



C-351-833
2013 Sunset Review
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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Countervailing Duty Order on Carbon and Certain Alloy Steel Wire Rod from Brazil

Summary

We are conducting an expedited sunset review of the countervailing duty (CVD) order covering carbon and certain alloy steel wire rod from Brazil (wire rod) from Brazil.¹ We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues raised in the substantive responses:

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Likely to Prevail

History of the Order

On August 30, 2002, the Department of Commerce ("the Department") published its final determination in the countervailing duty investigation of wire rod from Brazil.² On September 27, 2002, the Department published its amended final determination.³ On October 22, 2002, the Department published the *CVD Order*.

The following seven programs were found to confer countervailable subsidies in the investigation:

1. Financing for the Acquisition or Lease of Machinery and Equipment through the

¹ See *Notice of Countervailing Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil and Canada*, 67 FR 64871 (October 22, 2002) (*CVD Order*).

² See *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55805 (August 30, 2002) (*Final Determination*) and accompanying Issues and Decision Memorandum.

³ See *Notice of Amended Final Affirmative Countervailing Duty Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 61071 (September 27, 2002) (*Amended Final Determination*).

- Special Agency for Industrial Financing;
2. Programa de Financiamento as Exportacoes;
 3. Tax Incentives Provided by the Amazon Region Development Authority (“SUDAM”) and the Northeast Region Development Authority (“SUDENE”);
 4. Debt Forgiveness/Equity Infusions Provided to Usina Siderurgica da Bahia S.A. (previously 1988 Equity Infusions/Debt Forgiveness Provided to Usina Siderurgica da Bahia S.A.) (specific to Gerdau S.A. (Gerdau));
 5. National Bank for Economic and Social Development Financing for the Acquisition of Dedini Siderurgica de Piracicaba (specific to Companhia Siderurgica Belgo-Mineira (Belgo Mineira));
 6. National Bank for Economic and Social Development Financing for the Acquisition of Mendes Junior Siderurgica S.A. (specific to Belgo Mineira); and
 7. “Presumed” Tax Credit for the Program of Social Integration and the Social Contributions of Billings on Inputs Used in Exports.

The Department also determined in the investigation that three programs were not countervailable, four programs were not used by the companies under investigation, one program had been terminated, and one program did not exist. For two programs, no determination was made. The list below identifies manufacturers, producers, and/or exporters, and the net subsidies determined by the Department in the original investigation.

Manufacturers/Producers/Exporters	Net Countervailable Subsidy (percent)
Companhia Siderurgica Belgo-Mineira (Belgo Mineira)	6.74
Gerdau S.A.	2.76
All Others	5.64

Following notification of an affirmative injury determination by the U. S. International Trade Commission (ITC), the Department published the *CVD Order*.

On August 21, 2003, in response to a request by the petitioners, the Department initiated a changed circumstances review to clarify the technical descriptions of certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that were originally excluded from the scope of the *CVD Order*.⁴ In its final results, the Department amended the technical description so that certain grade 1080 tire cord quality steel wire rod and grade 1080 tire bead quality steel wire rod “having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns” rather than just those “having no inclusions greater than 20 microns” were revoked from the *CVD Order* effective July 24, 2003.⁵

On May 11, 2004, the Department initiated a scope inquiry to clarify the exclusion for grade 1080 tire cord quality wire rod and tire bead quality wire rod from the antidumping and

⁴ See *Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Initiation of Changed Circumstances Antidumping Duty Administrative Review and Countervailing Duty Administrative Reviews, and Intent to Revoke Orders in Part*, 68 FR 50513 (August 21, 2003).

⁵ See *Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Final Results of Changed Circumstances Review*, 68 FR 64079 (November 12, 2003).

countervailing duty orders on wire rod from Brazil.⁶ On May 9, 2005, the Department issued a final scope ruling and determined that for grade 1080 tire cord quality wire rod and tire bead quality wire rod, the phrase, “having no inclusions greater than 20 microns” means no inclusions greater than 20 microns in any direction.⁷

The Department published its final results of the first sunset review of the *CVD Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).⁸ In that review, the Department determined that revocation of the *CVD Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the same rates as found in the amended final determination of the investigation. Based on the Department and the ITC’s affirmative findings, the Department published a notice of continuation of the order pursuant to 19 CFR 351.218 (e)(4).⁹

The Department has not conducted any administrative reviews of the *CVD Order*.

Background

On June 3, 2013, the Department published the notice of initiation of the second sunset review of the *CVD Order*, pursuant to section 751(c) of the Act.¹⁰ The Department received notices of intent to participate from the following domestic parties: ArcelorMittal USA LLC, Schnitzer Steel Industries, Inc., DBA Cascade Steel Rolling Mills, Inc., Evraz Rocky Mountain Steel, Gerdau Ameristeel US Inc., Keystone Consolidated Industries, Inc., and Nucor Corporation, within the deadline specified by 19 CFR 351.218(d)(1)(i).¹¹ The companies claimed interested party status under section 771(9)(C) of the Act as manufacturers of a domestic like product in the United States.¹²

⁶ See Memorandum to Jeffrey May from Carol Henninger, dated May 11, 2004.

⁷ See Notice of Scope Rulings, 70 FR 55110 (September 20, 2005).

⁸ See *Carbon and Certain Alloy Steel Wire Rod from Brazil: Final Results of Expedited Five-Year Sunset Review of the Countervailing Duty Order*, 73 FR 1323 (January 8, 2008).

⁹ See *Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Continuation of Antidumping and Countervailing Duty Orders*, 73 FR 44218 (July 30, 2008).

¹⁰ See *Initiation of Five-Year (“Sunset”) Review*, 78 FR 33063 (June 3, 2013) (*Initiation Notice*).

¹¹ See letter from Schnitzer Steel Industries, Inc., DBA Cascade Steel Rolling Mills, Inc. “Carbon and Certain Alloy Steel Wire Rod from Brazil: Notice of Intent to Participate in Review and APO Application” (June 13, 2013); letter from Nucor Corporation “Carbon and Certain Alloy Steel Wire Rod from Brazil: Notice of Intent to Participate in Review and APO Application” (June 13, 2013); and letter from ArcelorMittal USA LLC, Evraz Rocky Mountain Steel, Gerdau Ameristeel U.S. Inc., and Keystone Consolidated Industries, Inc. to the Department, “Carbon and Certain Alloy Steel Wire Rod from Brazil - Entry of Appearance, Application for Disclosure of Proprietary Information Subject to Administrative Protective Order, and Notice of Intent to Participate” (June 18, 2013).

¹² Gerdau Ameristeel US Inc. reported that it is related to Gerdau, a producer and exporter of subject merchandise in Brazil. Pursuant to section 771(4)(B) of the Act, a domestic interested party may be excluded from participating as part of the domestic industry if it is related to an exporter of subject merchandise. However, as no parties have questioned Gerdau Ameristeel US Inc.’s participation, we are including it among the domestic interested parties.

The Department received an adequate substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).¹³ We did not receive substantive responses from the Government of Brazil or any other respondent interested parties. According to the Department's regulations at 19 CFR 351.218(e)(1)(ii)(B)-(C), when there are inadequate responses from the government or from respondent interested parties, we normally will conduct an expedited sunset review and, not later than 120 days after the date of publication in the *Federal Register* of the notice of initiation, issue final results of review based on the facts available. Therefore, we are conducting an expedited (120-day) sunset review of the *CVD Order*.

Scope of the Order

The merchandise subject to this order is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States ("HTSUS") definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (i.e., products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. Grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

Grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects

¹³ See letter from domestic interested parties to the Department, "Carbon and Certain Alloy Steel Wire Rod from Brazil" (July 2, 2013) (Substantive Response).

of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of grade 1080 tire cord quality wire rod and grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis - that is, the direction of rolling - of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003.

The designation of the products as “tire cord quality” or “tire bead quality” indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under this order are currently classifiable under subheadings 7213.91.3000, 7213.91.3010, 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3090, 7213.91.3091, 7213.91.3092, 7213.91.3093, 7213.91.4500, 7213.91.4510, 7213.91.4590, 7213.91.6000, 7213.91.6010, 7213.91.6090, 7213.99.0030, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0000, 7227.20.0010, 7227.20.0020, 7227.20.0030, 7227.20.0080, 7227.20.0090, 7227.20.0095, 7227.90.6010, 7227.90.6020, 7227.90.6050, 7227.90.6051, 7227.90.6053, 7227.90.6058, 7227.90.6059, 7227.90.6080, and 7227.90.6080 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the *CVD Order* would be likely lead to continuation or

recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider (1) the net countervailable subsidy determined in the investigation and subsequent reviews, and (2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

Pursuant to section 752(b)(3) of the Act, the Department shall provide to the ITC the net countervailable subsidy likely to prevail if the *CVD Order* was revoked. In addition, consistent with section 752(a)(6) of the Act, the Department shall provide to the ITC information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (SCM Agreement).

Below we address the substantive response of the domestic interested parties.

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

The domestic interested parties claim that, for the below reasons, the Department should determine that subsidies countervailed in the original investigation have continued and would be likely to continue or recur if the *CVD Order* were revoked:

(1) the subsidies at issue have neither been terminated nor suspended;

(2) the Department's subsidy enforcement website lists all the countervailable subsidy programs from the original investigation, including those that were "not used" and the presence of "not used" programs is probative of continuation or recurrence of a countervailable subsidy;¹⁴

(3) the imposition of the *CVD Order* resulted in imports of subject merchandise declining precipitously (imports decreased from 257,469 tons in 2001 (shortly before the affirmative preliminary determination) to 128,225 in 2003 (the first full year after the imposition of the *CVD Order*) and to 102,517 tons in 2012);¹⁵ and

(4) most of the imports of wire rod from Brazil are imports of merchandise excluded from the scope of the order, demonstrating that absent the order, Brazilian producers/exporters are likely to receive continued subsidies and imports from Brazil would increase if the order were revoked.

As a result, the domestic interested parties conclude that revocation of the *CVD Order* is likely to lead to a continuation or recurrence of countervailable subsidies.

¹⁴ See *Final Results of Expedited Sunset Review of Countervailing Duty Order: Sulfanilic Acid from India*, 70 FR 53168 (September 7, 2005).

¹⁵ See Substantive Response at 15-16.

Department's Position

Section 752(b)(1) of the Act directs the Department in determining the likelihood of continuation or recurrence of a countervailable subsidy to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether there has been any change in a program found to be countervailable that is likely to affect that net countervailable subsidy. The Statement of Administration (SAA) further advises that the continuation of a program is “highly probative of the likelihood of continuation or recurrence of countervailable subsidies.”¹⁶ As explained above, there have been no administrative reviews of the *CVD Order*. Moreover, there is no information indicating any changes in the programs. We note that the benefits Gerdau received under “Debt Forgiveness/Equity Infusions Provided to Usina Siderurgica da Bahia S.A. (previously 1988 Equity Infusions/Debt Forgiveness Provided to Usina Siderurgica da Bahia S.A.)” were non-recurring in nature and have been fully allocated over the average useful life of the subject merchandise (*i.e.*, 15 years). However, in order to remove a non-recurring subsidy program, for which the benefit has been fully allocated, from the determination that subsidization is likely to continue or recur, the program also must be terminated.¹⁷ There is no information on the record that this program has been terminated. For more information on this program, *see* the “Net Countervailable Subsidy Likely to Prevail” section, below.

Therefore, consistent with our practice, we find that countervailable programs continue to exist and be used by Brazilian producers and exporters of wire rod.¹⁸ Consequently, given the continued existence of programs found to provide countervailable benefits, the Department finds that a countervailable subsidy is likely to continue or recur if the *CVD Order* was revoked.¹⁹

2. Net Countervailable Subsidy Likely to Prevail

In determining the net countervailable subsidy likely to prevail in the event of revocation, the domestic interested parties rely on section 752(b)(1) of the Act which specifies that the Department shall consider “the net countervailable subsidy determined in the investigation and subsequent reviews” and “whether any change in the program which gave rise to the net countervailable subsidy” has occurred and is likely to affect the net countervailable subsidy rate.

Domestic interested parties argue that, since there have been no administrative reviews of the *CVD Order*, the only subsidy rates available are those determined in the investigation.

¹⁶ *See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 103-316, Vol. I (1994) at 888.*

¹⁷ *See Polyethylene Terephthalate (PET) Film, Sheet, and Strip From India: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order, 78 FR 47276 (August 5, 2013).*

¹⁸ *See Sulfanilic Acid From India; Final Results of Expedited Sunset Review of Countervailing Duty Order, 76 FR 33243 (June 8, 2011); see also Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010).*

¹⁹ Although domestic interested parties cite to evidence of a decline in the volume of imports since the investigation, determinations concerning the likelihood of continuation or recurrence of countervailable subsidies – unlike determinations concerning the likelihood of continuation or recurrence of dumping – are primarily based upon the continued existence of countervailing duty programs and/or benefits. *See Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871, 18874-75 (April 16, 1998)(Sunset Policy Bulletin).*

Department's Position

Consistent with the SAA and legislative history, the Department normally will provide to the ITC the net countervailable subsidy that was determined in the investigation as the subsidy rate likely to prevail if the order is revoked, because it is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.²⁰

Section 752(b)(1)(B) of the Act provides, however, that the Department will consider whether any change in the program which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy.

Therefore, although the SAA and House Report provide that the Department normally will select a rate from the investigation, this rate may not be the most appropriate if, for example, the rate was derived (in whole or part) from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.²¹

In determining company-specific, net countervailable subsidy rates likely to prevail, the Department has started with the rates found in the original investigation. Since the Department has not conducted any administrative reviews of the *CVD Order*, we do not need to adjust the rates from the investigation to account for additional subsidies, program-wide changes or terminated programs.

However, for non-recurring benefits, if the Department can determine from information in the records of the investigation or subsequent administrative reviews that the benefits have been fully allocated prior to the end of the sunset review period, the Department has recognized that the assistance no longer benefits the company and has removed the program-specific rate from the net countervailable subsidy rate likely to prevail.²² In this regard, we note that Gerdau received non-recurring benefits under “Debt Forgiveness/Equity Infusions Provided to Usina Siderurgica da Bahia S.A. (previously 1988 Equity Infusions/Debt Forgiveness Provided to Usina Siderurgica da Bahia S.A.)” in 1986, 1987, and 1989. These benefits were allocated over the 15 year AUL.²³ Based on the years of receipt, we find that these benefits have been fully allocated and are removing the *ad valorem* subsidy rate attributed to Gerdau, *i.e.*, 0.45 percent, under this program.

Consequently, we are also recalculating the “All Others” rate likely to prevail. For the all others rate, we have assigned the simple average of the rates calculated for Belgo Mineira and Gerdau.²⁴ As a result, the Department has found that net subsidy levels for Brazilian producers

²⁰ See SAA at 890 and the House Report, H.R. Rep. No. 103-826 (1994) (House Report) at 64.

²¹ See *Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010) and accompanying Issues and Decision Memorandum at 4.

²² See, *e.g.*, *Sunset Policy Bulletin and Polyethylene Terephthalate (PET) Film, Sheet, and Strip From India: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order*, 78 FR 47276 (August 5, 2013).

²³ See *Final Determination*, and accompanying Issues and Decision Memorandum at 12-13.

²⁴ Calculating a weighted-average of the net subsidy rates of Belgo Mineira and Gerdau risks disclosing proprietary information.

and exporters of wire rod are above *de minimis*. Consistent with section 752(b)(3) of the Act, the Department will provide to the ITC the net countervailable subsidy rates shown in the section entitled “Final Results of Review.”

Nature of the Subsidies

Consistent with section 752(a)(6) of the Act, the Department is providing the following information to the ITC concerning the nature of the subsidies, and whether any of the subsidies are as described in Article 3 or Article 6.1 of the SCM Agreement. Article 6.1 of the SCM Agreement, however, expired effective January 1, 2000.

In the instant review, there are three programs that fall under Article 3.1 of the SCM Agreement, which states that the following subsidies shall be prohibited: (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance; and (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

1) Programa de Financiamento as Exportacoes

The PROEX program is administered by the Banco do Brasil. PROEX funding is available to Brazilian companies involved in exporting only. PROEX funds are available in two forms:

- (1) PROEX Financing, which involves the direct financing of a company’s exports, and
- (2) PROEX Equalization, which reimburses certain interest costs to Brazilian exporters.

2) “Presumed” Tax Credit for the Program of Social Integration and the Social Contributions of Billings on Inputs Used in Exports

In 1996, through Law 9363, the Government of Brazil established the PIS and COFINS tax credit program to provide a rebate of PIS and COFINS contributions assessed on the purchase of raw materials, intermediate products, and packing materials used in the production of exports. The PIS and COFINS “presumed” tax credit was established to prevent the cascading effect of these taxes which accrue at each point in the chain of production. A company calculates its own PIS and COFINS credit, on a monthly basis, using a standard formula established by Law 9363, and claims the credit by making deductions from the Industrial Products Tax due.

3) Financing for the Acquisition or Lease of Machinery and Equipment through the Special Agency for Industrial Financing

The FINAME program, which is administered through BNDES and agent banks throughout Brazil, was established in 1966 by Decree No. 59.170 of September 2, 1966, and Decree/Law No. 45 of November 18, 1966. FINAME loans provide capital financing to companies located in Brazil for the acquisition or leasing of new machinery and equipment. Although financing is available for both machinery manufactured in

Brazil and non-domestic machinery, almost all FINAME financing is provided for new machinery and equipment manufactured in Brazil. FINAME financing is available for non-Brazilian machinery only when domestically-manufactured machinery is unavailable. FINAME financing for leasing of equipment or machinery is only available for domestic equipment. Under the terms of this program, FINAME loans may be used to finance no more than 80 percent of the purchase price of the machinery.

The following programs do not fall within the meaning of Article 3.1 of the SCM Agreement, but could be subsidies described in Article 6.1 of the SCM Agreement if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the SCM Agreement. They also could fall within the meaning of Article 6.1 if they constitute debt forgiveness, grants to cover debt repayment, or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review in order for the Department to make such a determination. We are providing the ITC with the following program descriptions:

- 1) Tax Incentives Provided by the Amazon Region Development Authority (“SUDAM”) and the Northeast Region Development Authority (“SUDENE”)

The SUDENE program was created under Law No. 3692 to promote the development of the Northeast Region of Brazil. The SUDAM program is a similar program that promotes the development of the Amazonia Region of Brazil. Both programs are administered by the Brazilian federal government, and are linked to the Ministry of National Integration. Under these programs, companies can receive either a partial or complete tax exemption from the Brazilian corporate income tax, which is assessed at a rate of 25 percent. The tax exemption applies only to income from facilities operating in the designated regions. Both programs allow companies a 100 percent exemption if the company (1) makes an initial investment in the region involved, (2) increases capacity in the applicable region, or (3) modernizes its facilities in the specific region. If a company does not meet these three criteria, it is permitted to exempt 37.5 percent of its income from facilities operating in that region from taxation.

- 2) Debt Forgiveness/Equity Infusions Provided to Usina Siderurgica da Bahia S.A. (previously 1988 Equity Infusions/Debt Forgiveness Provided to Usina Siderurgica da Bahia S.A.)

Prior to 1989, Usiba was owned by Siderurgica Brasileira S.A.- SIDERBRAS (“SIDERBRAS”), the Brazilian government entity responsible for all state-owned steel companies. As part of the first phase of Brazilian privatizations carried out under the auspices of Decree 95.886, SIDERBRAS, through BNDES Participacoes S.A.- BNDESPAR (“BNDESPAR”), sold Usiba to Gerdau in a privatization auction in October 1989.

In order to restructure Usiba and to restore its operational viability, as well as to prepare Usiba for privatization, SIDERBRAS made several investments in the company. First, in 1988, SIDERBRAS restructured some Usiba debt in a debt-for-equity swap. As part of

this arrangement, according to Usiba's 1988 Financial Statement, SIDERBRAS "cleans{ed}" past due debt of 58,888,558,000 Cruzados in exchange for increased equity in Usiba. In addition to this debt restructuring, SIDERBRAS also made equity infusions into Usiba of 101,243,000 Cruzados in 1986; 13,182,699,000 Cruzados in 1987; and 8,204,000 Cruzados in 1989.

3) National Bank for Economic and Social Development Financing for the Acquisition of Dedini Siderurgica de Piracicaba

Until 1997, Belgo Mineira was involved in a partnership with the Dedini Group, a consortium of companies with operations in numerous sectors, through Belgo Mineira's 49 percent ownership of the Dedini Group's steel operations. Due to economic problems, the Dedini Group decided to restructure its operations and sell some of its assets, including its steel operations.

After several rounds of negotiations between Belgo Mineira and Dedini, Belgo Mineira agreed to take over certain of Dedini's debts as recorded in Dedini's books, including debt owed to BNDES and another government creditor, in exchange for the remaining 51 percent of the Dedini Group's steel operations and three Dedini properties. Once Belgo Mineira and Dedini reached an agreement on this issue, the two companies approached the creditors involved, including BNDES, to receive approval in order to complete the transactions. In giving its approval in late 1997, BNDES agreed that Belgo Mineira would assume the amount of the Dedini debt agreed upon by Belgo Mineira and Dedini, and that BNDES would write off any remaining debt in its books as a loss. Separate negotiations took place between Belgo Mineira and the other government creditor to which Dedini was indebted.

4) National Bank for Economic and Social Development Financing for the Acquisition of Mendes Junior Siderurgica ("MJS") S.A.

MJS operated a steel mill in the state of Minas Gerais. In 1995, because MJS could no longer service its existing debt obligations, it entered into negotiations with Belgo Mineira. MJS and Belgo Mineira reached an agreement in which Belgo Mineira would lease MJS' facility in the state of Minas Gerais. In 1998, Belgo Mineira negotiated an agreement with BNDES in which BNDES transferred MJS' outstanding debt, exclusive of any late fees and penalties, to Belgo Mineira in exchange for R\$98 million in debentures and certain other rights, the details of which are proprietary. At the time of the BNDES negotiation, MJS' debt was categorized by BNDES as a non-performing loan and any outstanding late fees and penalties in excess of the original debt amount were written off by BNDES.

The debentures issued by Belgo Mineira to BNDES in this transaction are for a term of 12 years and pay the Brazilian Long Term Interest Rate ("TJLP") plus three percent (the TJLP is the Brazilian long-term interest rate, a rate set periodically by the Brazilian Central Bank). Furthermore, the agreement between BNDES and Belgo Mineira was structured such that, if Belgo Mineira had reached agreement with other creditors of MJS

on terms more favorable than those in the BNDES-Belgo Mineira agreement, then Belgo Mineira would compensate BNDES in the amount of the difference.

Final Results of Review

Based on the analysis above, the Department finds that revocation of the *CVD Order* would likely lead to continuation or recurrence of net countervailable subsidies at the rates listed below:

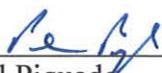
Manufacturers/Producers/Exporters	Net Countervailable Subsidy (percent)
Companhia Siderurgica Belgo-Mineira (Belgo Mineira)	6.74
Gerda S.A.	2.31
All Others	4.53

Recommendation

We recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register* and notify the ITC of our findings.

AGREE

DISAGREE



Paul Piquado
Assistant Secretary
for Import Administration
25 SEPTEMBER 2013
Date