have determined that, in order to implement these decisions, it is appropriate to reinstate the ''All Others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. Therefore, we are reinstating the ''All Others'' rate made effective by the final determination of sales at LTFV (*see Color Pictures Tubes,* 52 FR 44171, November 18, 1987).

This notice also serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to APOs of their responsibility concerning disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34 (d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: June 11, 1997.

**Robert S. LaRussa,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97–16680 Filed 6–24–97; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–428–811; A–412–810; C–428–812; C–412–811]**

### Initiation of Anticircumvention Inquiry on Antidumping and Countervailing Duty Orders on Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom and Germany

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

**ACTION:** Notice of initiation of anticircumvention inquiry.

**SUMMARY:** On the basis of an application filed with the Department of Commerce (the Department) on April 14, 1997 and amended on May 14, 1997, we are initiating an anticircumvention inquiry to determine whether imports of lead and bismuth carbon steel billets from Germany and the United Kingdom are circumventing the antidumping and countervailing duty orders on hot-rolled lead and bismuth carbon steel products from Germany and the United Kingdom (*See Antidumping Orders; Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Brazil, France, Germany and the United Kingdom* 58 FR 15334 (March 22, 1993) and *Countervailing Duty Orders; Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany and the United Kingdom* 58 FR 15325, 15327 (March 22, 1993)).

**EFFECTIVE DATES:** June 25, 1997.

**FOR FURTHER INFORMATION CONTACT:** Anne D'Alauro, Russell Morris, or Maria MacKay, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 482–2786.

**SUPPLEMENTARY INFORMATION:**

### Background

On April 14, 1997, the Department received an application (amended on May 14, 1997) from Inland Steel Bar Company and USS/Kobe Steel Company (the applicants), requesting that the Department conduct an anticircumvention inquiry pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act), with respect to the antidumping and countervailing duty orders on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom and Germany. The applicants allege that the principal German (Saarstahl A.G. and Thyssen Stahl A.G.) and British (British Steel PLC) producers of hot rolled leaded bar and rod are circumventing the respective orders by shipping bloom-cast leaded-steel billets (leaded-steel billets) to the United States, where they are easily and inexpensively converted into the hot-rolled carbon steel products covered by the orders.

The Department received written comments opposing the request to initiate the inquiry from Thyssen Stahl A.G. (Thyssen) on May 12, 1997, from Saarstahl A.G. (Saarstahl) on May 16, 1997, from British Steel PLC (British Steel) on May 23, 1997, and from the European Community (EC) on May 27, 1997. Written comments in opposition to the initiation of the inquiry were also received from four U.S. producers of subject merchandise: Bar Technologies on May 19, 1997, Sheffield Steel Corporation on June 2, 1997, Birmingham Steel Corporation on June 3, 1997 and Nucor Steel on June 5, 1997.

### Initiation of Anticircumvention Proceeding

In accordance with section 781(a) of the Act, the Department may find circumvention of an order when the following four conditions are met:

(1) The merchandise sold in the United States is of the same class or kind as the merchandise that is subject to the order,

(2) Such merchandise is completed or assembled in the United States from parts or components produced in the foreign country to which the order applies,

(3) The process of assembly or completion in the United States is minor or insignificant, and

(4) The value of the parts or components produced in the foreign country with respect to which the order applies, is a significant portion of the total value of the merchandise sold in the United States.

In order to determine whether a circumvention inquiry is warranted, we evaluated the information submitted by the applicants using each of the criteria listed above. We have concluded that the information submitted is sufficient to warrant the initiation of an anticircumvention inquiry. Each criterion is separately addressed below.

*(1) Is the Merchandise Sold in the United States of the Same Class or Kind as the Merchandise That Is Subject to the Order?*

The merchandise covered by the orders is described as ''hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes.'' The leaded-steel billets being imported into the United States are alleged to contain 0.03 percent or more of lead or 0.05 percent or more of bismuth and, thus, meet the chemical requirements specified for the merchandise subject to the antidumping and countervailing duty orders. The applicants claim that the imported leaded-steel billets are then converted, in the United States, into the identical products that are covered by the orders.

*(2) Is the Merchandise Completed or Assembled in the United States From Parts or Components Produced in the Foreign Country to Which the Order Applies?*

The hot-rolled bars and rods allegedly are being completed in the United States from leaded-steel billets produced in the

United Kingdom and Germany—countries which are subject to the antidumping and countervailing duty orders on hot-rolled lead and bismuth carbon steel products (lead bar).

*(3) Is the Process of Assembly or Completion Minor or Insignificant?*

When considering whether the process of assembly or completion is minor or insignificant, section 781(a)(2) of the Act instructs the Department to take into account: (1) The level of investment and research and development in the United States; (2) the nature of the production process in the United States; (3) the extent of production facilities in the United States; and (4) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States. These criteria are individually addressed below.

*Investment*

The applicants state that the production of leaded-steel billet requires dedicated facilities and equipment. Thyssen, British Steel, and Saarstahl, according to the applicants, have made this substantial investment in their home countries. In contrast, rolling mills, which roll the leaded-steel billet into bar and rod, are alleged to require less capital investment and to be used to process other types of steel. Thus, the applicants conclude, the concentration of investment in semi-finished steel (*i.e.*, billets) production facilities in the home countries, relative to the rolling process performed in the United States, indicates that the level of investment in the United States is comparatively minor.

*Research and Development (R&D)*

Applicants also state that R&D costs are concentrated in the melt shop facility where leaded-steel billets are produced. As these facilities are located in the home countries, it follows that their associated R&D costs are incurred in the home countries. The level of R&D costs related to the U.S. rolling facilities is alleged to be minor in comparison.

*Nature of the Production Process in the United States*

The applicants describe the production process of lead bar as consisting of two stages. In the first stage, all raw material inputs (such as iron ore, limestone, coal, flux, and scrap) are heated in a furnace to become molten steel. The molten steel is then cast into semi-finished products, in this case either blooms or billets. The billets are cooled, before undergoing further shaping and finishing processes.

The second stage consists of the conversion of the leaded-steel billets into bar or rod in rolling mills. In this stage, billets are reheated and then loaded into a series of roughing, intermediate, and finishing stands or rolls. The information provided does not indicate that additional raw materials are added in this stage of the process; the chemical and physical characteristics of the steel have already been imparted in the production of the billet. Rolling merely converts the billet into a wide range of steel products of different shapes, for instance of round, hexagonal, square, rectangular, or flat cross section.

*Extent of Production Facilities in the United States*

The applicants claim to be the only U.S. steel makers which have made the capital investment necessary to produce both leaded-steel billets and lead bar. On this basis they conclude that the first stage in the production process of the subject merchandise, the billet production, occurs primarily abroad. The second stage of production, the re-rolling process, occurs instead primarily in the United States. The applicants note that many U.S. mills are capable of rolling purchased leaded-steel billets; however, those mills have not invested in melting and casting facilities.

*Value of Rolling in the U.S. Compared to Value of Merchandise Sold in the U.S.*

The applicants provided six different calculations of the value of the rolling operation performed in the United States. These calculations were based on supporting cost data and price quotations for both leaded-steel billets and finished bar and rod. Based upon these calculations, the applicants conclude that the rolling process represents an insignificant portion of the total value of the finished bar and rod sold in the United States.

*(4) Is the Value of the Parts or Components Produced in the Foreign Country to Which the Antidumping and the Countervailing Duty Orders Apply, a Significant Portion of the Total Value of the Merchandise Sold in the United States?*

As noted above, the applicants have presented six calculations of the value attributable to the rolling process. The applicants do not allege that any portion of the value added is attributable to third country processing. Therefore, the calculations suggest that, based on the value attributable to the processing in the United States, the value of the imported leaded-steel billets constitutes a significant portion of the total value of the merchandise sold in the United States.

**Additional Factors**

In addition to the criteria discussed above, § 781(a)(3) of the Act instructs the Department to consider other factors before determining whether to include the merchandise in question in an antidumping or countervailing duty order. These are: (1) The pattern of trade; (2) whether a relationship exists between the manufacturer or exporter and the U.S. assembler of the product; and (3) whether imports into the United States of the parts or components produced in the foreign country increased after the initiation of the investigation which resulted in the issuance of the order.

*Pattern of Trade*

The applicants claim that the pattern of trade has shifted subsequent to the issuance of the antidumping and countervailing duty orders, from the export of lead bars and rods to the export of leaded-steel billets, which are now being finished in the United States. The applicants argue that, by shifting exports to leaded-steel billets, these producers have found a way to continue to sell lead bar in the United States, without regard to the antidumping and countervailing duty orders.

*Relationship Between the Manufacturer or Exporter and the U.S. Assembler*

Applicants have stated that the U.S. re-rollers are not related to the foreign producers.

*Import Statistics*

The applicants have provided statistics on the basis of which they allege that imports of leaded-steel billets from Germany and the United Kingdom have increased since the investigations in 1992, while imports of bars and rods subject to the orders have markedly declined.

Based on our review of the foregoing allegations and supporting information submitted in the application, we find that the application contains sufficient evidence to warrant an anticircumvention inquiry. Therefore, we are initiating an anticircumvention inquiry concerning the antidumping and countervailing duty orders on lead and bismuth carbon steel products from the United Kingdom and Germany, pursuant to section 781(a) of the Act. For a more detailed discussion of the Department's analysis, see Memorandum to the Principal Deputy

Assistant Secretary for Import Administration from the Team dated June 18, 1997, concerning Initiation of Anticircumvention Inquiry of Antidumping and Countervailing Duty Orders on Certain Hot Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom and Germany, public version, on file in the Central Record Unit, Room B–099, Main Commerce Building.

The Department will not suspend liquidation at this time. However, the Department will instruct the U.S. Customs Service (Customs) to suspend liquidation in the event of an affirmative preliminary determination of circumvention.

Several interested parties have challenged the initiation of this anticircumvention inquiry. As discussed below their arguments do not provide a legal basis for rejecting Inland's and USS/Kobe's application for an inquiry.

*(1) Whether There is an Industry Support Requirement for a Circumvention Inquiry*

Several interested parties have argued that the Department must consider whether there is industry support for the anticircumvention inquiry before deciding whether to initiate. One party stated that the Department is required to ensure that the provisions of Article 11.4 of the Agreement on Subsidies and Countervailing Measures (SCM) on the standing of the domestic industry are adhered to. The parties contend that members of the U.S. industry who may have supported the imposition of antidumping and countervailing duties on lead bar may, in fact, oppose the imposition of such duties on leaded-steel billets. They cite a letter by a U.S. producer of lead bar opposing the initiation of an anticircumvention inquiry.

There is no statutory requirement regarding industry support for purposes of initiating a circumvention inquiry. *See* 19 U.S.C. 1677j(a). The regulations provide that any interested party has standing to file an application to determine whether a particular product is within the scope of an order. 19 C.F.R. 353.29(b) (1996), 19 C.F.R. 355.29(b) (1996). The requirement regarding interested party status has been carried over into the new regulations. *See* § 351.225(c). The statute and regulations define an interested party, in relevant part, as ''a manufacturer, producer, or wholesaler in the United States of a domestic like product.'' 19 U.S.C. 1677(9)(C). *See also* 19 C.F.R. 353.2(k)(3) and 355.2(i)(3). In this instance, Inland meets the definition of ''a manufacturer'' of the domestic like product. Although USS/Kobe was not listed as one of the original petitioners, it was listed as a domestic producer of the subject merchandise. Therefore, as interested parties, Inland and USS/Kobe are entitled to request a circumvention inquiry.

The statute requires a showing of industry support before an investigation may be initiated to determine whether an antidumping or countervailing duty order is warranted. 19 U.S.C. 1673a(c)(4) and 1671a(c)(4). In contrast, a circumvention inquiry is focused on the enforcement of existing orders—i.e. it is designed to determine whether merchandise is properly within the scope of an order that has already been issued. *See, e.g., Color Television Receivers From Korea; Initiation of Anticircumvention Inquiry on Antidumping Duty Order*, 61 FR 1339, 1342 (January 19, 1996) (*Korean TV's Circumvention*). Significantly, neither the statute nor prior Department practice requires that an interested party requesting a scope determination make such a showing of industry support. *Id.* The fact that the statute expressly requires a showing of industry support for initiating an investigation, but does not require such a showing for initiating an anticircumvention inquiry, is compelling evidence that no such requirement exists. Moreover, the lack of such a requirement is also indicated by the fact that the statute expressly prohibits reconsideration of the issue of industry support at any stage of the proceeding beyond initiation of the original investigation. 19 U.S.C. 1673a(c)(4)(E) and 1671a(c)(4)(E).

*(2) Whether Leaded-steel Billets, Specifically Excluded From the Lead Bar Orders, Can Now be Included in the Scope of the Same Orders Through a Circumvention Inquiry*

Several interested parties argue that the International Trade Commission (ITC) specifically determined that leaded-steel billets were excluded from its like product and domestic industry definitions, and, therefore, were not subject to its injury finding. Similarly, the Department expressly stated that ''semifinished steels'' were ''excluded'' from the scope of the lead bar orders. These parties argue that, absent an injury finding on leaded-steel billets, the assessment of antidumping and countervailing duties would be contrary to U.S. antidumping and countervailing duty law and would contravene the international obligation of the United States under the World Trade Organization (WTO) Agreement. In addition, because the ITC found that leaded-steel billets constitute a different like product, one party argues that leaded-steel billets cannot be considered a ''part or component'' of bar.

The Department faced a similar issue in *Steel Wire Rope from Mexico; Affirmative Final Determination of Circumvention of Antidumping Duty Order*, 60 FR 10831 (February 28, 1995). In that case, the Department included within the scope of the order a component that previously had been excluded. Specifically, the original Mexican wire rope order expressly excluded steel wire strand which is used to produce wire rope. Nevertheless, the Department made an affirmative finding that steel wire strand imported into the United States for use in the production of steel wire rope was circumventing the order pursuant to section 781(a)(2) of the Act. While this was an ''old'' law case, the current statutory provisions governing circumvention are the same regarding this issue.

The same statutory analysis applies here as well. Simply put, the theory that parts expressly excluded from the scope of an antidumping or countervailing order can not be subject to an anticircumvention inquiry is contrary to, and would undermine, the core principles of the anticircumvention statute.

The underlying rationale of the anticircumvention statute is that, where the criteria of section 781(a) are met, the parts and components subject to the finding of circumvention are, in all meaningful respects, being imported as the subject merchandise, not as parts or components *per se*. The processing in the United States is of such a minor or insignificant nature as to be irrelevant. In other words, an affirmative finding of circumvention treats the parts and components as constructively assembled into subject merchandise at the time of import. As the legislative history states:

> [T]he application of the U.S. finishing or assembly provision will not require new injury findings as to each part or component. The anti-circumvention provision is intended to cover efforts to circumvent an order by importing disassembled or unfinished merchandise for assembly in the United States. Hence, the ITC would generally advise as to *whether the parts or components ''taken as a whole'' fall within the injury determination*. If more than one part or component is proposed for inclusion, the ITC would * * * determine whether the imported parts or components *can be constructively assembled* so as to constitute a like product for purposes of the original order * * *. The ITC would advise as to whether the inclusion of the parts or

components, *taken as a whole,* would be inconsistent with its findings in the prior injury determination. H.R. Conf. Rep. No. 576, 100th Cong., 2d Sess. 603 (1988) (emphasis added).

In short, it is plain that Congress intended to allow anticircumvention inquiries into parts or components such as the leaded-steel billets at issue here. Of course, the anticircumvention provisions are crafted to ensure compliance with the injury requirements of the statute and the WTO agreements on antidumping and countervailing measures. Thus, a circumvention finding can apply to parts and components that meet the criteria of section 781(a).

*(3) Whether There Are Threshold Standards That Must Be Met in Requesting a Circumvention Inquiry*

One interested party expresses a concern with respect to the sufficiency of the evidence presented in the application submitted to the Department and argues that, the application does not contain information on subsidization and injury of the leaded-steel billets. In their view, the Department should examine whether the leaded-steel billets benefit from the subsidy established in the original investigation on lead bar, before including this product in the scope of the lead bar orders.

The regulatory provisions on circumvention, which fall within the section on scope rulings, do not set forth specific requirements for the information that must be included in an anticircumvention application as compared to a petition for an investigation. *Cf.* 19 C.F.R. 353.12 and 355.12. The regulations simply state that applications for scope rulings, which include circumvention inquiries, must include:

(1) A detailed description of the product, including technical characteristics and uses of the product, and its current U.S. Tariff Classification Number;

(2) A statement of the interested party's position as to whether the product is within the scope of an antidumping order, including

(i) A summary of the reasons for this conclusion,

(ii) Citations to any applicable statutory authority, and

(iii) Attachment of any factual support for this position, including applicable portions of the Secretary's or the Commission's investigation.

19 C.F.R. 353.29(b). *See also* 19 C.F.R. 355.29(b). These requirements are essentially the same in the new regulations. *See* § 351.225(c).

The legislative history of the URAA provides some additional guidance on the standards for initiation of anticircumvention inquiries. The Senate Report states that ''the Committee expects Commerce to initiate circumvention inquiries in a timely manner and generally consistent with the standards for initiating antidumping or countervailing duty investigations.'' S. Rep. 103–412, 103rd Cong., 2d Sess. 83 (1994). The Department has interpreted that report language to mean that the general evidentiary requirements for initiating petitions (*e.g.,* allege the elements necessary for relief, accompanied by information reasonably available to support those allegations) apply to anticircumvention requests. *Korean TV's Circumvention,* 61 FR 1342.

Furthermore, as described above, should the Department determine that the criteria of section 781(a) are met, we would consider the parts and components, in all meaningful respects, to be the subject merchandise upon being imported. Therefore, the Department's original subsidization and injury determinations reached with respect to the subject merchandise will be equally valid for the parts and components being completed or assembled in the United States which have been determined to be included within the scope of the order. Pursuant to section 781(e) of the Act, the ITC will be notified prior to any proposed action that the Department may take which would result in a final affirmative finding of circumvention.

*(4) Whether a Company Excluded From an Order Can Be Included in a Circumvention Inquiry*

Thyssen notes that it was excluded from the countervailing duty order on lead bar from Germany because it received a *de minimis* rate in the investigation. Accordingly, it argues that its exports of leaded-steel billets cannot be found to be within the scope of the countervailing duty order on lead bar.

While we agree with Thyssen with respect to the countervailing duty order, Thyssen remains covered by the antidumping duty order under the ''all other'' category. As such, Thyssen will be included in our examination of the alleged circumvention of the antidumping duty order on lead bar from Germany.

This notice is published in accordance with section 781(a) of the Act (19 U.S.C. 1677j(a)) and 19 CFR 353.29 and 19 CFR 355.29.

Dated: June 18, 1997.

**Robert S. LaRussa,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97–16683 Filed 6–24–97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–703]**

### Certain Internal-Combustion Industrial Forklift Trucks From Japan; Final Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On August 6, 1996, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on certain internal-combustion industrial forklift trucks from Japan. The review covers three manufacturers/exporters. The period of review is June 1, 1993 through May 31, 1994.

Based on our analysis of the comments received, we have made changes, including corrections of certain clerical errors, in the margin calculation for Toyota Motor Corporation. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of the Review.''

**EFFECTIVE DATE:** June 25, 1997.

**FOR FURTHER INFORMATION CONTACT:** Thomas O. Barlow, Davina Hashmi or Kris Campbell, at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4733.

**SUPPLEMENTARY INFORMATION:**

### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), and to the Department's regulations are references to the provisions in effect on December 31, 1994.

### Background

On August 6, 1996, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order