FINAL RESULTS OF
REDETERMINATION PURSUANT TO
UNITED STATES COURT OF INTERNATIONAL TRADE
REMAND ORDER

SLATER STEELS CORP., FORT WAYNE SPECIALTY ALLOYS DIVISION; CARPENTER TECHNOLOGY CORP., CRUCIBLE SPECIAL METALS DIVISION, CRUCIBLE MATERIALS CORP.; UNITED STEEL WORKERS OF AMERICA, AFL-CIO/CLC; ACCIAIERIE VALBRUNA S.P.A.
v.
UNITED STATES
Consolidated Court No. 02-00189

Summary

The Department of Commerce ("the Department") has prepared these final results of redetermination pursuant to the remand order of the United States Court of International Trade ("the CIT"), Slater Steels Corp., Fort Wayne Specialty Alloys Division; Carpenter Technology Corp., Crucible Special Metals Division, Crucible Materials Corp.; United Steel Workers of America , AFL-CIO/CLC; Acciaierie Valbruna S.p.A. v. United States, Consol. Ct. No. 02-00189, Slip Op. 03-162 (CIT December 16, 2003). The CIT's order directed the Department to address a single issue involving Acciaierie Valbruna S.p.A. ("Valbruna"), a respondent in the Department's antidumping duty investigation of stainless steel bar ("SS Bar") from Italy.

Background

The Department published its Final Determination in the antidumping duty investigation of stainless steel bar from Italy on January 23, 2002. Notice of Final Determination of Sales at Less Than Fair Value; Stainless Steel Bar from Italy, 67 Fed. Reg. 3155 (January 23, 2002). The plaintiffs subsequently challenged the Department's decisions on seven different issues. On December 16, 2003, the CIT issued an opinion in Slater Steels Corp., Fort Wayne Specialty Alloys Division;

Carpenter Technology Corp., Crucible Special Metals Division, Crucible Materials Corp.; United Steel Workers of America , AFL-CIO/CLC; Acciaierie Valbruna S.p.A. v. United States, Consol. Ct. No. 02-00189, Slip-op. 03-162 (CIT December 16, 2003) ("Slater Steels"), upholding the Department's decisions on all issues except for one issue pertaining to the Department's cost of production ("COP") and constructed value ("CV") methodology, and ordered this remand. Specifically, the Department has been directed on remand to clarify why it decided not to apply an inventory adjustment to Valbruna's cost of production similar to the inventory adjustments that it made in the five administrative determinations cited by Valbruna in its case briefs.

On March 1, 2004, we released our draft results of redetermination to Valbruna and to the petitioners in this proceeding, Carpenter Technology Corp. On March 5, 2004 , we received comments on our draft redetermination from Valbruna. We have addressed these comments in the Analysis of Comments Received section below. On March 5, 2004, the petitioners filed a letter stating that they agreed with the Department's draft redetermination and that they had no further comments.

Issue: Clarify the Decision Not to Make an Inventory Adjustment

The CIT instructed Commerce to:

> {C}larify why it decided not to apply an inventory adjustment to Valbruna's cost of production data akin to the inventory adjustments it made in {Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Pipe from the Republic of Korea}, 57 FR 53693 (November 12, 1992) {("Pipe from Korea")}; {Furfuryl Alcohol from Thailand}, 60 FR 22557 (May 8, 1995) {("Furfuryl Alcohol")}; {Titanium Sponge from Japan; Final Results of Antidumping Duty Administrative Review}, 55 FR 42227 (October 18, 1990) {("Titanium Sponge")}; {Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia}, 63 FR 72268 (December 31, 1998) {("Mushrooms from Indonesia")}; and {Notice of Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea}, 65 FR

> 16880 (March 30, 2000) {(Issues and Decision Memorandum at Comment 13) ("PSF from Korea")}.

Slater Steels, Slip Op. 03-162 at 23-24. The CIT stated that the Department failed to discuss or even mention any of the above-cited determinations in its final determination decision memorandum or its court brief. Id. at 22.

Under section 773(f)(1)(A) of the Tariff Act of 1930, as amended ("the Act"), the Department is directed to calculate costs "based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles ("GAAP") of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise." Accordingly, in each of the above-cited cases, the Department correctly relied on the inventory methodology used by each of the respondents in their normal books and records in calculating the COP and CV. Similarly, in this proceeding the Department has correctly relied on the raw material inventory valuation method used by Valbruna in its normal books and records.

None of the cited cases supports the conclusion that the Department should depart from Valbruna's normal inventory valuation methodology and calculate a cost that is inconsistent with the cost recorded in its financial accounting system (i.e., normal books and records). As directed by the CIT, we hereby address each of the cited determinations and why each was off point and does not support the conclusion that the Department should have accepted Valbruna's adjustment.

In Titanium Sponge, 55 FR at 42229, the Department determined that the reported raw material costs were not calculated based on the weighted-average costs recorded in the respondent's financial accounting system. The Department found that the respondent's ("Showa's") reported cost of raw materials did not include the beginning inventory values as would be required in its normal weighted-average costing methodology. It was for this reason that the Department adjusted the respondent's reported costs to include the value of materials in beginning inventory. This adjustment to Showa's costs was a revision to the reported costs to reflect the amounts in the respondent's normal financial accounting records. In this proceeding, the Department rejected the proposed adjustment because Valbruna attempted to alter the costs recorded in its accounting records; the Department simply used Valbruna's normal inventory valuation method (i.e., a last-in-first-out ("LIFO") method).

Similar to Showa in the Titanium Sponge case, PSP, the respondent in Pipe from Korea, 57 FR at 53704, reported a cost that was not consistent with the weighted-average methodology reflected in its normal financial accounting records. The Department therefore adjusted PSP's reported costs to agree with its accounting records. In this proceeding, Valbruna attempted to adjust its costs to an amount that was not reflected in its financial accounting records. Valbruna's unadjusted reported costs were consistent with the costs reported in its financial accounting records and thus did not warrant adjustment.

Valbruna's citation to Furfuryl Alcohol, 60 FR at 22560, was misleading and self-serving in that it failed to quote the Department's full rationale for adjusting that respondent's ("IRCT's") reported costs. Valbruna selectively quoted the Department's position. The Department's complete statements were, "The most appropriate cost calculation methodology for corn cobs used in the production of furfuryl alcohol should take into account the actual corn cobs used during the POI based on IRCT's normal weighted-average inventory cost flow assumption. Therefore, we have recalculated IRCT's corn cob cost based on the weighted-average cost of corn cob inventories at the beginning of the POI, plus all purchases of the input made during the POI." (Emphasis added). When considering the complete statement of the Department's position, it is clear that Furfuryl Alcohol supports what the Department did in this proceeding. In both cases the Department relied on the respondents' raw material inventory costs as normally calculated in their financial accounting records.

In Mushrooms from Indonesia, 63 FR at 72278, because of a significant variation in the Indonesian currency during the POI, the petitioners argued for the Department to use an inventory valuation methodology which was not used by the respondent, Dieng, in its normal accounting records. In that case, the Department did not see the merit in the petitioners' arguments and continued to use Dieng's normal raw material costing methodology. Similarly, the Department has relied on Valbruna's cost data without the claimed adjustment because it reflects the methodology used by Valbruna in its financial accounting system.

Like the other cases cited by Valbruna, the facts in PSF from Korea, Issues and Decision Memorandum at Comment 13, are distinct from the facts in this case. In PSF from Korea, the respondent, Sam Young, did not track its raw material inventory movement except at the beginning and end of each year. Sam Young claimed to have calculated a POI cost of raw materials consumed, but the Department determined that the raw material volumes consumed were insufficient to account for the production during the POI. The Department concluded that the reported costs did not reasonably reflect the actual costs incurred during the POI because they did not reflect the actual consumption of raw materials. To correct for this understatement of costs, the Department resorted to non-adverse facts available and increased the consumption amount of raw materials. This is not the situation in this case where the volume of raw materials consumed is not an issue. In this proceeding, Valbruna calculated a cost of raw materials consumed in its financial accounting system and its reported costs already reflected this amount.

Analysis of Comments Received

As noted, Valbruna filed comments in response to our draft redetermination regarding the above issue. We address each in turn below.

Comment 1: The Cases Support Valbruna's View: the Department's Policy is to Include in Its Cost Calculation the Cost of Materials Consumed, Not Purchased, During the Cost Period

Valbruna largely agrees with the Department's descriptions of the cases cited by the Court. Valbruna asserts that in each case the Department included the respondent's cost of materials consumed during the cost reporting period and would not accept only the cost of materials purchased. Valbruna claims that the record in this case establishes that its proposed inventory adjustment is necessary to reflect the cost of materials consumed during the POI, and that the adjustment is also consistent with its normal books and records.

Valbruna claims that the Department's characterization of its practice is not entirely accurate. Valbruna argues that if a respondent's normal books and records reflected only purchases and ignored the value of the change in materials inventory, the Department would certainly require an adjustment so that it captured the cost of materials consumed. Valbruna states that it is not aware of any case in which the Department permitted the respondent to include only the cost of materials purchased rather than consumed regardless of how the company maintains its normal books and records. Valbruna argues that by denying its proposed inventory adjustment, the Department prevented COP from reflecting the cost of materials consumed.

Department Position

We disagree with Valbruna. Valbruna attempts to cloud the issue by claiming that the Department did not use the cost of materials consumed. In making this claim Valbruna is, in essence, undermining its own financial accounting system by stating that it does not reflect the actual cost of producing the merchandise under consideration. Each of the cases cited support the Department's use of the LIFO inventory valuation methodology used in Valbruna's normal financial accounting system. In this case, the quantity of materials consumed is not in question, only the valuation of the quantity consumed is at issue. The Department's normal and longstanding practice is to calculate the cost of materials by valuing the consumed quantity at the amount normally used by the company in its financial accounting system. In accordance with this practice, the Department used Valbruna's normal valuation of the materials consumed as Valbruna normally records it in its financial accounting system and its audited financial statements.

Record evidence does not demonstrate that the proposed adjustment is needed. To the contrary, the record evidence shows that the consumed quantity is valued in Valbruna's normal financial accounting system using the LIFO valuation methodology and that Valbruna's reported costs prior to its claimed inventory adjustment are consistent with those LIFO costs. This can be seen by examining the reconciliation between the costs recorded in Valbruna's financial accounting system and the reported costs prior to the claimed adjustment on pages 13-15 of the Department's verification report which shows that there are no reconciling items between Valbruna's financial statements and the reported costs related to inventory valuation. Valbruna proposes that the Department disregard its normal valuation of materials consumed as recorded in the financial accounting system and instead value the consumed quantity based on a lower first-in first-out ("FIFO") methodology. To make this change from Valbruna's normal financial statement valuation methodology would be inconsistent with the Department's normal practice, the law, Valbruna's financial accounting system and the five cited cases. Thus, in accordance with our practice and the requirements of the statute, we continue to use the LIFO cost of materials consumed as reflected in Valbruna's normal audited financial accounting system.

Comment 2: The Record Evidence in This Case Demonstrates That the Inventory Adjustment Requested by Valbruna is Reflected in Valbruna's Books and Records

Valbruna argues that the product-specific per-unit costs used by the Department (prior to the application of its proposed adjustment) do not reflect the LIFO valuation methodology used in its cost and financial accounting systems, and that the only way to make the reported costs consistent with its normal books and records is to grant the inventory adjustment. Valbruna asserts that the record evidence, including the reconciliations shown in the verification report, establishes that the proposed inventory adjustment is necessary to report a cost that includes the cost of materials consumed and also to reconcile the product-specific per-unit cost to the costs in the cost and financial accounting systems.

Department Position

We disagree with Valbruna. Record evidence demonstrates that the reported product-specific per-unit costs (without the proposed adjustment) reflect the consumption of raw materials, semi-finished goods and work-in-process consistent with Valbruna's financial and cost accounting systems. The reconciliations examined at verification and referred to in the verification report do not show that the inventory adjustment is necessary, as Valbruna asserts, but rather that the opposite is true. An examination of this reconciliation, which Valbruna has provided in the verification report included as part of attachment 1 in its comments submitted on March 5, 2004, confirms this. First, the Department verified, as documented in its verification report, that there were no differences between the financial and cost accounting systems related to changes in inventory (see the reconciliation in section III.B. of the Department's verification report). Second, the reconciliation on pages 14-15 of the verification report shows that the change in semi-finished goods and work-in-process inventories as recorded in the financial and cost accounting systems is included in the cost of manufacturing reported to the Department. This can be seen by examining Valbruna's proposed adjustment, submitted by Valbruna in attachment 5 of its comments, which shows that the vast majority of its proposed inventory change adjustment is related to semi-finished goods and work-in-process. Verified record evidence also shows that the change in raw materials inventories as recorded in the financial and cost accounting systems is reflected in the reported cost of manufacturing (see exhibit 25 of the May 16, 2001 section D response). Furthermore, it must be noted that the reconciliation on pages 14-15 of the verification report shows that the "total submitted per-unit costs" resulted from deducting Valbruna's claimed inventory adjustment. Thus, the reconciliation demonstrates that to reconcile from the total costs in the audited financial statements to the total submitted costs (which include Valbruna's proposed inventory adjustment), the adjustment had to be deducted from the financial and cost accounting systems' total costs. In other words, the proposed inventory change adjustment is clearly not included in either the financial or cost accounting systems as Valbruna asserts. If, as Valbruna asserts, the inventory adjustment was included in the financial and cost accounting systems, no reconciling item would be necessary to arrive at the total extended reported costs.

In summary, the record evidence, including the reconciliations referred to by Valbruna, demonstrates that the requested inventory adjustment is not recorded in Valbruna's normal financial and cost accounting systems. Further, as outlined above, the very same evidence shows that the costs recorded in neither of these systems includes Valbruna's proposed adjustment (see the reconciliation on pages 14-15 of the verification report). Finally, the evidence shows that the costs reported to the Department before the inclusion of Valbruna's proposed adjustment which were used in the final determination both reflect and can be reconciled to the costs in Valbruna's financial and cost accounting systems as required by the Department's normal practice and the statute.

Results

Because the facts in each of the cases cited by Valbruna are different from the facts in this case, none of them provide a precedent for the Department to depart from its statutory requirement under section 773(f)(1)(A) of the Act to rely on the costs recorded in a respondent's normal books and records kept in accordance with home country GAAP. In none of the cases cited by Valbruna did the Department advocate a particular inventory costing method as being the appropriate method in all antidumping duty proceedings. To the contrary, in each of these cases, the Department adhered to its practice of relying on the inventory costing methodology used by each of the companies in their normal financial accounting records.

Moreover, contrary to Valbruna's assertions in its submitted comments, the costs that the Department used in the final determination reflect the consumption of raw materials, semi-finished goods and work-in-process as valued and recorded in Valbruna's normal books and records. Thus, we continue to find that Valbruna's proposed inventory adjustment is unwarranted and we have not adjusted the cost data on remand.

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James J. Jochum
Assistant Secretary for
Import Administration

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(Date)