

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

Investigation No. 731-TA-961 (Final) (Second Remand)

CARBON AND CERTAIN ALLOY STEEL WIRE ROD FROM TRINIDAD AND TOBAGO

AGENCY: United States International Trade Commission.

ACTION: Notice of remand proceedings.

SUMMARY: The U.S. International Trade Commission (“Commission”) hereby gives notice of the court-ordered second remand of its final determination in the antidumping duty Investigation No. 731-TA-961 concerning carbon and certain alloy steel wire rod (“wire rod”) from Trinidad and Tobago. For further information concerning the conduct of this proceeding and rules of general application, consult the Commission’s Rules of Practice and Procedure, part 201, subparts A through E (19 C.F.R. part 201), and part 207, subpart A (19 C.F.R. part 207).

EFFECTIVE DATE: April 20, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer, Office of Investigations, telephone 202-205-3193, or Marc A. Bernstein, Office of General Counsel, telephone 202-205-3087, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record of Investigation No. 731-TA-961 may be viewed on the Commission’s electronic docket (“EDIS”) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. – In October 2002, the Commission determined that a domestic industry was materially injured by reason of imports of wire rod from Trinidad and Tobago that were sold in the United States at less than fair value. Caribbean Ispat Ltd., a Trinidadian producer and exporter of wire rod now known as Mittal Steel Point Lisas, Ltd., initiated a judicial action to review the Commission’s determination. The Court of International Trade affirmed the Commission’s determination. *Caribbean Ispat Ltd. v. United States*, 366 F. Supp. 1300 (Ct. Int’l Trade 2005). The United States Court of Appeals for the Federal Circuit vacated and remanded. *Caribbean Ispat Ltd. v. United States*, 450 F.3d 1336 (Fed. Cir. 2006). It ruled: (1) that the Commission acted contrary to law by failing to consider in its causation analysis concerning subject imports from Trinidad and Tobago the impact of imports from other subject countries which the Commission was statutorily precluded from cumulating with the Trinidadian imports; and (2) that the Commission’s causation analysis did not satisfy the requirements the Federal Circuit previously articulated in *Bratsk Aluminum Smelter v. United States*, 444 F.3d 1369 (Fed. Cir. 2006). The Federal Circuit remanded the matter for further consideration in light of its opinion. Accordingly, the Court of International Trade remanded the matter to the Commission.

In January 2007, the Commission reached a negative determination on remand. The Court of International Trade affirmed the remand determination. *Mittal Steel Point Lisas, Ltd. v. United States*, 495 F. Supp.2d 1374 (Ct. Int'l Trade 2007). The Federal Circuit vacated and remanded in a decision issued in September 2008. *Mittal Steel Point Lisas, Ltd. v. United States*, 542 F.3d 867 (Fed. Cir. 2008). It found three deficiencies in the Commission opinion on remand. These concerned: (1) the Commission's construction and application of the causation standard articulated in *Bratsk* and *Caribbean Ispat* with respect to its analysis of material injury by reason of subject imports; (2) the Commission's analysis of whether wire rod was a "commodity product" for purposes of performing the type of "replacement/benefit" analysis that the Federal Circuit endorsed in *Bratsk*; and (3) the Commission's construction and application of the causation standard with respect to its analysis of threat of material injury by reason of subject imports. The matter was consequently remanded to the Court of International Trade. On March 29, 2010, the Court of International Trade remanded the matter to the Commission, directing the Commission "to attempt to comply with the [Federal Circuit's] reasoning, as set forth in its foregoing, more recent opinion, and to report to this court any results of this mandated remand."

Participation in the proceeding. – Only those persons who were interested parties to the original investigation (i.e., persons listed on the Commission Secretary's service list) and were parties to the underlying *Mittal* litigation may participate in the remand proceeding. Such persons need not re-file their appearance notices or protective order applications to participate in the remand proceeding. Business proprietary information ("BPI") referred to during the remand proceeding will be governed, as appropriate, by the administrative protective order issued in the original investigation.

Written submissions. – The Commission is not reopening the record in this remand proceeding. The Commission will permit the parties to file written comments. Comments should be limited to no more than twenty-five (25) double-spaced and single-sided pages of textual material, may not contain new factual information, and may address only the following issues within the scope of the remand: (1) whether the information in the record would support a determination of material injury or threat of material injury by reason of subject imports under the causation standard the Federal Circuit articulated in sections II.B. and C. of the *Mittal* opinion; and (2) whether wire rod is a "commodity product" pursuant to the standards the Federal Circuit has authorized the Commission to apply pursuant to section II.A. of the *Mittal* opinion. Any such comments must be filed with the Commission no later than May 7, 2010.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (Nov. 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Parties are also advised to consult with the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 C.F.R. part 201), and part 207, subpart A (19 C.F.R. part 207) for provisions of general applicability concerning written submissions to the Commission.

By order of the Commission.

/s/

Marilyn R. Abbott
Secretary to the Commission

Issued: April 20, 2010