

This proposal does not request any new authority under FTZ procedures in terms of products or components, but it does involve a potential increase in the facility's level of production under FTZ procedures. NASI will operate the proposed sites as an integral part of Subzone 124B.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 27, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 11, 1998).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 110 North Airline Avenue, Gramercy, LA 70052

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: May 20, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98-14153 Filed 5-27-98; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 981]

Expansion of Foreign-Trade Zone 33; Pittsburgh, PA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Regional Industrial Development Corporation of Southwestern Pennsylvania, grantee of Foreign-Trade Zone 33, for authority to expand FTZ 33-Site 1 and Site 2 and to include two new sites in Pittsburgh and Leetsdale, Pennsylvania, within the Pittsburgh Customs port of entry area, was filed by the Board on November 17, 1997 (FTZ Docket 79-97, 62 FR 63315, 11/28/97);

Whereas, notice inviting public comment was given in **Federal Register**

and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 33 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 14th day of May 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98-14152 Filed 5-27-98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-823]

Cut-to-Length Carbon Steel Plate From Canada; Initiation of Anticircumvention Inquiry on Antidumping Duty Order

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

ACTION: Notice of initiation of anticircumvention inquiry; cut-to-length carbon steel plate from Canada.

SUMMARY: In response to a request from Kentucky Electric Steel Company (Kentucky Steel), the Department of Commerce (the Department) is initiating an anticircumvention inquiry to determine whether imports of boron-added grader blade and draft key steel, falling within the physical dimensions outlined in the scope of the order, are circumventing the antidumping duty order on cut-to-length carbon steel plate from Canada (58 FR 44162, August 19, 1993).

EFFECTIVE DATE: May 28, 1998.

FOR FURTHER INFORMATION CONTACT: Gideon Katz, Eric Scheier, or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW,

Washington, DC, 20230; telephone: (202) 482-4733.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise stated, all citations to the Department's regulations are references to the regulations as codified at 62 FR 27296 (May 19, 1997).

Background

On March 14, 1997, the Department initiated a scope inquiry to determine whether certain cut-to-length carbon steel plate used to make grader blades and draft keys ("grader blade" and "draft key" steel) that contain small amounts of boron (approximately 0.0016 percent by weight) fall within the scope of the order on certain cut-to-length carbon steel plate from Canada. The Department gave interested parties the opportunity to provide comments pursuant to 19 CFR § 353.29(i) and 19 CFR 353.29(g).

On January 16, 1998, the Department issued a ruling, based on 19 CFR § 353.29(i), that boron-added grader blade and draft key steel falls outside the scope of the order. The Department concluded that, because the petition relied on the HTS definition of carbon steel, which excluded other-alloy steel (i.e. steel containing more than 0.0008 percent boron), and because the petition equated the term 'carbon steel' with the HTS term 'non-alloy steel', variants of grader blade and draft key steel which contain at least 0.0008 percent boron by weight fell outside the scope of the order. Specifically, the HTSUS defines the term "steel" as certain "ferrous materials * * * usually malleable and which contain by weight two percent or less of carbon. * * *" and defines the term "non-alloy" steel as steel *other than A*) "stainless steel", i.e. alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium or B) "other alloy steel, i.e. steel * * * containing by weight 0.3 percent or more of aluminum or 0.0008 percent or more of boron. See HTSUS, Chapter 72, Note 1(d) and (f).

The Department also solicited comments from interested parties concerning the possible applicability of the "minor alterations" provision pursuant to 19 CFR 353.29(g) (now codified as § 351.225(i), see 62 FR 27296, 27404 (May 19, 1997)).

On January 30, 1998, Kentucky Steel requested that the Department conduct an anticircumvention inquiry pursuant to section 781(c) of the Tariff Act to determine whether imports of certain cut-to-length steel plate used to make grader blades and draft keys ("grader blade" and "draft key" steel) that contain small amounts of boron (approximately 0.0016 percent by weight) and fall within the physical dimensions outlined in the scope of the order, are circumventing the antidumping duty order on certain cut-to-length carbon steel plate from Canada.

Scope

The scope language contained in the final determination and antidumping duty order describes the covered merchandise as follows:

Although the Harmonized Tariff Schedule of the United States (HTS) subheadings are provided for convenience and customs purposes, our written descriptions of the scope of these proceedings are dispositive * * *.

Certain Cut-to-Length Carbon Steel Plate

These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.0000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in these investigations are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges. Excluded from these investigations is grade X-70 plate.

Final Determination; Certain Cold-Rolled Carbon Steel Flat Products From Argentina, 58 FR 37063 (July 9, 1993), Appendix I

See also *Antidumping Duty Orders: Certain Corrosion-Resistant Carbon*

Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada, 58 FR 44162 (August 19, 1993).

Kentucky Steel now alleges that since publication of the antidumping duty order, exporters of certain cut-to-length carbon steel plate from Canada have been circumventing the order by exporting carbon steel plate with small amounts of boron added. According to Kentucky Steel, the "inclusion of 0.0016 percent boron by weight to high carbon grader blade and draft key steel constitutes a minor alteration" and is thus within the meaning of the provisions detailed in section 781(c) of the Tariff Act. See Anticircumvention Application, January 30, 1998 at 4.

Kentucky Steel describes the merchandise that is the subject of this anticircumvention inquiry as cut-to-length plate made of high-carbon steel to which boron has been added. Kentucky Steel defines "high carbon" steel to be steel of AISI or SAE grades 1050, 1152, or 1552, or higher, i.e. carbon steels that may contain 0.55% or more carbon by weight.

Initiation of Anticircumvention Proceeding

Section 781(c) of the Tariff Act states that the Department may find circumvention of an order when products which are of the class or kind of merchandise subject to an antidumping duty order have been "altered in form or appearance in minor respects * * * whether or not included in the same tariff classification." The applicant asserts that, while the statute is silent as to what factors to consider in determining whether alterations are properly considered "minor," the legislative history of this provision indicates that there are certain factors which should be considered before reaching an anticircumvention determination.

The applicant cites to the Senate Finance Committee report on the Omnibus Trade and Competitiveness Act of 1988 (which amended the Tariff Act of 1930 to include the anticircumvention provisions contained in section 781), which states:

[I]n applying this provision, the Commerce Department should apply practical measurements regarding minor alterations, so that circumvention can be dealt with effectively, even where such alterations to an article technically transform it into a differently designated article. The Commerce Department should consider such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the

imported products. S. Rep. No. 71, 100th Cong., 1st Sess. 100 (1987).

The applicant has presented evidence with respect to each of the criteria listed in the Senate report. Each of these criteria is addressed below.

Overall Physical Characteristics

The cut-to-length plate for grader blades and draft keys at issue in this proceeding have small amounts, usually about 0.0016 percent by weight, of boron added to high carbon steel (high carbon being defined by the applicant as steel containing at least 0.55 percent carbon by weight). The applicant claims that while boron, like carbon, is added to steel to improve "hardenability," when the level of carbon is already at 0.60 percent by weight or above, the added boron's effect on the final product is negligible. The applicant asserts that grader blade and draft key steel products are composed of upwards of 0.70 percent carbon, sufficiently high levels to render the addition of boron immaterial to the performance characteristics of the final product. The applicant also claims that practice in the industry is not to add boron to higher carbon steels, like AISI grades 1070 and 1084, which are used to make grader blades and draft keys.

Expectations of the Ultimate Users

The applicant maintains that carbon steel plate users are purchasing imported plate with the expectation that the product be hard and durable, and that these characteristics are imparted by the presence of sufficient levels of carbon. The applicant states that consumers of this product are fully aware that carbon steel of the sort at issue here does not rely on or benefit from the presence of boron, and thus "do not expect, seek, or desire" its presence. The applicant notes that its own marketing officials have been advised that many consumers of the product do not know that it contains boron, and that there is no significant price difference between plain carbon and boron-added versions of the product imported from Canada.

Use of the Merchandise

The applicant maintains that, with or without boron, high carbon grader blade and draft key steel have the same uses: making blades on grading equipment and locking devices on railroad couplings. The applicant states that knowledgeable purchasers would be aware that there are no uses of higher carbon steel plate containing 0.0016 percent boron that cannot fully be met without boron, and that the addition of boron neither responds to a new need in

the market, nor improves the way existing technical needs are met.

Channels of Marketing

The applicant states that steel producers, with few exceptions, sell directly to manufacturers of grader blades and draft keys through company sales forces. The applicant claims that, because carbon grader blade and draft key steels are used for precisely the same products as are the boron-added versions of the products, boron-added grader blade and draft key carbon steel from Canada is sold in precisely the same sales channels as plain grader blade and draft key carbon steel from Canada.

Cost of Modification

The applicant alleges that, by adding about 0.0016 percent boron to high carbon steels, Canadian producers have been able to avoid dumping duties ranging from 1.47 percent to 68.7 percent, and that the cost of avoiding these duties, relative to the total value of the product itself, is negligible. The applicant estimates that Canadian producers can realize a value of 1.25 percent to 68.5 percent by avoiding the duties under the order in this case by adding 0.0016 percent boron to their product.

Other interested parties, Co-Steel Lasco, Caterpillar Inc., and Algoma Steel Inc., submitted comments arguing that the Department cannot initiate a "minor alterations" anticircumvention inquiry on a type of merchandise which the Department has previously determined to be outside the scope of the order. These interested parties base their argument on the decision of the Court of International Trade (CIT) in *Hylsa, S.A. v. United States*, Slip Op. 98-10 (February 3, 1998), which upheld the earlier decision of the CIT in *Wheatland Tube Co. v. United States*, 973 F. Supp. 149 (CIT 1997). As the Department disagrees with the decision in *Hylsa*, and as it is appealing this decision to the Federal Circuit, the Department is not bound to apply it to the determination of whether to initiate the requested inquiry.

Based on our evaluation of the application, we determine that a formal inquiry is warranted. Accordingly, we are initiating a circumvention inquiry concerning the antidumping duty order on cut-to-length carbon steel plate from Canada, pursuant to section 781(c) of the Tariff Act. In accordance with 19 CFR 351.225(l)(2), we will not instruct the Customs Service to suspend liquidation and require a cash deposit of estimated duties on the merchandise which is the subject of this inquiry

unless and until we issue an affirmative preliminary determination.

The Department will, following consultation with the interested parties, establish a schedule for questionnaires and comments on the issues. The Department intends to issue its final determination within 300 days of the date of publication of this initiation.

This notice is published in accordance with section 781(c) of the Tariff Act (19 U.S.C. 1677j(c)) and 19 CFR 351.225.

Dated: May 20, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98-14150 Filed 5-27-98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051898B]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its enforcement oversight committee in June, 1998 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on June 16, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held in Saugus, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231-0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1036; telephone: (781) 231-0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agenda

Tuesday, June 16, 1998, 9:30 a.m.—Enforcement Committee.

Meeting

Location: Council Office, 5 Broadway, Saugus, MA 01906; telephone (781) 231-0422.

The committee will discuss the effectiveness of current management measures, especially of trip limits, and review the penalty schedule used by General Counsel Northeast.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 21, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98-14127 Filed 5-27-98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052198B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Moana Productions, Inc., 311 Portlock Road, Honolulu, HI 96825, has requested an amendment to Photography Permit No. 867-1388.

DATES: Written or telefaxed comments must be received on or before June 29, 1998.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713-2289);

Regional Administrator, Alaska Region, NMFS, 709 W. 9th Street,