

DEPARTMENT OF COMMERCE

International Trade Administration

[C-427-817, C-427-815, C-475-827, C-475-823, C-475-825, C-475-821, C-401-804, C-475-812]

Notice of Implementation Under Section 129 of the Uruguay Round Agreements Act; Countervailing Measures Concerning Certain Steel Products From the European Communities

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

ACTION: Notice of implementation under section 129 of the Uruguay Round Agreements Act; countervailing measures concerning certain steel products from the European communities.

SUMMARY: On January 8, 2003, the Dispute Settlement Body of the World Trade Organization adopted the report of the Appellate Body in *United States—Countervailing Measures Concerning Certain Products from the European Communities*, WT/DS212/AB/R (December 9, 2002). Consistent with the Appellate Body's findings, and pursuant to section 129(b)(2) of the Uruguay Round Agreements Act, the Department of Commerce applied its modified privatization methodology with respect to the twelve countervailing duty determinations, involving certain steel products originating in various member states of the European Communities, at issue in the WTO dispute. The Department of Commerce is now implementing its "Section 129 Determinations" with respect to eight of those twelve determinations.

EFFECTIVE DATE: November 7, 2003.

FOR FURTHER INFORMATION CONTACT: John Brinkmann (French and Italian determinations), Robert Copyak (German determination), or Dana Mermelstein (all other determinations), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4126, (202) 482-2209, (202) 482-1391, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part

351 (2003). Finally, citation to "section 129" refers to section 129 of the Uruguay Round Agreements Act ("URAA"), codified at 19 U.S.C. 3538.

Background

On January 8, 2003, the Dispute Settlement Body ("DSB") of the World Trade Organization ("WTO") adopted the report of the WTO Appellate Body in *United States—Countervailing Measures Concerning Certain Products from the European Communities*, WT/DS212/AB/R (December 9, 2002) ("Certain Products"). To implement the DSB findings in Certain Products, the Department changed its methodology for analyzing a privatization in the context of the countervailing duty ("CVD") law. See *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) ("Modification Notice").

Subsequently, pursuant to section 129(b)(2) of the URAA,¹ the Department applied this modification with respect to twelve countervailing duty determinations involving certain steel products originating in various member states of the European Communities. Section 129(b)(2) provides that "[n]otwithstanding any provision of the Tariff Act of 1930 * * *," within 180 days of a written request from the U.S. Trade Representative, the Department shall issue a determination that would render its actions not inconsistent with an adverse finding of a WTO panel or the Appellate Body. 19 U.S.C. 3538(b)(2). The Statement of Administrative Action accompanying the URAA (the "SAA"), H.R. Doc. No. 103-316, Vol. 1 (1994) at 1025, 1027, variously refers to such a determination by the Department as a "new," "second," and "different" determination.

On October 24, the Department issued twelve Section 129 Determinations.² See "Issues and Decision Memorandum for the Section 129 Determination: *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon Quality Steel Plate from France*" from Jeffrey May, Deputy Assistant

¹ Section 129 of the URAA is the applicable provision governing the nature and effect of determinations issued by the Department to implement findings by WTO panels and the Appellate Body.

² Copies of the "Issues and Decision Memoranda" detailing our Section 129 Determinations in each proceeding are available online at <http://ia.ita.doc.gov/> as well as in the Department's Central Records Unit in room B-099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. All issues raised in the comments and rebuttal comments submitted by the parties concerning these Section 129 Determinations are addressed in these Issues and Decision Memoranda.

Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, signed October 24, 2003; "Issues and Decision Memorandum for the Section 129 Determination: *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from France*" from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, signed October 24, 2003; "Issues and Decision Memorandum for the Section 129 Determination: *Corrosion-Resistant Carbon Steel Flat Products from France; Final Results of Expedited Sunset Review of Countervailing Duty Order*" from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, signed October 24, 2003; "Issues and Decision Memo: Section 129 Determination: *Final Results of Full Sunset Review of Cut-to-Length Carbon Steel Plate from Germany*" from Melissa Skinner, Office Director, Office of AD/CVD Enforcement VI, to James J. Jochum, Assistant Secretary for Import Administration, signed October 24, 2003; "Issues and Decision Memorandum for the Determination under Section 129 of the Uruguay Round Agreements: *Certain Cut-to-Length Carbon-Quality Steel Plate from Italy*" from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, signed October 24, 2003; "Issues and Decision Memorandum for the Determination under Section 129 of the Uruguay Round Agreements Act: *Countervailing Duty Administrative Review: Grain-Oriented Electrical Steel from Italy*" from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, signed October 24, 2003; "Issues and Decision Memorandum for the Determination under Section 129 of the Uruguay Round Agreements Act: *Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils from Italy*" from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, signed October 24, 2003; "Issues and Decision Memorandum for the Determination under Section 129 of the Uruguay Round Agreements Act: *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet*