

DATE: May 31, 2007

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

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

SUBJECT: Issues and Decision Memo for the Expedited Sunset Review of the  
Countervailing Duty Order on Stainless Steel Bar from Italy; Final  
Results

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### Summary

We have analyzed the substantive responses of domestic interested parties and respondent interested parties in the expedited sunset review of the countervailing duty order on stainless steel bar (“SSB”) from Italy. 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 in this expedited sunset review for which we received comments from interested parties:

1. Likelihood of Continuation or Recurrence of Countervailable Subsidies
2. Net Countervailable Subsidy Likely to Prevail
3. Nature of the Subsidies

### History of the Order

#### *Investigation*

On January 23, 2002, the Department of Commerce (“the Department”) published its final determination in the countervailing duty investigation of SSB from Italy. See Final Affirmative Countervailing Duty Determination: Stainless Steel Bar from Italy, 67 FR 3163 (January 23, 2002) (“SSB Final Determination”). On March 8, 2002, the Department published the countervailing duty order in the Federal Register. See Countervailing Duty Order: Stainless Steel Bar From Italy, 67 FR 10670 (March 8, 2002).

The following fifteen programs were found to confer countervailable subsidies in the original investigation:

- (1) Law 10/91 (Grants to Fund Energy Conservation);
- (2) Law 549/95 (Regional Tax Relief);
- (3) Valle d’Aosta Regional Law 12/87;
- (4) European Coal and Steel Community (“ECSC”) Article 54 Loans;
- (5) European Social Fund (“ESF”) (Objective 4 Grants);
- (6) Equity Infusions to Finsider and ILVA;
- (7) Pre-Privatization Assistance and Debt Forgiveness;
- (8) Valle d’Aosta Regional Assistance Associated with the Sale of Cogne Acciai Speciali S.r.l. (“CAS”): Lease of Cogne Industrial Site;
- (9) Valle d’Aosta Regional Assistance Associated with the Sale of CAS: Waste Plant;
- (10) Valle d’Aosta Regional Assistance Associated with the Sale of CAS: Loans to CAS to Transfer its Property;
- (11) Law 451/94 Early Retirement Benefits;
- (12) Capacity Reduction Payments under Article 2 of Law 193/84;
- (13) Province of Bolzano Law 25/81, Articles 13 - 15;
- (14) Environmental and Research and Development Assistance to Bolzano under Law 25/81; and
- (15) Lease of Bolzano Industrial Site to Valbruna.

In the original investigation, the Department also determined that one program was not countervailable, and that seventeen programs were not used by the companies under investigation. The list below identifies manufacturers, producers, and exporters, and net subsidies determined by the Department in the original investigation.

Manufacturers/Producers/Exporters	Net subsidy (percent)
Cogne Acciai Speciali S.r.l. (“CAS”)	13.17
Acciaierie Valbruna S.p.A. (“Valbruna”)	0.42, excluded <sup>1</sup>
Acciaiera Foroni S.p.A. (“Foroni”)	0.00, excluded <sup>2</sup>
Trafileria Bedini S.r.l. (“Bedini”)	0.00, excluded <sup>3</sup>
Italfond S.p.A. (Italfond”)	0.18, excluded <sup>4</sup>

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<sup>1</sup> Valbruna was excluded from the order during the original investigation due to a *de minimis* rate.

<sup>2</sup> Foroni was excluded from the order during the original investigation due to a zero rate.

<sup>3</sup> Bedini was excluded from the order during the original investigation due to a zero rate.

<sup>4</sup> Italfond was excluded from the order during the original investigation due to a *de minimis* rate.

Rodacciai S.p.A. (“Rodacciai”)  
All Others

0.07, excluded<sup>5</sup>  
13.17<sup>6</sup>

There have been no administrative reviews since the issuance of the order. Also, there have been no changed circumstance reviews, duty absorption findings, or scope rulings. The order remains in effect for all Italian SSB producers and exporters except for Valbruna, Foroni, Bedini, Italfond, and Rodacciai, which were excluded in the original investigation.

As a result of the exclusion of Valbruna, Foroni, Bedini, Italfond, and Rodacciai from the order, the following programs are not subject to consideration in this sunset review because the only producer that remained in the order (CAS) did not benefit from these programs:

- (1) Law 451/94 Early Retirement Benefits;
- (2) Capacity Reduction Payments under Article 2 of Law 193/84;
- (3) Province of Bolzano Law 25/81, Articles 13 - 15;
- (4) Environmental and Research and Development Assistance to Bolzano under Law 25/81; and
- (5) Lease of Bolzano Industrial Site to Valbruna.

See Stainless Steel Wire Rod from Italy: Final Results of Full Sunset Review of Countervailing Duty Order, 69 FR 40354 (July 2, 2004) and accompanying Issues and Decision Memorandum at “History of the Order.”

### Background

On February 1, 2007, the Department initiated this sunset review of the countervailing duty order on SSB from Italy, pursuant to section 751(c) of the Act. See Initiation of Five-year (“Sunset”) Reviews, 72 FR 4689 (February 1, 2007). The Department received the Notice of Intent to Participate from Carpenter Technology Corp.; Crucible Specialty Metals Division of Crucible Materials Corp.; Electralloy; Outokumpu Stainless Bar, Inc.; Universal Stainless & Alloy Products, Inc.; and Valbruna Slater Stainless, Inc. (collectively “the domestic interested parties”), within the deadline specified in section 351.218(d)(1)(i) of the Department’s Regulations (“Sunset Regulations”). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic-like product in the United States.

On February 28, 2007, the Department received a complete substantive response to the notice of initiation from the Delegation of the European Commission (“EC”). On March 1, 2007, the Department received a complete substantive response from CAS, a foreign producer and exporter

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<sup>5</sup> Rodacciai was excluded from the order during the original investigation due to a *de minimis* rate.

<sup>6</sup> CAS’ rate was used as the all others rate because the other investigated companies’ rates were zero or *de minimis* and the companies were excluded from the order.

of subject merchandise during this review. On March 5, 2007, the Department received complete substantive responses from the domestic interested parties and from the Government of Italy (“GOI”). CAS claimed interested party status under section 771(9)(A) as a foreign producer and exporter of the subject merchandise. The GOI and EC expressed their intent to participate in this review as the authorities responsible for defending the interests of the Italian industry.

We find that CAS accounted for less than 50 percent of the exports to the United States by companies subject to this order, the level that the Department normally considers to be an adequate response to the notice of initiation by respondent interested parties under 19 CFR 351.218 (e)(1)(ii)(A). In addition, a government response alone, normally, is not sufficient for full sunset reviews in which the orders are not done on an aggregate basis. See, e.g., Final Results of Expedited Sunset Reviews of Countervailing Duty Orders: Pure Magnesium and Alloy Magnesium from Canada, 70 FR 67140 (November 4, 2005). Therefore, we conducted an expedited (120-day) sunset review of the CVD order on stainless steel bar from Italy as provided for at section 751(c)(3)(B) of the Act and at section 351.218 (e)(1)(ii)(C)(2) of the Department’s regulations. See Memorandum from Damian Felton to Susan Kuhbach entitled, “Adequacy Determination: Sunset Review of the Countervailing Duty Order on Stainless Steel Bar from Italy” (March 23, 2007). On April 12, 2007, we received a letter from domestic interested parties stating that they agree with the Department’s decision to conduct an expedited review of this order.

On March 12, 2007, the domestic interested parties filed a rebuttal to the substantive responses of CAS, the GOI, and the EC. CAS, the GOI, and the EC did not file rebuttals. The Department did not conduct a hearing because a hearing was not requested.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether termination of the countervailing duty order would be likely to 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 program 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 International Trade Commission (“ITC”) the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide to the ITC information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or 6.1 of the 1994 World Trade Organization (“WTO”) Agreement on Subsidies and Countervailing Measures.

Below, we address the comments of the interested parties.

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

### *Interested Party Comments*

The domestic interested parties argue that revocation of this order is likely to lead to continuation or recurrence of countervailable subsidies to Italian producers and exporters. See Domestic Interested Parties' Substantive Response at 7 (March 5, 2007). In support of this statement, the domestic interested parties assert that the programs found countervailable in the investigation continue to exist today and there is no evidence that any of these subsidy programs has been terminated. Id. at 8.

Referring to the Department's Policies Regarding the Conduct of the Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders ("Policy Bulletin"), the domestic interested parties assert that the Department has clearly stated that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies. Id. at 8-9. The domestic interested parties further contend that the Department has made clear that it cannot determine that programs have been terminated without conducting an administrative review.<sup>7</sup> Domestic interested parties point out that, since there have been no administrative reviews conducted for this order, the Department has not addressed whether any of the programs have been terminated. Thus, the order should continue. Id. at 9.

In its response, CAS contends that it does not foresee any negative impact from revocation of the order. CAS notes that other investigations have demonstrated that the Italian steel sector in general, and the producers of stainless steel bar in particular, are no longer benefitting from any subsidies, and that there is no likelihood that the situation may change in the foreseeable future. CAS notes that the Italian steel sector has undergone a full restructuring in recent years under the careful monitoring of the GOI and EC. CAS states that steel producers are fully privately owned and compete on commercial terms in international markets. Finally, CAS states that the subsidization of the steel sector in the European Union is strictly prohibited following adoption of a series of European Commission Decisions. See CAS' Substantive Response at 2 (March 1, 2007).

CAS makes three points to support its claims. First, CAS argues that the European Commission Decision 2496/96 of December 18, 1996, prohibits the granting of aid to the steel industry. CAS states that aid is only allowed in three circumstances: 1) for the closing of facilities, 2) for environmental reasons, and 3) for research and development. CAS also states that the latter two types of assistance are not actionable under Article 8 of the WTO Subsidies agreement. Moreover, they are available to all sectors and, therefore, non-specific. Further, CAS notes that the European Commission must receive notice of and approve all aid, in accordance with the procedures in Decision 2496/96. CAS argues that the Department already has information

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<sup>7</sup> Domestic interested parties cite to Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Italy; Final Results of Full Sunset Review of Countervailing Duty Order, 66 FR 13909 (March 8, 2001); and Grain-Oriented Silicon Electrical Steel from Italy: Final Results of Full Sunset Review of Countervailing Duty Order, 65 FR 65295 (November 1, 2000).

showing that the Italian steel industry is 100 percent privately owned and does not receive any substantial assistance. See id. at 2-3.

CAS's second point is that most of CAS's subsidies found countervailable in the investigation were granted prior to the privatization of CAS. Since the privatization, CAS argues that the financial assistance provided to it is negligible, as demonstrated in recent investigations involving other products manufactured by CAS. CAS further argues that the Department must take into account its change in privatization methodology which affected CAS in Stainless Steel Wire Rod from Italy.<sup>8</sup> As a result of the revisions, the Department found that any pre-sale, allocable, non-recurring subsidies were extinguished in their entirety and no longer countervailable. Therefore, CAS was excluded from the stainless steel wire rod countervailing order. See id. at 2-4.

Finally, CAS argues that most of the programs countervailed in the investigation involved one-time government action with regard to the then state-owned steel sector, and have since been terminated. CAS concludes that nearly all programs countervailed in the investigation have either been terminated or are unlikely to be restarted because of the nature of the programs. Therefore, CAS argues that the Department should revise its previous findings and exclude all such programs. See id. at 2-4.

The EC reiterates CAS' argument concerning the change in the privatization methodology and its application to CAS. The EC requests that the Department follow its finding in Stainless Steel Wire Rod from Italy by removing the two programs "Equity Infusions to Finsider and ILVA" and "Pre-privatization Assistance and Debt Forgiveness," which were found to have been extinguished as a result of the privatization. See the EC's Substantive Response at 2-3 (March 1, 2007).

Second, the EC discusses ECSC Article 54 Loans and argues that the Department should find the rate likely to prevail to be zero with no likelihood of recurrence of this subsidy. Like CAS, the EC contends that Decision 2496/96 prohibits the granting of aid to the steel industry except for the three very circumscribed instances mentioned above. The EC also argues that benefits linked to loans granted under Article 54 have ended, as the Department verified in the OCTG Sunset Review.<sup>9</sup> See id. at 3-4.

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<sup>8</sup> See 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 (November 17, 2003) and accompanying "Issues and Decision Memorandum for the Determination under Section 129 of the Uruguay Round Agreements Act: Final Affirmative Countervailing Duty Determination: Stainless Steel Wire Rod from Italy" (October 24, 2003); "Analysis of the Privatization of CAS" (October 24, 2003); and "Calculations for Section 129 Determination" (October 24, 2003), (collectively "Stainless Steel Wire Rod from Italy").

<sup>9</sup> See Oil Country Tubular Goods from Italy: Final Results of Five-year (Sunset) Review and Revocation of the Countervailing Duty Order, 71 FR 77383 (December 26, 2006) and accompanying Issues and Decision Memorandum at 6 ("OCTG Sunset Review").

Next, the EC discusses the European Social Fund. The EC argues that the Department should find that the funding provided under the ESF is neither specific nor countervailable. The EC argues that the ESF was restructured in 1999 for the 2000-2006 period, and is a completely new program. The EC argues that CAS was found to have received funds under ESF Objective 4 in the investigation and received a rate based on facts available. The EC points out that the revised ESF program only has three objectives, and that CAS now benefits under Objective 3, which the EC contends is not regionally specific. See id. at 4-5.

The EC goes on to describe the ESF in more detail. The EC states that the ESF was created under Article 123 of the EC Treaty in order to improve employment opportunities for workers and to help raise their living standards. The EC argues that assistance under Objective 3 of the ESF is not regionally specific, and should not be found to confer a countervailable subsidy. (The EC provided copies of Regulation 1260/99 and Regulation 1784/99. See id. at Annex 1 and 2). The EC argues that Objective 3 has general application in virtually the entire territory of the European Community. The EC points out that the Department discussed the new ESF in Stainless Steel Plate in Coils from Italy<sup>10</sup> and noted that, “it may be appropriate for the Department to revisit its previous decision regarding *de jure* specificity of assistance distributed under the ESF Objective Single Programming Document (SPD) in Italy.” See id. at 4-5.

The EC also provides details on funding given under Objective 3 to support its argument that the program is neither *de jure* nor *de facto* specific, and a copy of Regulation 1081/2006, which further revises the ESF and repeals Regulation 1784/1999. See id. at Annexes 3-5. The EC argues that the new ESF for the period 2007 through 2013 should be considered a general measure that does not meet the specificity requirement in the WTO SCM Agreement. See id. at 4-5.

Finally, the EC argues that the other programs found countervailable by the Department in the investigation have been terminated and no longer confer benefits, and defers to the GOI and its substantive response for further explanation. See id. at 5-6.

The GOI argues that the programs found countervailable in the investigation should be considered terminated with no likelihood of continuation or recurrence of subsidization. The GOI begins with a discussion of Decision 2496/96 making the same points as CAS and the EC above. See the GOI’s Substantive Response at 3 (March 5, 2007). The GOI then discusses the privatization of CAS, again reiterating the points discussed by CAS and the EC, as detailed above. See id. at 4. Finally, the GOI provides a more detailed discussion of ten programs found countervailable in the investigation, and argues that the programs have either been terminated or no longer provide benefits. See id. at 5 and Annex 1.

#### Equity Infusions to Finsider and ILVA and Pre-privatization Assistance and Debt Forgiveness

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<sup>10</sup>See Stainless Steel Plate in Coils from Italy; Final Affirmative Countervailing Duty Determination, 64 FR 15508 (March 31, 1999) (“Stainless Steel Plate in Coils from Italy”).

The GOI argues that in Stainless Steel Wire Rod from Italy the pre-sale, non-recurring, allocable benefits from these programs were found to have been extinguished by the privatization of CAS. See id. at Annex 1 page 1.

Law 10/91 (Grants to Fund Energy Conservation)

The GOI contends that this program is not specific and therefore, not countervailable. See id. at Annex 1 page 1.

ECSC Article 54 Loans

The GOI claims that this program has been terminated with no likelihood of reinstatement. The GOI states that the ECSC Treaty expired in 2002 and that no benefits are available to private companies in the steel sector. The GOI cites to the OCTG Sunset Review as proof that the program was terminated. See id. at Annex 1 pages 1-2. Further, the GOI argues that two loans CAS received under this program have been fully repaid and provides CAS' declaration to that effect. See id. at Annex 1 pages 1-2 and Annex 8.

ESF

The GOI repeats the arguments of the EC outlined above. See id. at Annex 1 pages 2-3.

Law 549/95 (Regional Tax Relief) (Article 3, Commas 85-88)

The GOI claims that benefits under this program were only applicable for fiscal year 1996. The GOI requests that the Department find that this program has been terminated. See id. at Annex 1 page 3.

Valle d'Aosta Regional Assistance Associated with the Sale of CAS: Lease of Cogne Industrial Site

The GOI argues that the rents CAS pays to lease its industrial sites are more than adequate for the Department to find that there is no benefit conferred by the leases. The GOI specifies that CAS pays both a lease rate and pays for extraordinary maintenance (this fee is normally borne by the lessor). The GOI argues that because CAS pays this extraordinary maintenance fee, CAS does not receive a benefit from these rentals. The GOI provides documentation of CAS' extraordinary expenses for 2001 through 2006 at Annex 9. See id. at Annex 1 pages 3-4 and Annex 9.

Valle d'Aosta Regional Assistance Associated with the Sale of CAS: Waste Plant

The GOI argues that the waste plant monies that CAS received from the Valle D'Aosta regional government for the transportation of waste outside the region have been terminated. The GOI argues that the region has now opened a waste plant that CAS can use for its waste. Therefore, CAS is no longer receiving money from the regional government to transport its waste out of the region. The GOI states that the waste plant became operational on April 28, 2006, and the regional government enacted Decision 2205 on August 4, 2006, to end the payments to CAS, effective April 28, 2006. Therefore, the GOI argues that this program has been terminated. See id. at Annex 1 pages 4-5, Annex 4, and Annex 5.

### Valle d'Aosta Regional Assistance Associated with the Sale of CAS: Loans to CAS to Transfer its Property

The GOI argues that there are only three more payment installments in 2007 and 2008 before the loans to transfer CAS' property are completely paid off. The GOI requests that the Department adjust the rate from the investigation to account for the partial repayment of the loans. The GOI estimates that this rate would be 0.12 percent. See id. at Annex 1 page 5.

### Valle D'Aosta Regional Law 12/87

The GOI claims that this law was terminated in 2004 by Regional Law 2 dated March 8, 2004. See id. at Annex 1 page 5 and Annex 3.

In their rebuttal comments, the domestic interested parties reiterate that the Department has not conducted any administrative reviews of the order to examine the respondents' claims of termination or non-countervailability. The domestic interested parties argue that the Policy Bulletin clearly states that "as long as a subsidy program continues to exist, the Department should not consider company - or industry-specific renunciations of countervailable subsidies, by themselves, as an indication that continuation or recurrence of countervailable subsidies is unlikely." See Domestic Interested Parties' Rebuttal Response at 2-3 (March 12, 2007).

The domestic interested parties then discuss certain programs in more detail, as follows.

### Law 10/91 (Grants to Fund Energy Conservation)

The Domestic interested parties argue that the GOI has not provided any new information that would make the Department change its prior determination that this program is *de facto* specific. Also, there has been no administrative review conducted which reviewed this program.

Therefore, the domestic interested parties argue that the Department should continue to find this program to be countervailable and that the benefits from this program are likely to continue or recur upon revocation of the order. See id. at 3-4.

### ECSC Article 54 Loans

The domestic interested parties contend that the Department has continued to find these loans countervailable in recent sunset reviews such as Stainless Steel Wire Rod from Italy: Final Results of Full Sunset Review, 69 FR 40354 (July 2, 2004) ("SSWR Sunset"), and accompanying Issues and Decision Memorandum at 9-10; and Certain Cut-to-Length Carbon-Quality Steel Plate from Italy: Final Results of Expedited Sunset Review, 70 FR 45694 (August 8, 2005) ("CTL Sunset"), and accompanying Issues and Decision Memorandum at 6. See id. at 4-5.

### European Social Fund

The domestic interested parties contend that the Department has continued to find this program countervailable in recent sunset reviews such as SSWR Sunset and the accompanying Issues and Decision Memorandum at 11; and Stainless Steel Plate in Coils from Italy: Final Results of the

Full Sunset Review of the Countervailing Duty Order, 70 FR 10357 (March 3, 2005) (“SSPC Sunset”), and the accompanying Issues and Decision Memorandum at 6. See id. at 5.

Valle d’Aosta Regional Assistance Associated with the Sale of CAS: Loans to CAS to Transfer its Property

The domestic interested parties argue that the GOI has not provided any evidence to show that CAS repaid approximately 84 percent of the loans on the due dates. Therefore, domestic interested parties argue that the Department should continue to find this program countervailable at the original subsidy rate of 0.74 percent. See id. at 5-6.

Law 549/95 (Regional Tax Relief); Valle d’Aosta Regional Assistance Associated with the Sale of CAS: Lease of Cogne Industrial Site; Valle d’Aosta Regional Assistance Associated with the Sale of CAS: Waste Plant; and Valle d’Aosta Regional Law 12/87

The domestic interested parties contend that the Department’s subsidies enforcement website shows that all these programs continue to exist today. Also, domestic interested parties argue that an administrative review has not been conducted to determine whether these programs have been terminated or no longer provide countervailable subsidies. Should the Department intend to determine that a program has been terminated, however, it should carefully examine the legal method in which it was terminated to determine whether it could be reinstated in the future, and whether CAS is receiving any residual benefits from the program, according to the domestic interested parties. See id. at 6.

Finally, domestic interested parties argue that there are numerous subsidy programs which were found “not used” by CAS and are listed on the Department’s subsidy enforcement website. Domestic interested parties argue that a program that is not used in one period, may provide benefits during the next period. See id. at 7-8.

*Department’s Position*

In accordance with section 752(b)(1) of the Act, in determining whether revocation of a CVD order would likely lead to continuation or recurrence of a countervailable subsidy, the Department will 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 subsidies determined in the investigation and subsequent reviews has occurred that is likely to affect that net countervailable subsidy. We make our likelihood determination on an order-wide (country-wide) basis.

In determining whether a program has been terminated, the Department will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program. Programs eliminated through administrative action, for example, may be more likely to be reinstated than those eliminated through legislative action. This is fully consistent with other areas of our countervailing duty practice (e.g., program-wide changes) where we normally expect a program to be terminated by means of the same legal mechanism in

which it is instituted. See, e.g., Final Results of Full Sunset Review of the Countervailing Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from France, 71 FR 58584 (October 4, 2006), and accompanying Issues and Decision Memorandum at 7.

As noted in the “History of the Order” section above, no administrative reviews have been conducted of the countervailing duty order on stainless steel bar from Italy. Therefore, in conducting this sunset review, the Department has considered the findings in SSB Final Determination, as well as information and documentation included in the parties’ substantive responses with regard to the current status of the programs found to be countervailable in the original investigation.

We agree with CAS, the EC, and the GOI that the Department has found that pre-privatization, allocable, non-recurring benefits to CAS from known disbursements under the Equity Infusions to Finsider and ILVA and Pre-privatization Assistance and Debt Forgiveness programs have been extinguished as a result of CAS’ privatization. See Stainless Steel Wire Rod from Italy. However, parties have not provided sufficient evidence on the record that these programs have been terminated. Therefore, we will continue to consider them for our likelihood determination.

#### Valle d’Aosta Regional Law 12/87

The GOI argues that this law has been repealed by Regional Law 8/04 and has provided no new countervailable subsidies since 2004. In the investigation, however, we found this program to provide non-recurring benefits, with an allocation period of 15 years. Therefore, a company that received assistance under this program up to March 2004 would continue to receive countervailable subsidies beyond the end of the sunset period. Thus, subsidization is likely to continue or recur from this program.

#### Valle d’Aosta Regional Assistance Associated with the Sale of CAS: Waste Plant

In its substantive response, the GOI provided a copy of Regional Government Decree 2205/06 in which the regional government of Valle d’Aosta disallows any further monies to CAS as of April 28, 2006, because the Pontey waste treatment plant has become operational. See GOI’s Substantive Response (March 5, 2007), at Annex 5. This is a revision to Regional Government Decree 3502/99 which provided the monies to CAS. These Regional Government Decrees discuss the waste treatment plant and fall under the broader Regional Law 4/93 that deals with the Cogne industrial site. We find that Regional Government Decree 3502/99 has been terminated by Regional Government Decree 2205/06 and by the completion of the waste treatment plant. There is no evidence of residual subsidy benefits or a replacement subsidy program.

#### ECSC Article 54 Loans

We do not agree that this program was found to have been terminated in the OCTG Sunset Review, as the GOI and EC both argue. A review of the verification report from OCTG Sunset Review, which we have placed on the record of this sunset review, shows instead that the Department found Law 796/76 (which provides exchange rate guarantees on loans contracted

under Articles 54, 55, and 56 of the ECSC Treaty) to have been terminated with no replacement program. See May 15, 2007, Memorandum to the File entitled, “Countervailing Duty Sunset Review of Oil Country Tubular Goods from Italy: Verification of the Government of Italy’s (GOI) Substantive Questionnaire Response,” (at pages 4-6 of the November 17, 2006, verification report); SSWR Sunset; and CTL Sunset. Further, although CAS may have repaid the two loans under this program that the Department reviewed in the investigation, this does not mean that CAS or other companies could not have taken out new loans at a later date.

#### Law 10/91 (Grants to Fund Energy Conservation)

The GOI provides a brief, summary argument that this program is not regionally specific. However, the GOI does not provide any type of supporting documentation to substantiate its point. Accordingly, a reconsideration of our earlier finding of countervailability is not warranted, and we find that there is likelihood that subsidization will continue or recur under Law 10/91.

#### Law 549/95 (Regional Tax Relief)

We agree with the GOI that this program was only available for use in the 1996 tax year and, therefore, is terminated.<sup>11</sup> However, the Department also found in the investigation that this money was to be repaid to the government. Consequently, the benefit was treated as a loan under 19 CFR 351.505 rather than a tax subsidy under 19 CFR 351.509. The GOI did not demonstrate that this load has in fact been repaid. Consequently, because the GOI has not demonstrated that there are no residual benefits, we are including this program for purposes of our likelihood determination.

#### European Social Fund

The EC, GOI, and CAS argue that the European Social Fund is no longer countervailable because the program was revised in 1999 and again in 2006. We did not review documentation for the 2006 revision because it went into effect after the period covered by this sunset review. Regardless of whether the ESF has been restructured effective 2000, CAS and other companies received benefits from Objective 4 prior to the restructuring. In the investigation we found that this program was a non-recurring subsidy which would be allocated over the 15 year average useful life for the stainless steel bar industry. Therefore, any company that received benefits under Objective 4 before the restructuring could continue to receive residual benefits after the sunset review period.

The EC and GOI have provided some evidence that the ESF program has been restructured for any new funds given out since 2000, which indicates there has been a replacement program to the original program considered during the investigation. The Department has not reviewed the restructured ESF in any administrative or sunset review. See, e.g. Final Affirmative

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<sup>11</sup> See Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Stainless Steel Bar from Italy, 66 FR 30414, 30420 (June 6, 2001) (“SSB Preliminary Determination”); and SSB Final Determination and accompanying Issues and Decision Memorandum at Section ID.

Countervailing Duty Determination: Stainless Steel Plate in Coils from Italy, 64 FR 15508, 15516-15517 and 15525 (March 31, 1999); Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy, 63 FR 40487, 40487-40488 and 40492-40493 (July 29, 1998); Stainless Steel Sheet and Strip in Coils from Italy: Final Results of the Full Sunset Review of the Countervailing Duty Order, 70 FR 23094 (May 4, 2005), and accompanying Issues and Decision Memorandum at Comment 2; SSWR Sunset; and SSPC Sunset. (Although the investigation associated with this sunset review was conducted in 2001-2002, the programs reviewed for the ESF were for the period before the restructuring.)

The Department may make findings on programs in the context of a sunset review. However, in this case, we find that the GOI and EC have not provided sufficient evidence demonstrating that this replacement program (*i.e.*, the restructured ESF program) no longer provides countervailable subsidies. Indeed, although we do not have sufficient evidence to make definitive findings in this expedited sunset review on this restructured ESF, the limited information that was provided indicates that benefits under objective 3 are *de jure* regionally specific because they only apply to regions that are not covered by Objective 1. Further, there is no information on whether this new ESF is *de facto* specific. Therefore, because any non-recurring benefits can continue after the sunset review period, and because we continue to find that the restructured program is *de jure* specific, the ESF program continues to be a basis for likelihood.

Valle d’Aosta Regional Assistance Associated with the Sale of CAS: Lease of Cogne Industrial Site

CAS entered into a thirty-year lease in 1996, which means that this lease continued through the current sunset period. The GOI argues that the extraordinary maintenance costs paid by CAS resulted in no benefit to CAS. The Department has previously examined this claim and rejected it. See SSB Preliminary Determination, 66 FR at 30424 (unchanged in final determination, 67 FR 3163), citing the Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy, 63 FR 40474, 40481 (July 29, 1998). Therefore, we view this program as a continuing subsidy and are including it for purposes of our likelihood determination.

Valle d’Aosta Regional Assistance Associated with the Sale of CAS: Loans to CAS to Transfer its Property

The GOI requests that the Department adjust the rate to reflect the purported repayment by CAS of a large portion of the loan. However, respondents have not provided the relevant documentation. Further, the Department’s normal practice is to use the rate from the investigation unless a program has been terminated or the benefits have been fully allocated. Consequently, we find that benefits are likely to continue to exist after the sunset period of review.

Concerning the domestic interested parties’ rebuttal argument with regard to programs found in the investigation to be “not used,” we note that where the Department has not previously

determined programs to be countervailable, we will not consider them in our likelihood analysis.

In determining the likelihood of continuation or recurrence of countervailable subsidies, the Department will consider the net countervailable subsidies in effect after the issuance of the order and whether the subsidy programs have been continued, modified, or eliminated. Continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies. In this case, we determine that the following programs, found countervailable in the investigation, have not been terminated without replacement or residual benefits: Equity Infusions to Finsider and ILVA and Pre-privatization Assistance and Debt Forgiveness, Law 10/91 (Grants to Fund Energy Conservation); Valle d'Aosta Regional Law 12/87; ECSC Article 54 Loans; European Social Fund ("ESF") (Objective 4 Grants); Valle d'Aosta Regional Assistance Associated with the Sale of CAS: Lease of Cogne Industrial Site; and Valle d'Aosta Regional Assistance Associated with the Sale of CAS: Loans to CAS to Transfer its Property.

Moreover, Valle d'Aosta Regional Law 12/87 and ESF Objective 4 which were found to be countervailable in the investigation<sup>12</sup> are grants that, in light of the 15-year allocation period determined in the investigation, continue to provide benefits during the sunset review period.

Thus, we find that certain programs found countervailable in the investigation continue to exist and that some of them continue to provide benefits to Italian producers and exporters of SSB. Therefore, we find that revocation of the order is likely to lead to continuation or recurrence of countervailable subsidies.

## 2. Net Countervailable Subsidy Likely to Prevail

### *Interested Party Comments*

Citing to the Department's Policy Bulletin and the Statement of Administrative Action ("SAA"), the domestic interested parties point out that in determining the magnitude of the subsidy rates that are likely to prevail in the event of revocation, the Department normally selects the subsidy rates established in the original investigation. The domestic interested parties add that the subsidy rate in most cases is to be the company-specific, final rate from the original investigation, as that subsidy rate best reflects the behavior of the respondents free of the constraints of a countervailing duty order. The domestic interested parties state that adjustments to the original countervailing duty rates are not applicable in this case because there have been no administrative reviews conducted, and no other subsidy rates calculated. See Domestic Interested Parties' Substantive Response at 9-11 (March 5, 2007).

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<sup>12</sup> The period of investigation was calendar year 2000.

Respondents argue that the subsidy rate likely to prevail is zero based on the arguments described above with regard to, *inter alia*, prohibitions under the European Commission Decision 2496/96 of December 18, 1996; subsidies granted prior to the privatization of CAS or provided only through one-time government action with regard to the then state-owned steel sector; termination of ECSC Article 54 Loans; and non-specific aid under the European Social Fund.

In their rebuttal comments, the domestic interested parties reiterate that the rates from the investigation are the only calculated rates that reflect the behavior of exporters and foreign governments without the discipline of an order in place. Citing to the Department's regulations and Policy Bulletin, domestic interested parties note that "only under the most extraordinary circumstances will the Secretary rely on a countervailing duty rate...other than those it calculated and published in its prior determination..." See 19 CFR 351.218(e)(2)(i) and Policy Bulletin, 63 FR 18871, 18876. Finally, domestic interested parties note that no administrative reviews have been conducted with respect to this order and "the Department normally will not make adjustments to the net countervailable subsidy rate determined in the original investigation." See Policy Bulletin, 63 FR at 18876. See Domestic Interested Parties' Rebuttal Response at 9 (March 12, 2007).

#### *Department's Position*

It is the Department's practice normally to select a rate from the investigation as the net countervailable subsidy 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 or suspension agreement in place. We note, however, that this rate may not 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., Final Results of Expedited Sunset Reviews of the Countervailing Duty Orders: Pure Magnesium and Alloy Magnesium from Canada, 70 FR 67140 (November 4, 2005), and accompanying Issues and Decision Memorandum at 12-13.

Accordingly, in determining the company-specific, net countervailable subsidy rates likely to prevail if the countervailing duty order were revoked, the Department has looked first to the rates found in the investigation, but has made some adjustments in light of record evidence from the investigation and information provided by the parties in this review. See Attachment 1 for the calculation of the rate. Because there have been no administrative reviews subsequent to the investigation, and because domestic interested parties have not provided sufficient information alleging new subsidies, we have not added any new programs to the rates.

We have determined that the following program has been terminated with no residual benefits past the sunset review period: Valle d'Aosta Regional Assistance Associated with the Sale of CAS: Waste Plant. There is no evidence that this program has been replaced with any new program. We have also determined that the pre-privatization, non-recurring, allocable benefits to

CAS from known disbursements of the following programs were extinguished by the privatization of CAS: Equity Infusions to Finsider and ILVA; and Pre-Privatization Assistance and Debt Forgiveness. Accordingly, we have subtracted the original rates calculated for these programs from the rate likely to prevail for CAS. In calculating the all others rate, we have subtracted the original rate from the program found to have been terminated. However, we have not subtracted the original rates from the programs that provided benefits to CAS that were subsequently extinguished by the company’s privatization, since the record information does not support a finding that these programs have been terminated without replacement. See Attachment 1.

On the basis of these findings, we determine that the net subsidy rates for all producers and exporters of SSB included in this review are those listed below. The Department will report these rates to the ITC as the net countervailable subsidy likely to prevail if the countervailing duty order were revoked.

Final Results of Review

As a result of this review, the Department finds that revocation of the countervailing duty order on SSB from Italy would likely lead to continuation or recurrence of a countervailable subsidy at the rates listed below:

Manufacturers/Producers/Exporters	Net subsidy (percent)
Cogne Acciai Speciali S.r.l.	1.57
All Others	12.93

3. Nature of Subsidies

Consistent with section 752(a)(6) of the Act, the Department is providing the following information to the ITC concerning the nature of the subsidy, and whether the subsidy is a subsidy as described in Article 3 or Article 6.1 of the WTO Agreement on Subsidies and Countervailing Measures (“ASCM”). We note that Article 6.1 of the ASCM expired effective January 1, 2000.

In the instant review, there were no programs that fall within the meaning of Article 3 of the ASCM.

The following programs could be subsidies described in Article 6.1 of the ASCM if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the ASCM. They also could fall within the meaning of Article 6.1 if they constitute debt forgiveness, grants to cover debt repayment, or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review in order for the Department to make such a determination. We are providing the ITC with the following program descriptions:

1) Law 10/91 (Grants to Fund Energy Conservation)

Under Law 10/91, the GOI provides funds for the development of energy conserving technology. Law 10/91 authorized grants based on applications submitted in 1991 and 1992.

2) Law 549/95 (Regional Tax Relief)

Law 549/95 provided tax relief on fifty percent of reinvested profits to all companies, except banks and insurance companies, located in areas specified in EEC Regulation No. 2052/88 for the tax year 1996. The amount of profit that could be excluded was limited to the amount of investment exceeding the average amount of investments carried out during the five previous tax years. Qualified investments under Law 549/95 included investments in new plants, the extension and modernization of existing establishments, and the purchase of new capital goods, including capital goods acquired through leasing contracts.

The EC has required that benefits received by certain companies under Law 549/95 be repaid. Steel companies, in particular, were required to repay their benefits because Law 549/95 was found not compatible with Article 4 of the ECSC Treaty, (Commission Decision on State Aid Granted by Italy by Way of Tax Relief under Law No 549/95, OJ L 47/6 (February 23,1999)). Pursuant to the EC decision, on February 26, 2001, the GOI issued a Notice of Ascertainment requiring repayment of funds disbursed under this program.

3) Valle d'Aosta Regional Law 12/87

Law 12/87 of the Autonomous Region of Valle d'Aosta provides grants for the promotion of commercial activities of local firms in other regions of Italy and abroad. Support is provided to companies for participation in shows, fairs, and exhibitions in Italy and abroad, and for participation in commercial delegations abroad. Companies apply for funding for up to thirty percent of the costs of promotional activities in Italy (up to ten million lire) and forty percent of the costs of promotional activities abroad (up to fifteen million lire).

4) ECSC Article 54 Loans

ECSC Article 54 Loans were made to steel undertakings to carry out the investment programs established under the ECSC Treaty. These loans finance the purchase of new equipment modernization, and are made at interest rates slightly higher than the rates obtained by the EC. The loans cannot exceed fifty percent of the underlying eligible investment.

5) European Social Fund (Objective 4 Grants)

The European Social Fund, one of the Structural Funds operated by the EC, was established in 1957 to improve workers' employment opportunities and to raise their living standards. The main purpose of the ESF is to make employing workers easier and to increase the geographical

and occupational mobility of workers within the European Union. It accomplishes this by providing support for vocational training, employment, and self-employment.

6) Restructuring Subsidies Provided to the Italian Steel Industry Attributable to CAS

A) Equity Infusions to Finsider and ILVA

The GOI provided equity infusions to Finsider up to 1988 and to ILVA in 1991-1992.

B) Pre-Privatization Assistance and Debt Forgiveness

Cogne S.p.A. acquired the shares of Robles S.r.l. and changed the company's name to CAS, in 1992. At the end of 1992, Cogne S.p.A. transferred most of the productive assets of the Aosta facility to CAS through the capital contribution procedure under Italian law. Under this procedure, Cogne S.p.A. had assets (and liabilities) assessed under the oversight of the Italian Court and contributed them to CAS in exchange for shares in CAS worth exactly the net value of the contribution. CAS officials explained that pursuant to the capital contribution, CAS received the liabilities associated with the production process, while Cogne S.p.A. retained the other liabilities which were mostly long-term. From that point, CAS became the operating company and Cogne S.p.A. entered into liquidation. As of December 31, 1993, ILVA S.p.A. issued a guarantee on behalf of Cogne S.p.A. for the uncovered liabilities of the firm, and the anticipated costs of the liquidation process, for 380 billion lire. ILVA was then divided into three companies: ILVA Laminati Piani, Acciai Speciali Terni, and ILVA in Liquidazione. ILVA in Liquidazione, retained responsibility for all of the ILVA entities which could not be sold to private parties. The estimated costs of the liquidation, 10 trillion lire, covered all of the ILVA companies including the subsidiaries. The costs associated with the liquidation of Cogne S.p.A. were included in that total.

7) Valle D'Aosta Regional Assistance Associated With the Sale of CAS

A) Lease of Cogne Industrial Site

After the purchase of the land and buildings, Struttura Valle d'Aosta S.r.l. (Structure), a company wholly-owned by the Region, assumed the lease that had been between Cogne S.p.A. and CAS for the use of the site until a new lease could be negotiated. In 1996, Structure and CAS entered into a thirty-year lease for the facility which produces subject merchandise. The new lease implements the commitments set forth in the protocols of agreement: the facility is leased to CAS; CAS undertakes all maintenance on the facility (including extraordinary maintenance); and CAS commits to vacate approximately 50 percent of the property in favor of the Region. The lease was also designed to provide for the stable employment of 800 employees at the facility.

B) Loans to CAS to Transfer its Property

The Regional Government agreed to finance the cost of transferring CAS' property off the portion of the site not subject to the lease.

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the expedited final results of review in the Federal Register.

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

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

\_\_\_\_\_  
Date

Stainless Steel Bar from Italy  
C-475-830  
Sunset Review

	Companies	CAS	All Others
Investigation POI 2000			
<b>Programs Found Countervailable in the Final Determination</b>			
Law 10/91 Grants to Fund Energy Conservation		0.16%	0.16%
Law 549/95		0.04%	0.04%
Valle d'Aosta Regional Law 12/87		0.01%	0.01%
ECSC Article 54 Loans		0.31%	0.31%
European Social Fund (ESF) Objective 4 Grants		0.11%	0.11%
Equity Infusions to Finsider and ILVA		0.64%	0.64%
Pre-Privatization Assistance and Debt Forgiveness		10.72%	10.72%
Valle d'Aosta Regional Assistance Associated with the Sales of CAS: Lease of Cogne Industrial Site		0.20%	0.20%
Valle d'Aosta Regional Assistance Associated with the Sales of CAS: Waste Plant		0.24%	0.24%
Valle d'Aosta Regional Assistance Associated with the Sales of CAS: Loans to CAS to Transfer its Property		0.74%	0.74%
<b>Total Ad Valorem Rate in the Investigation</b>		<b>13.17%</b>	<b>13.17%</b>
<b>Disbursements Extinguished by CAS' Privatization</b>			
Equity Infusions to Finsider and ILVA		0.64%	0.00%
Pre-Privatization Assistance and Debt Forgiveness		10.72%	0.00%
<b>Terminated Programs</b>			
Valle d'Aosta Regional Assistance Associated with the Sales of CAS: Waste Plant		0.24%	0.24%
<b>Revised Ad Valorem Rate</b>		<b>1.57%</b>	<b>12.93%</b>

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**Notes and Sources:**

- 1 CAS' rate was used as the all others rate because the other investigated companies' rates were zero or de minimis and the companies were excluded from the order.
- 2 SSWR Italy Section 129 Privatization 68 FR 64858 (11/17/2003) and I&D memo at 11.
- 3 March 5, 2007 GOI substantive response at Annex 1 pages 4-5 and Annex 5.