

MEMORANDUM TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for Final Results of Five-Year  
(Sunset) Review of the Countervailing Duty Order on Oil Country  
Tubular Goods from Italy

### Summary

We have analyzed the responses of interested parties in the expedited sunset review of the countervailing duty order on oil country tubular goods (OCTG) from Italy. We have also considered the results of verification (see Countervailing Duty Sunset Review of Oil Country Tubular Goods from Italy: Verification of the Government of Italy's (GOI) Substantive Questionnaire Response (GOI Report) and Countervailing Duty Sunset Review of Oil Country Tubular Goods from Italy: Verification of Dalmine's Sales and Substantive Questionnaire Response (Dalmine Report)) and the GOI's comments on our verification reports. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues that we are addressing in this expedited sunset review:

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Likely to Prevail

### History of the Order

On June 28, 1995, the Department of Commerce (the Department) published in the Federal Register its final countervailing duty determination on OCTG from Italy. See Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods ("OCTG") from Italy, 60 FR 33577 (June 28, 1995) (Final Determination). Further, on August 10, 1995, the Department published its countervailing duty order on OCTG from Italy. See Notice of Countervailing Duty Order: Oil Country Tubular Goods ("OCTG") From Italy, 60 FR 40822 (August 10, 1995). In the Final Determination, the Department found three programs countervailable:

1. Subsidized Loans and Retraining Grants under Law 675/77;
2. Grants under Law 193/84;
3. Exchange Rate Guarantee Program under Law 796/76.

The net countervailable subsidy calculated in the Final Determination was 1.47 percent ad valorem for all exporters of OCTG from Italy.

There were no administrative reviews conducted between the original investigation and the initiation of the first sunset review. The Department published its final results of the first sunset review, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), on March 8, 2001. See Oil Country Tubular Goods (“OCTG”) From Italy; Final Results of Sunset Review of Countervailing Duty Order, 66 FR 13910 (March 8, 2001) (First Sunset Review). In that review, the Department determined that revocation of the CVD order would likely lead to continuation or recurrence of countervailable subsidies at the same rate as found in the Final Determination. Further, the International Trade Commission (ITC) found that injury would continue to recur were the order revoked. As a result, pursuant to 19 CFR 351.218 (e)(4), the Department published a notice of continuation of the order, based on the Department’s and the ITC’s affirmative findings. See Continuation of Countervailing and Antidumping Duty Orders on Oil Country Tubular Goods From Argentina, Italy, Japan, Korea and Mexico, and Partial Revocation of Those Orders From Argentina and Mexico With Respect to Drill Pipe, 66 FR 38630 (July 25, 2001) (Continuation of Orders).

Since the publication of the notice of continuation of the order, no administrative reviews, scope clarifications, circumvention determinations or changed circumstances reviews of the CVD order have been conducted.

### Background

On June 1, 2006, the Department published the notice of initiation of the second sunset review of the CVD order on OCTG from Italy, pursuant to section 751(c) of the Act. See Initiation of Five-Year (“Sunset”) Reviews, 71 FR 31153 (June 1, 2006). The Department received notices of intent to participate from United States Steel Corporation, IPSCO Tubulars, Inc., Lone Star Steel Company, Koppel Steel (NS Group), Maverick Tube Corporation, Newport Steel (NS Group), V&M Star LP, (collectively “domestic interested parties”), within the deadline specified in 19 CFR 351.218(d)(1)(i). Domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as U.S. manufacturers of the domestic like product. Moreover, certain domestic interested parties were petitioners in the original investigation and have participated in the subsequent reviews before the Department.

The Department received substantive responses within the deadline specified in 19 CFR 351.218(d)(3)(i) from domestic interested parties, the GOI, the European Union/Delegation of the European Commission (EU), Dalmine S.p.A. (Dalmine), and Arvedi Tubi Acciaio S.p.A.

(Arvedi).<sup>1</sup> The Department also received timely filed rebuttal comments from the domestic interested parties.<sup>2</sup>

In addition to meeting the other requirements of section 351.218(d)(3) of the Department's regulations, the GOI provided information on the volume and value of exports of subject merchandise to the United States. Further, Dalmine reported exports of zero during the period of this sunset review (January 2001 through December 2005). The Department's regulations provide that the Secretary "normally will conclude that respondent interested parties have provided adequate response to a notice of initiation where it receives complete substantive responses . . . from respondent interested parties accounting on average for more than 50 percent, on a volume basis (or value, if appropriate), of the total exports of subject merchandise to the United States over the five calendar years preceding the year of publication of the notice of initiation." See 19 CFR 351.218(e)(1)(ii)(A). Dalmine's exports of subject merchandise to the United States during the period 2001 - 2005 did not account for more than 50 percent of total exports of subject merchandise. As such, the Department found the respondents' responses to be inadequate and therefore, has conducted an expedited sunset review of the countervailing duty order,<sup>3</sup> pursuant to 19 CFR 351.218(e)(1)(ii)(A) and 351.218(e)(1)(ii)(C). In accordance with 19 CFR 351.218(e)(1)(ii)(C)(2), the Department notified the ITC that respondent interested parties provided inadequate response to the notice of Initiation of Five-Year ("Sunset") Review.<sup>4</sup>

On October 2, 2006, the Department extended the deadline to issue the final results to December 19, 2006, in accordance with sections 751(c)(5)(B) and 751(c)(5)(C) of the Act. See Oil Country Tubular Goods from Italy: Extension of Time Limit for Final Results of Expedited Five-Year (Sunset) Review of Countervailing Duty Order, 71 FR 57922 (October 2, 2006). On November 8 and 10, 2006, the Department conducted verification in Italy with GOI and Dalmine. On November 17, 2006, the Department issued verification reports on GOI and Dalmine. See GOI Report and Dalmine Report. On November 27, 2006, the Department

---

<sup>1</sup> Dalmine is a manufacturer and exporter of the subject merchandise. Arvedi indicated in its substantive response that it no longer produces the merchandise subject to this order. Therefore, Arvedi is not an interested party in accordance with section 771(9)(A) of the Act.

<sup>2</sup> On June 29 and July 5, 2006, the Department received a substantive response and rebuttal comments, respectively, from IPSCO Tubulars, Inc., Lone Star Steel Company, Koppel Steel (NS Group), Maverick Tube Corporation, Newport Steel (NS Group), V&M Star LP. On July 3 and July 14, 2006, the Department received a substantive response and rebuttal comments, respectively, from United States Steel Corporation.

<sup>3</sup> See July 21, 2006 Memorandum from the sunset team to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, through Barbara E. Tillman, Director, AD/CVD Operations, Office 6, Adequacy Determination: Sunset Review of the Countervailing Duty Order on Oil Country Tubular Goods from Italy (Second Review)

<sup>4</sup> See July 25, 2006 letter to Robert Carpenter, Director, Office of Investigations, ITC, from Edward C. Yang, Senior Enforcement Coordinator, AD/CVD Operations, Office of China/NME Compliance, Import Administration.

received comments from the GOI in which the GOI recommended that the Department make certain modifications to the GOI Report. We have not modified the GOI Report. The verification reports stand as the record of the discussions which took place at verification. It is not our practice to change a verification report based on the parties' comments or arguments.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the programs which gave rise to the net countervailable subsidy has occurred and is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the ITC the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, the Department will provide to the ITC information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures (ASCM).

Below we address the comments of the interested parties.

#### *1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy*

#### Interested Parties' Comments

---

Domestic interested parties argue that revocation of the CVD order on OCTG from Italy would likely lead to the continuation or recurrence of a countervailable subsidy at rates equivalent to or greater than those found in the original investigation. Domestic interested parties state that since no administrative reviews or changed circumstances reviews have been conducted to date, the Department should rely on the results of the last sunset review to find a recurrence of subsidization. Therefore, they argue that the order should not be revoked.

The GOI and EU argue that the Italian steel sector in general is now fully private, the producers of OCTG in particular are no longer benefitting from any subsidy, and there is no likelihood that this situation will change. The GOI cited the following Department determinations in support of their statements: Decision Memo for the Full Sunset Review of the Countervailing Duty Order on Stainless Steel Wire Rod from Italy: Final Results 69 FR 40354 (July 2, 2004), (Stainless Steel Wire Rod from Italy), and, Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from Italy 64 FR 73244 (December 29, 1999) (CTL Plate from Italy). The GOI further states that the three programs found to be countervailable in the original investigation have been terminated and there are no residual benefits.

Dalmine argues that, since all programs deemed countervailable in the original investigation either have been terminated by the GOI, or no longer provide a benefit to Dalmine, there is no likelihood that subsidization will continue or recur if the order were revoked.

In their rebuttal comments, domestic interested parties argue that the Department should affirm the CVD rates and find that there is likelihood of continuation or recurrence of countervailable subsidization were the order revoked. Domestic interested parties maintain that there is insufficient evidence to support respondents' statement that the countervailable programs no longer provide a countervailable subsidy to producers of the subject merchandise in Italy.

#### Department's Position

The Department makes its likelihood determination (*i.e.*, of whether revocation of the order is likely to lead to continuation or recurrence of a countervailable subsidy) on an order-wide (country-wide) basis, although company-specific rates are reported to the ITC. See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 103-316, Vol. 1 (1994) at 879 and House Report, H.R. Rep. No. 103-826 (1994) at 56.

There have been no administrative reviews of this order since the first sunset review. However, the GOI has argued that the Department itself has found the programs at issue to be terminated. We have taken into consideration the Department's prior findings in other sunset reviews of countervailing duty orders on Italian products which demonstrate that two of the programs found countervailable in the investigation have been terminated with all residual benefits fully allocated or repaid. In the investigation, the Department determined that Dalmine received countervailable subsidies under Law 193/84 and exchange rate guarantee benefits under Law 796/76. See Final Determination. In Stainless Steel Wire Rod from Italy, the Department determined that all benefits under Law 193/84 had been fully allocated by 2000, and determined the program had been terminated as of December 31, 1986. As a result, the Department found in that case that this program is unlikely to lead to continuation or recurrence of a countervailable benefit. In the instant case, we verified that payments under this program to Dalmine ceased in 1990, and there are no residual benefits to Dalmine, to other Italian producers of OCTG, or to any other company. We also verified that there were no replacement programs. See GOI Report and Dalmine Report.

With respect to Law 796/76, the Department determined that Dalmine received exchange rate guarantee benefits during the investigation under Law 796/76 on loans granted between 1976 and 1981, with loan terms that indicate that the loans were repaid prior to the end of this sunset review period. In CTL Plate from Italy, the Department determined that this program had been terminated effective July 10, 1992 by Decree Law 333/92. At verification, we confirmed that the Decree was published in the Official Gazette, and the effect of this Decree was that no new loans could be provided with this guarantee mechanism after July 1992. See GOI Report. Further, we confirmed that the loans carrying the exchange rate guarantee that had been the basis for the Department's countervailability determination had been repaid prior to the sunset period.

Moreover, we verified that there are no such loans, or any corresponding exchange rate guarantees, to any Italian steel companies that remained outstanding at the end of this sunset period. Finally, we verified that there were no replacement programs. See GOI Report and Dalmine Report. Therefore, there are no residual benefits to Dalmine or other OCTG producers. We determine, therefore, that there is no likelihood that subsidization will continue or recur under either Law 193/84 program or Law 796/76 program.

For the third program, Law 675/77, which provided, inter alia, subsidized loans and retraining grants in the investigation, the Department recognized in the Final Determination that Dalmine had repaid each of the loans received under this program by June 1994, and the grants were treated as recurring benefits and allocated to the year of receipt. See Memorandum from Team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations, Final Countervailing Duty Determination: Oil Country Tubular Goods (“OCTG”) from Italy (June 19, 1995). Although the GOI argued during the investigation that this finding establishes the termination of this program, we disagreed. See Id. In the instant proceeding, the GOI has not provided information which would cause us to change the determination we made in the investigation that this program has not been terminated without residual benefits. Specifically, we continue to find, as we did in the investigation, that Dalmine’s repayment of countervailable loans does not constitute a program-wide change or termination of a program in accordance with sections 351.526(b) and (d) of the Department’s regulations. See Id. However, the rate for this sole remaining program was 0.46 percent ad valorem in the investigation and has never been above de minimis throughout the life of the order.

Section 752(b)(4)(A) of the Act states that “{a} net countervailable subsidy. . . that is zero or de minimis shall not by itself require the administering authority to determine that revocation of a countervailing duty order. . . would not be likely to lead to continuation or recurrence of a countervailable subsidy.” The Act further states, “{h}owever, if the combined benefits of all programs considered by Commerce for purposes of its likelihood determination have never been above de minimis at any time the order was in effect, and if there is no likelihood that the combined benefits of such programs would be above de minimis in the event of revocation or termination, Commerce should determine that there is no likelihood of continuation or recurrence of countervailable subsidies.” See SAA at 889. This statement is reiterated in the Department’s Sunset Policy Bulletin (63 FR 18871, 18875).

Based on the record information in this case regarding the programs under Law 193/84 and Law 796/76, we find that these programs were terminated prior to the end of the sunset period with no residual benefits and no replacement programs, and that these two programs cannot serve as a basis for a finding of likelihood of continuation or recurrence of subsidization. As such, the subsidized loans and retraining grants under Law 675/77 are the only remaining subsidies that may provide a basis for our likelihood determination. The benefits under this program have never been above de minimis. There is no evidence on the record to indicate that the subsidy rate would be above de minimis in the event of revocation or termination. Thus, in accordance with our practice as articulated in the Issues and Decision Memorandum for Final Results of Full Sunset Review of Countervailing Duty Order on Brass Sheet and Strip from France 71 FR 10651 (March 2, 2006) and the guidance provided by the SAA, we find that there

would be no likelihood of continuation or recurrence of a countervailable subsidy were the order to be revoked.

## 2. Net Countervailable Subsidy Likely to Prevail

The domestic interested parties argue that the termination of the countervailing duty order on OCTG from Italy would likely lead to the recurrence of subsidized Italian merchandise entering the U.S. market, at subsidy rates equal to or greater than those found in the last sunset determination. Therefore, they argue that the Department should provide to the ITC the ad valorem subsidy rate of 1.47 percent in the original investigation as the net countervailable subsidy likely to prevail if the CVD order were revoked.

Dalmine argues that since all programs considered countervailable in the original investigation either have been terminated by the GOI, or no longer provide a benefit to Dalmine, that CVD rate likely to prevail in the event of revocation is zero.

### Department's Position

The Department normally will provide to the ITC the net countervailable subsidy that was determined in the original investigation as the subsidy rate likely to prevail if the order is revoked because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place. However, this rate may not always be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review. See e.g., Grain-Oriented Electrical Steel from Italy; Final Results of Full Sunset Review of Countervailing Duty Order, 65 FR 65295 (November 1, 2000), and accompanying Issues and Decision Memorandum at Comment 3. As noted in the previous comment, we find that the programs under Law 193/84 and Law 796/76 were terminated without residual benefits and without replacement programs. Thus, we are excluding these two programs from our calculation of the net countervailable subsidy likely to prevail. In addition, there have been no administrative reviews of this order, and no new programs have been found to provide countervailable benefits since the investigation.

Moreover, we determined in the original investigation that the GOI provided a countervailable subsidy to producers of subject merchandise in Italy through Law 675/77. The rate for this program was found to be 0.46 percent ad valorem in the original investigation, which is de minimis. However, since we are not finding likelihood, and therefore the Department will be revoking the order, no rate will be reported to the ITC.

### Final Results of Review

As a result of this sunset review, the Department determines that revocation of the CVD order would not be likely to lead to continuation or recurrence of a countervailable subsidy for the reasons set forth above. As a result, we are revoking this order effective July 25, 2006, the

fifth anniversary of the date of publication in the Federal Register of the notice of continuation. See Continuation of Orders. Further, we find that the net subsidy likely to prevail if the order were revoked is zero.

We will notify the ITC of these results. Because we have determined that revocation is not likely to result in the continuation or recurrence of a countervailable subsidy, we will not be providing the ITC with a rate likely to prevail or information on the nature of the subsidy.

Recommendation \_\_\_\_\_

Based on our examination of the record and our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of review in the Federal Register.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_

\_\_\_\_\_  
David M. Spooner  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date