



A-588-854  
Sunset Review  
Public Document  
ADCVD/7: DC

September 21, 2011

MEMORANDUM TO: Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Final Results of  
Expedited Second Sunset Review of the Antidumping Duty Order  
on Certain Tin Mill Products from Japan

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### Summary

We have analyzed the responses of the interested parties in the second sunset review of the antidumping duty order covering certain tin mill products from Japan. 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 in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

### History of the Order

The domestic interested parties to the order are: ArcelorMittal USA, LLC; United States Steel Corporation; and USS-POSCO Industries (collectively, "domestic interested parties").

### *Less-Than-Fair Value Investigation and Administrative Reviews*

On June 26, 2000, the Department published its final affirmative determination of sales at less than fair value in the *Federal Register* with respect to imports of certain tin mill products from Japan.<sup>1</sup> The final determination margins were as follows:

Kawasaki Steel Corporation

95.29

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<sup>1</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Certain Tin Mill Products From Japan, 65 FR 39364 (June 26, 2000).



Nippon Steel Corporation	95.29
NKK Corporation	95.29
Toyo Kohan Co., Ltd.	95.29
All Others	32.52

Since the issuance of the antidumping order<sup>2</sup>, the Department has not completed any administrative reviews.

#### *Changed Circumstances Reviews, Scope Rulings, and Anticircumvention Inquiries*

The Department has completed three changed circumstances antidumping duty reviews regarding imports of certain tin mill products from Japan since the issuance of the order.<sup>3</sup> Pursuant to these changed circumstance reviews, the order was revoked in part with regard to certain tin-free steel and certain laminated tin-free steel products.<sup>4</sup>

The Department has completed four scope rulings and anticircumvention inquiries since the issuance of the order. On October 12, 2001, the Department determined that double-reduced electrolytically chromium coated steel is within the scope of the order.<sup>5</sup> On March 21, 2002, the Department determined that double-reduced electrolytic tin plate meeting the requirements of ASTM specification A 626/A 626M, and double-reduced tin-free meeting the requirements of ASTM specification A 657/A 657M, produced in Taiwan from Japanese black plate are outside the scope of the order.<sup>6</sup> On August 27, 2002, the Department determined that tin-free single reduced electrolytically chromium coated steel is within the scope of the order.<sup>7</sup> On January 7, 2005, the Department concluded that certain electrolytic tin plate and tin free steel products, made in Columbia by Hojalata y Laminados S.A. from Japanese single-reduced black plate and double-reduced black plate, are excluded from the scope of the order.<sup>8</sup>

#### *Sunset Reviews*

The Department has conducted one prior sunset review of the antidumping duty order on certain tin mill products from Japan. On July 1, 2005, the Department published the notice of initiation of the first sunset review, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>9</sup> On November 7, 2005, the Department published a notice of final results of its expedited sunset review.<sup>10</sup> On June 13, 2006, the International Trade Commission (the Commission) determined that revocation of the order would be likely to lead to continuation or recurrence of

<sup>2</sup> See *Certain Tin Mill Products from Japan: Notice of Antidumping Duty Order*, 65 FR 52067 (August 28, 2000).

<sup>3</sup> See *Certain Tin Mill Products From Japan: Final Results of Changed Circumstance Antidumping Duty Review*, 66 FR 52109 (October 12, 2001); *Certain Tin Mill Products From Japan: Final Results of Changed Circumstances Review*, 67 FR 44177 (July 1, 2002); and *Certain Tin Mill Products From Japan: Final Results of Changed Circumstances Review*, 68 FR 6412 (February 7, 2003).

<sup>4</sup> *Id.*

<sup>5</sup> See *Notice of Scope Rulings and Anticircumvention Inquiries*, 68 FR 7772, 7773 (February 18, 2003).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> See *Notice of Scope Rulings*, 70 FR 41374 (July 19, 2005).

<sup>9</sup> See *Initiation of Five-year ("Sunset") Reviews*, 70 FR 38101 (July 1, 2005).

<sup>10</sup> See *Certain Tin Mill Products from Japan; Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 70 FR 67448 (November 7, 2005).

material injury to the domestic industry.<sup>11</sup> On July 21, 2006, the Department published a notice of the continuation of the antidumping duty order on certain tin mill products from Japan.<sup>12</sup>

On June 1, 2011, the Department initiated the instant sunset review of the antidumping duty order on certain tin mill products from Japan, pursuant to section 751(c) of the Act.<sup>13</sup> The Department received a notice of intent to participate from the domestic interested parties within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act, as U.S. producers producing certain tin mill products. On July 1, 2011, we received a complete, substantive response from the domestic interested parties within the 30-day deadline specified in section 351.218(d)(3)(i) of the Department's regulations. The Department received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department conducted an expedited (120-day) sunset review of this order.

#### *Duty Absorption*

There have been no findings of duty absorption.

#### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and the periods after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall report to the Commission the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the interested parties.

#### 1. Likelihood of Continuation or Recurrence of Dumping

#### Interested Party Comments

The domestic interested parties argue that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping by the manufacturers/producers and exporters of the subject merchandise. *See Domestic Interested Parties' Substantive Response for Japan (July 1, 2011)* at 10.

With respect to volume of imports, the domestic interested parties assert that the imposition of the order has had a dramatic impact on the volume of imports of certain tin mill products from

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<sup>11</sup> *See Tin- and Chromium-Coated Steel Sheet From Japan*, 71 FR 37944 (July 3, 2006); USTIC Pub 3860 (June 2006).

<sup>12</sup> *See Certain Tin Mill Products from Japan: Continuation of Antidumping Duty Order*, 71 FR 41422 (July 21, 2006).

<sup>13</sup> *See Initiation of Five-Year ("Sunset") Review*, 76 FR 31588 (June 1, 2011).

Japan. The domestic interested parties point to the history of the order to demonstrate that the discipline of the order has forced Japanese producers of subject merchandise to significantly reduce their volume of sales to the United States. *Id.* at 12, 13. Noting the antidumping margins assigned to the Japanese companies in the investigation, the domestic interested parties argue that the imposition of these antidumping duties led to a dramatic reduction in the volume of subject imports from Japan when compared to the pre-order levels in 1999. *Id.* at 14.

Citing to the Department's *Sunset Policy Bulletin*, the domestic interested parties conclude that the Department should determine that revocation of an antidumping duty order is inappropriate where dumping continued at any level above *de minimis* after the issuance of the order. In sum, the domestic interested parties argue that record evidence strongly supports the conclusion that dumping of certain tin mill products by producers, manufacturers, and exporters from Japan, would be likely to continue or recur if the order were to be revoked. *Id.* at 15.

#### Department's Position:

Consistent with the guidance provided in the legislative history accompanying the *Uruguay Round Agreements Act*, specifically the *Statement of Administrative Action (SAA)*, H. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determinations of likelihood of the continuation or recurrence of dumping will be made on an order-wide basis. In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

The Department examined the data provided by the domestic interested parties for the relevant periods, which show that imports of certain tin mill products from Japan decreased after the imposition of the order. *See Domestic Interested Parties' Substantive Response* at 14. The Department confirmed the data using tariff and trade data from the Department and the Commission. *See Memorandum to the File* entitled "Import Volumes and Prices for the Final Results of Expedited Second Sunset Review of the Antidumping Duty Order on Certain Tin Mill Products from Japan" dated September 29, 2011. The Department notes that in the full year prior to initiation of the investigation,<sup>14</sup> *i.e.*, 1998, the import volume of certain tin mill products

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<sup>14</sup> When comparing imports of subject merchandise for the five-year sunset review period, the Department's practice is to look at the full year prior to initiation of the investigation (as opposed to prior to issuance of the order). *See, e.g., Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007) and accompanying Issues and Decision Memorandum at Comment 1; *Furfuryl Alcohol From Thailand; Preliminary Results of the Second Sunset Review of the Antidumping Duty Order*, 71 FR 62583 (October 26, 2006) and accompanying Issues and Decision Memorandum at Comment 1 (unchanged in *Furfuryl Alcohol from Thailand; Final Results of the Second Sunset Review of the Antidumping Duty Order and Revocation of the Order*, 72 FR 9729 (March 5, 2007)); *Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and Mexico; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 53159 (September 7, 2005) and accompanying Issues and Decision Memorandum at Comment 1.

from Japan was 231,509 short tons (or 210,022 metric tons). *Id.* During the 2006-2010 period, imports of certain tin mill products from Japan averaged 23,370 short tons (or 21,201 metric tons) indicating an overall decline in imports from the pre-order period.

Accordingly, based on the continued existence of dumping margins and the significant decline in subject imports from Japan as a result of the order, the Department determines that dumping is likely to continue if the order were revoked.

## 2. Magnitude of the Margin Likely to Prevail

### Interested Party Comments

Citing to the SAA and the *Sunset Policy Bulletin*, the domestic interested parties acknowledge that the Department normally reports to the Commission the dumping margins calculated in the original investigation. *See* Domestic Interested Parties' Substantive Response at 19. The domestic interested parties argue that, in this case, the Department should rely on the margins for the original investigation, for the record is essentially unchanged from the prior sunset review. *Id.*

### Department's Position:

Normally, the Department will provide to the Commission the company-specific margin from the investigation for each company.<sup>15</sup> For companies not investigated specifically, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "All-Others" rate from the investigation.<sup>16</sup> The Department's preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.<sup>17</sup> Under certain circumstances, however, the Department may select a more recently calculated margin to report to the Commission. *See* section 752(c)(3) of the Act.<sup>18</sup>

With respect to Japan, the Department agrees with domestic interested parties that the Department should rely upon the margins from the investigation for Kawasaki Steel Corporation, Nippon Steel Corporation, NKK Corporation, Toyo Kohan Co., Ltd., and the all-others rate. The Department notes that with respect to Japan, while imports have decreased since the imposition of the order, the absence of any completed administrative review, and the continuation of the investigation margins indicates that if the order was revoked, it is likely that the Japanese producers/exporters would continue dumping and selling in significant volumes. Thus, the final determination rates from the investigation reflects the behavior of manufacturers, producers, and

<sup>15</sup> *See Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

<sup>16</sup> *See Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People's Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>17</sup> *Id.*

<sup>18</sup> *See also Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying Issues and Decision Memorandum at Comment 3.

exporters without the discipline of an order in place given that there is an absence of any administrative review and therefore there are no other margins to select from. The Department will therefore report to the Commission the margins listed in the "Final Results of Review" section, below.

Therefore, the Department has no reason to depart from its normal practice of reporting the rates from the original investigation for all companies. Thus, with respect to the order on certain tin mill products from Japan, the Department will report the rates for the final determination from the investigation, to the Commission.

#### Final Results of Review

We determine that revocation of the antidumping duty order on certain tin mill products from Japan would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters	Weighted-Average Margin (percent)
Kawasaki Steel Corporation	95.29
Nippon Steel Corporation	95.29
NKK. Corporation	95.29
Toyo Kohan Co., Ltd	95.29
All Others	32.52

#### Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish these final results of this expedited sunset review in the *Federal Register*.

Agree

Disagree



Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration



Date