

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

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ANTI-DUMPING LEGISLATION OF THE UNITED STATES

Addendum

The following communication, dated 6 November 1978, has been received from the Permanent Mission of the United States.

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I am attaching for circulation to the contracting parties under Article 15 of the GATT Anti-Dumping Code a copy of the notice proposing changes in the Customs Regulations concerning the Special Summary Steel Invoice. This notice appeared in the Federal Register of 16 October 1978.

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DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 141]

IMPORTATION OF CERTAIN STEEL ARTICLES

Proposed Amendment to Customs Regulations  
Relating to Documents and Information

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Proposed rule.

**SUMMARY:** It is proposed to amend the Customs Regulations regarding the Special Summary Steel Invoice ("SSSI") which must be presented to Customs for each shipment of certain articles of steel having an aggregate price over \$2,500. The proposed amendment would modify the SSSI to require the name of the producer and the price paid for the articles covered by the invoice by the initial and each subsequent purchaser in every case.

It also is proposed to modify the existing instructions for preparation of the SSSI to reflect this amendment and to clarify existing instructions relating to freight charges incurred after importation of the merchandise into the United States and to the submission of information concerning commissions. The additional information provided will be used in connexion with the administration of the "trigger price mechanism" ("TPM") under the Anti-Dumping Act, 1921, as amended.

**DATE:** Comments must be received on or before 15 November 1978.

**ADDRESS:** Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue N.W., Room 2335, Washington D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:**

Peter D. Ehrenhaft, Deputy Assistant Secretary and Special Counsel (Tariff Affairs), Department of the Treasury, Washington D.C. 20220, 202-566-2806.

#### PROPOSED RULES

**SUPPLEMENTARY INFORMATION:**

#### BACKGROUND

On 13 February 1978 a final rule published in the Federal Register (43 FR 6065) amended the Customs Regulations to require that a Special Summary Steel Invoice ("SSSI") be presented to Customs for each shipment of certain articles of steel having an aggregate purchase price over \$2,500. The information provided by the SSSI is used in the administration of the Anti-Dumping Act, 1921 as amended.

In addition, the notice of proposed rule-making on this matter, published in the Federal Register on 30 December 1977 (42 FR 65214), announced that the Secretary of the Treasury would implement a "trigger

price mechanism" ("TPM"), as recommended to and approved by the President, as a part of the programme to monitor steel imports. The notice also stated that "trigger prices" established for certain steel mill products would provide the basis upon which imports of such products would be monitored for the purpose of determining whether investigations under the Anti-Dumping Act, 1921, as amended, would be appropriate.

Sections 141.86 and 141.89 Customs Regulations (19 CFR 141.86, 141.89) set forth the invoicing requirements for the Special Summary Steel Invoice, Customs Form 5520. The instructions for preparation of the SSSI implement the regulatory requirements. They were published as part of the final rule in the Federal Register on 13 February 1978 (43 FR 6065).

Since implementation of the TPM and adoption of the SSSI, a number of problems have arisen in administering the programme which indicate that some information presently required is not being provided and certain information not presently required is needed to administer the programme effectively. The three specific areas in which enhanced data is needed concern foreign affiliations of producers and importers, freight charges incurred after the merchandise is imported into the United States, and buying commissions.

#### PRODUCER INFORMATION

From the SSSI's received during the past six months, it appears that steel is occasionally sold to exporters unrelated to the producer of the steel rather than directly to a United States buyer. Some of these exporters are or may be controlled by a United States buyer. This situation has given rise to allegations that a United States buyer can evade the trigger price monitoring system through the use of foreign buying agents. Although no specific cases of such evasion have been identified, it has been argued that a United States importer or purchaser of steel can buy steel below the trigger price through a foreign buying agent and then have that agent export it to the United States at or above the trigger price. However, it is argued that such a transaction should not be considered to be at or above the trigger price as interpreted under the Anti-Dumping Act, because the relevant price for comparison with the "trigger price" is the price at which the steel is purchased by the foreign agent.

To assure collection of the data needed to prevent evasion of the trigger price mechanism, it is proposed to modify the SSSI by adding a new section 1a, titled "Producer If Other Than Seller (Name, Address and Relationship to Seller)". Present section 19 would be redesignated section 19b and a new section 19a, titled "Mill Price", would be added.

In order to provide for this modification to the SSSI, it is proposed to amend section 141.89, Customs Regulations (19 CFR 141.89), by adding a new sub-paragraph (E) which would require that the name of the producer, plus the price paid by the initial and each subsequent purchaser of the steel, be included on the SSSI in every case.

This information will enable the Treasury Department to determine whether it is appropriate to initiate an anti-dumping proceeding under the trigger price mechanism. Generally the policy of the Department is not to self-initiate an investigation if the ex-mill price is equal to, or more than, the trigger price minus the actual importation charges if included in the price.

#### COMMISSIONS AND FREIGHT CHARGES

Although sections 9 and 26 of the SSSI specifically require information relating to commissions, information concerning buying commissions is not always provided. Accordingly, it is proposed to modify section 12, the "Declaration of the Seller/Shipper, or Agent" and the instructions for that section to require the identification of any commissions paid or allowed on exportation as buying or selling commissions, and an itemization of all such payments. This information will be used to make appropriate adjustments in the invoice price before a comparison is made to the trigger prices if it is determined that a United States consumer of steel has an interest directly or indirectly through a foreign subsidiary in the export sales transaction.

Similarly, although section 26 of the SSSI requires all charges and fees, including freight charges, to be identified separately by name and amount, charges for freight in the United States paid by the exporter are not always identified specifically. To facilitate the necessary adjustment in the invoice price to take account of such charges before a comparison is made to the trigger price, it is proposed to add a new section 26a, titled "Freight from US Point of Importation".

#### EDITORIAL CHANGES

Because the title to section 23, "Domestic Freight Charges" apparently has not been understood, and because of the addition of new section 26a, it is proposed to change the title of section 23 to "Transportation Costs to Point of Exportation". It also is proposed to modify section 24 to read "Ocean, Air, or International Freight".

The Department has been requested to modify the format of the SSSI by placing sections 10 through 12 and 22 through 26 below section 13 through 21. It was suggested that this change would expedite preparation and conform the document to the format of other international trade documents, including the Special Customs Invoice, Customs Form 5515. It is proposed to modify the format as outlined.

The instructions for completing present section 19 (redesignated section 19b), "Home Market" unit price, also are being changed to clarify the intent of this section.

PROPOSED MODIFIED SSSI

The proposed modified SSSI and instructions are set forth below:

UNITED STATES CUSTOMS SERVICE

INSTRUCTIONS FOR PREPARATION OF SPECIAL SUMMARY STEEL INVOICE

(Required for all shipments of steel valued over \$2,500)

Note: Where this summary invoice covers several types of merchandise priced in different ways, each should be shown separately. Prepare in duplicate.

Sections 1, 2-7, 8b, 9, 10, 13, 16, 20-21 and 24-26 may be completed in the same manner as the equivalent sections on Special Customs Invoice, Customs Form 5515.

Section 1a. Producer if Other Than Seller: show here the producer's name, address, and relationship to seller. If producer is the same as seller, so indicate in this section.

Section 8a. Date Price Terms Agreed: show here the date on which the final sales price for this shipment was agreed.

Section 11. Codes for Extras: this section refers to the additional price charged for extras (other than width and length, which are provided for in 18a and 18b). The code(s) for the extras shown should be reflected in section 18c, and the amount for each extra should be shown in 18d. The extras listed are expressed in terms as now understood in the United States market.

Section 12. Declaration of Seller/Shipper: complete and explain if any buying or selling commission, payment or other element of value, other than shown on this invoice, has been or will be made or granted.

Section 14. AISI Category: this column should be completed with the appropriate category number from the following list.

Section 15. Description of Goods: in addition to the full description of goods as usually required on the Special Customs Invoice, steel specifications which this merchandise meets must be shown.

- Section 17. Base Price: show here for each steel category the price per unit, exclusive of extras, on which the total sales price was based.
- Section 18. Extras: show here the charge for each category of any extra added to the base price. Use appropriate codes from section 11 where appropriate.
- Section 19a. Mill Price: in all cases where the exporter is other than the producer, show here the unit price paid by the initial and each subsequent purchaser. If the producer is selling directly to the United States buyer, this section need not be completed.
- Section 19b. Home Market Unit Price: state the unit price in home market currency at which such or similar goods were sold or offered for sale and consumption in the home market at the date nearest to the date shown in section 8a.
- Section 23. Transportation Costs to Point of Exportation: show here the cost of transporting the goods from the mill or factory to the point of exportation, that is, the foreign inland freight charge.
- Section 26a. Freight from the United States Point of Importation: show here the cost of transporting the goods from the point of importation in the United States. If these costs are borne by the exporter or a party related to the exporter. If these costs cannot be determined prior to entry, provide the contract terms stating the exporter's liability.

Category No. and products

1. Ingots, blooms, billets, slabs, etc.
2. Wire rods
3. Structural shapes -- plain 3 inches and over
4. Sheet piling
5. Plates
6. Rail and track accessories
7. Wheels and axles
8. Concrete reinforcing bars
9. Bar shapes under 3 inches
10. Bars - hot rolled - carbon
11. Bars - hot rolled -- alloy
12. Bars - cold finished
13. Hollow drill steel
14. Welded pipe and tubing
15. Other pipe and tubing

16. Round and shaped wire
17. Flat wire
18. Bale ties
19. Galvanized wire fencing
20. Wire nails
21. Barbed wire
22. Black plate
23. Tin plate
24. Terne plate
25. Sheets - hot rolled
26. Sheets - cold rolled
27. Sheets - coated (including galvanized)
28. Sheets - coated - alloy
29. Strip - hot rolled
30. Strip - cold rolled
31. Strip - hot and cold rolled - alloy
32. Sheets other - electric coated

#### AUTHORITY

The authority for the proposed amendments is R.S. 251, as amended (19 U.S.C. 66), section 407, 42 Stat. 18 (19 U.S.C. 173), sections 481, 484, 624, 46 Stat. 719, 722 as amended, 759 (19 U.S.C. 1481, 1484, 1624), 77A Stat. 14, Tariff Schedules of the United States (19 U.S.C. 1202, General Headnote 11).

#### COMMENTS

The Customs Service invites written comments, preferably in triplicate, on the proposed amendments from all interested parties. Comments submitted will be available for public inspection in accordance with section 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue N.W., Room 2335, Washington, D.C. 20229.

#### DRAFTING INFORMATION

The principal author of this document was John E. Elkins, Regulations and Legal Publications Division, U.S. Customs Service. However, other personnel in the Customs Service and the Department of the Treasury assisted in its development.

PROPOSED AMENDMENT

1. It is proposed to amend section 141.89(b)(1), Customs Regulations, (19 CFR 141.89(b)(1)), by adding a new sub-paragraph (E) to read as follows:

141.89 Additional information for certain classes of merchandise.

\* \* \* \*

(b) Special summary steel invoice

(1) \* \* \*

(E) The name of the producer and the price paid by the initial and each subsequent purchaser. One or more continuation sheets may be used to supply this information, if necessary.

Approved: 10 October 1978

(Signed) R.E. Chasen  
Commissioner of Customs

(Signed) Robert H. Mundheim  
General Counsel



