instructed U.S. Customs and Border Protection (“CBP”) to discontinue suspension of liquidation of shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after November 7, 2003.

Finally, the Department conducted two administrative reviews of the *CVD Order*. See *Stainless Steel Sheet and Strip in Coils from France: Final Results of Countervailing Duty Administrative Review*, 67 FR 62098 (Oct. 3, 2002) and *Stainless Steel Sheet and Strip in Coils from France: Final Results of Countervailing Duty Administrative Review*, 68 FR 53963 (Sept. 15, 2003). As a consequence of the injunction issued by the CIT on December 22, 1999, the Department did not order the liquidation of any entries covered by the administrative reviews. Those entries shall be liquidation as set forth below.

Amended Final Determination and Revocation of Order

Because there is now a final and conclusive decision in the court proceeding, effective as of the publication date of this notice, we are amending the final determination to reflect the results of *Remand Determination II, i.e.*, that the countervailable subsidy rate for Usinor during the period of investigation is 0.00 percent *ad valorem*. Because Usinor was the only known producer/exporter of the subject merchandise, we are also revoking the *CVD Order* for all entries after November 17, 1998 (the date on which the Department published the preliminary countervailing duty determination in *French Stainless*) through November 7, 2003 (the date on which the Department implemented its Section 129 determination on *French Stainless*).

Accordingly, pursuant to section 705(c)(2)(A)–(B) of the Act and effective as of the publication of this notice, the Department will instruct CBP to terminate the suspension of liquidation of, and liquidation without regard to

countervailing duties, all entries entered, or withdrawn from warehouse, for consumption on or after November 17, 1998, and before March 17, 1999 (the date the Department instructed CBP to discontinue the suspensions of liquidation), and all entries entered, or withdrawn from warehouse, for consumption on or after August 6, 1999 (the date on which the Department published the *CVD Order*), and before November 7, 2003.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: August 26, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04-20029 Filed 8-31-04; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082704C]

Proposed Information Collection; Comment Request; U.S. Canada Albacore Treaty Reporting System

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

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

DATES: Written comments must be submitted on or before November 1, 2004.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Svein Fougner, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd, Long Beach, CA 90802-4213 (phone 562-980-4040).

SUPPLEMENTARY INFORMATION:

I. Abstract

The 1981 Treaty Between the Government of the United States and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges (Treaty) provides for reciprocal privileges for vessels of one country to fish in waters under the fisheries jurisdiction of the other country and to use certain ports. H.R. 2584 was enacted in 2004 and amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to authorize the Secretary of Commerce, with the concurrence of the Secretary of State, to issue regulations needed to carry out U.S. obligations under the Treaty. On June 1, 2004, the National Marine Fisheries Service (NMFS) implemented such regulations. The regulations require U.S. vessel operators to report their desire to be on the list of vessels provided to Canada each year indicating vessels that are eligible to fish for albacore in waters under the fisheries jurisdiction of Canada; to report in advance their intention to fish or transit before crossing the border between the U.S. and Canada, or vice versa; to maintain and submit to NMFS logbooks of catch and effort covering fishing in Canadian waters; and to mark their fishing vessels to facilitate effective enforcement. The information collection was authorized by emergency approval from the Office of Management and Budget. This collection is intended to be processed through normal procedures including full public review.

II. Method of Collection

Fishing vessel operators and owners are responsible for providing to NMFS, by phone or in written form (fax, letter or email), information about their vessels and fishing intentions to establish eligibility for fishing in Canada's waters. Vessel operators must complete and submit paper logbooks to NMFS recording catch (by species), disposition of catch, and fishing effort (hours trolled and lines used) during their fishing in Canadian waters under the Treaty. Vessel operators must make reports to an NMFS-designated contractor at least 24 hours prior to entry to Canadian waters to fish under the Treaty and prior to returning to U.S. waters. Reports can be made by sideband radio, phone, fax, or email at any time of the day. Finally, vessel operators must mark their vessels with painted numbers and letters on the hull when fishing in Canadian waters under the Treaty.

III. Data

OMB Number: 0648-0492.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 700.

Estimated Time Per Response: 8 minutes.

Estimated Total Annual Burden Hours: 348.

Estimated Total Annual Cost to Public: \$1,900.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 27, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04-19972 Filed 8-31-04; 8:45 am]

BILLING CODE 3510-22-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Withdrawal of One Commercial Availability Petition Under the United States—Caribbean Basin Trade Partnership Act (CBTPA)

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: The petitioner has notified CITA that it is withdrawing one of the four petitions it submitted for a determination that certain fancy polyester/ rayon suiting fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.