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Sunset Reviews
Public Document

MEMORANDUM TO: Joseph A. Spetrini
Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Reviews
of the Antidumping Duty Orders on Stainless Steel Plate in Coils from
Canada, South Africa, and Taiwan; Final Results

Summary:

We have analyzed the substantive responses of the interested parties participating in the first sunset reviews of the antidumping duty orders on stainless steel plate in coils from Canada, South Africa, and Taiwan. We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in this sunset review for which we received comments by the domestic interested parties:

1. Likelihood of continuation or recurrence of dumping
 - A. Weighted-average dumping margin
 - B. Volume of imports

2. Magnitude of the margin likely to prevail
 - A. Margins from the investigation

History of the Order

On March 31, 1999, the Department of Commerce (“the Department”) determined that stainless steel plate in coils (“SSPC”) from Canada, South Africa, and Taiwan, were being sold in the United States at less than fair value.¹ On May 21, 1999, the Department published in the *Federal Register* the antidumping duty orders on SSPC from Canada, South Africa, and Taiwan.² On March 11, 2003, the Department amended the antidumping duty order with respect to the scope of the order to remove the original language which excluded cold-rolled stainless steel plate in coils, in accordance with a Court of International Trade final decision.³ In the amended antidumping duty order the Department inadvertently failed to convert certain old Harmonized Tariff Schedule (“HTS”) numbers to their new designated HTS number in the Scope of the Orders section. As a result, on April 24, 2003, the Department published in the *Federal Register* notice of correction to the amended antidumping duty orders.⁴

¹ See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Canada*, 64 FR 15457 (March 31, 1999)(“*Canada Investigation*”); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Taiwan*, 64 FR 15493 (March 31, 1999)(“*Taiwan Investigation*”) and *Notice of Final Determination of Sales at Less Than Fair Value; Stainless Steel Plate in Coils from South Africa*, 64 FR 15493 (March 31, 1999)(“*South Africa Investigation*”).

² See *Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 64 FR 27756 (May 21, 1999)(“*AD Orders*”).

³ See *Notice of Amended Antidumping Duty Orders, Certain Stainless Steel Plate in Coils from Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 68 FR 11520 (March 11, 2003).

⁴ See *Notice of Correction to the Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 68 FR 20114 (April 24, 2003)(“*Correction Notice*”).

Canada

In the investigation on SSPC from Canada, the Department determined a weighted-average dumping margin of 15.35 percent for Atlas Stainless Steel (“Sammi Atlas”) based on adverse facts available because of lack of response to the Department’s cost questionnaire. The Department also determined 11.10 percent weighted-average dumping margin for “All Other” producers and exporters of subject merchandise not specifically listed.⁵ No administrative reviews of this case have been conducted by the Department since the issuance of this order. The antidumping duty order remains in effect for all manufacturers, producers, and exporters of SSPC from Canada.

South Africa

In the investigation on SSPC from South Africa, the Department determined a weighted-average dumping margin of 41.63 percent for Columbus Stainless and 41.63 percent for “All Other” producers and exporters of subject merchandise not specifically listed.⁶ No administrative reviews of this order have been conducted by the Department. The antidumping duty order remains in effect for all manufacturers, producers, and exporters of SSPC from South Africa.

Taiwan

In the investigation on SSPC from Taiwan, the Department determined a weighted-average dumping margin of 8.02 percent for Yieh United Steel Corporation (“YUSCO”), 10.20 percent for

⁵ See *Canada Investigation*, 64 FR 15457 (March 31, 1999); Statement of Administrative Action, URAA, H. Doc. No. 103-316, Vol. 1 (1994)(“SAA”).

⁶ See *South Africa Investigation*, 64 FR 15493 (March 31, 1999).

YUSCO/Ta Chen and 7.39 percent for “All Others”.⁷

On July 7, 2000, the Department initiated an administrative review of the antidumping duty order on SSPC from Taiwan.⁸ This review was rescinded due to no entries of SSPC from Taiwan to the United States during the period of review.⁹ On June 19, 2001, the Department initiated the second administrative review of the antidumping duty order on SSPC from Taiwan.¹⁰ On June 14, 2002, the Department published in the Federal Register the final results and rescission in part of this administrative review.¹¹ This review covered two manufacturers and exporters of subject merchandise, YUSCO and Ta Chen. In the administrative review, the Department maintained the margin from the investigation, 8.02 percent for YUSCO, and rescinded the review with respect to Ta Chen based on no entries of subject merchandise to the United States during the period of review. The “All Others” rate continued at 7.39 percent. In addition, the Department determined that if YUSCO’s subject merchandise is exported to the United States through Ta Chen, U.S. Customs should continue to apply a cash deposit rate of 10.20 percent. On June 25, 2002, the Department initiated the third antidumping duty

⁷ See *Taiwan Investigation*, 64FR 15493 (March 31, 1999).

⁸ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 65 FR 41942 (July 7, 2000).

⁹ See *Stainless Steel Plate in Coils From Taiwan: Final Rescission of Antidumping Duty Administrative Review*, 66 FR 18610 (April 10, 2001).

¹⁰ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 32934 (June 19, 2004).

¹¹ See *Stainless Steel Plate in Coils From Taiwan: Final Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 40914 (June 14, 2002).

administrative review on SSPC from Taiwan.¹² This review was rescinded because there were no entries of subject merchandise into the United States during the review period.¹³ On July 1, 2003, the Department initiated the fourth antidumping duty administrative review on SSPC from Taiwan.¹⁴ This review was rescinded because the Department determined that there were no entries of SSPC into the United States by produced and exported by Ta Chen or YUSCO during the period of review.¹⁵ Finally, on June 30, 2004, the Department initiated an antidumping duty administrative review on SSPC from Taiwan.¹⁶ This review is ongoing. The antidumping duty order remains in effect for all manufacturers, producers, and exporters of SSPC from Taiwan.

Background

On April 1, 2004, the Department initiated the sunset reviews of the antidumping duty orders on SSPC from Canada, South Africa, and Taiwan.¹⁷ On April 16, 2004, the Department received a Notice of Intent to Participate from Allegheny Ludlum Corp. (Allegheny Ludlum”), North American

¹² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 67 FR 42753 (June 25, 2002).

¹³ See *Final Rescission of Antidumping Duty Administrative Review*, 68 FR 63067 (November 7, 2003).

¹⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 39055 (July 1, 2003).

¹⁵ See *Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review*, 69 FR 20859 (April 19, 2004).

¹⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 39409 (June 30, 2004).

¹⁷ See *Initiation of Five-Year (“Sunset”) Reviews*, 69 FR 17129 (April 1, 2004)(“*Initiation Notice*”).

Stainless (“NAS”), and the United Steelworkers of America, AFL-CIO/CLC (USWA”)¹⁸, collectively (“domestic interested parties”), within the deadline specified in section 315.218(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 of SSPC and certified union whose workers are engaged in the production of SSPC. The domestic interested parties note that the original petition was filed by all participants in these sunset reviews.

On May 3, 2004, the Department received complete substantive responses from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department’s regulations. We did not receive responses from any respondent interested parties to this proceeding. 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 determined to conduct expedited reviews of these orders.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission

¹⁸ NAS and USWA are not supporting continuation of the antidumping duty order against Canada in this proceeding.

(“Commission”) the magnitude of the margin of dumping likely to prevail if the orders were to be revoked. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Parties Comments

The domestic interested parties contend that revocation of the antidumping duty orders on SSPC from Canada, South Africa, and Taiwan would likely lead to continued dumping by foreign producers and exporters given that respondents have reduced their sales of SSPC to the United States dramatically. *See* Domestic Interested Parties Substantive Response (“Domestics’ Response”), May 3, 2004, at 27. In support of their contention, the domestic interested parties provided import data and a history of dumping margins as follows:

Canada

Import volumes of SSPC from Canada declined from 2,201 short tons in 1998 (the year before the order) to 935 short tons in 1999, a decrease of 57.5 percent. *Id.* at 32. Further, import volumes have remained below pre-order levels over the life of this order. *Id.* Import volumes have ranged from 559 short tons to 909 short tons between 2000 and 2003. *Id.* Given that there have been no administrative reviews since the issuance of this order, no change has been made to the dumping margins. In addition, import levels remain consistently below pre-order levels. *Id.* Therefore, the domestic interested parties maintain that the Department should conclude that dumping of SSPC from Canada is likely to recur if the order is revoked. *Id.*

South Africa

In 1998, import volumes from South Africa to the United States reached 15,377 short tons. *See* Domestic's Response at 34-35. In 1999, the year of issuance of the order, import volumes declined to 342 short tons, a 98.8 percent decline in relation to 1998 import volumes. *Id.* Following the issuance of the order import volumes continued to decline. Between 2000 and 2003, volume of imports ranged from 31 short tons to 47 short tons. *Id.* In addition, no administrative reviews have been conducted and cash deposits remain at 37.77 percent. *Id.* The domestic interested parties claim that the imposition of the order has had the effect of reducing imports to inconsequential levels, which means that producers and exporters of SSPC from South Africa are incapable of shipping to the United States without dumping. *Id.*

Taiwan

The domestic interested parties contend that imports of SSPC from Taiwan totaled 5,005 short tons in 1998, the year prior to the antidumping duty order. *See* Domestic's Response, May 3, 2004, at 35-36. Immediately following the issuance of the order, import volumes plunged to 307 short tons, a decline of 93.9 percent in relation to 1998 import volumes. Since the issuance of the order imports volumes have continued to decline and have not reached pre-order levels. Imports volumes between 2002 and 2003 have ranged between 18 short tons to 307 short tons. *Id.*

With respect to weighted-average margins, in the investigation the Department determined a weighted-average dumping margin and these margins have remained unchanged since the investigation.

Therefore, the domestic interested parties argue that revocation of the order would result in dumping at margins as high as those from the investigation and shipments would be in large quantities. *Id.*

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the SAA, the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. *See Policies Regarding the Conduct of the Five-Year ("Sunset") Reviews of Antidumping & Countervailing Duty Orders*, Policy Bulletin, No. 98.3 (April 16, 1998) ("*Sunset Policy Bulletin*"). The Department clarified that determinations of likelihood will be made on an order-wide basis. *See Sunset Policy Bulletin* at section II.A.2. In addition, the Department indicated that normally it will determine that revocation of an antidumping 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. *See Sunset Policy Bulletin* at section II.A.3.

The Department considered whether dumping continued after the issuance of the orders and the volume of imports of the subject merchandise for the period before and the period after issuance of the antidumping duty orders, in accordance with section 752(c)(1)(A) of the Act.

As noted by the domestic interested parties, and confirmed by official import statistics, import

volumes of SSPC from Canada, South Africa, and Taiwan declined significantly after the issuance of the order. Declining import volumes accompanied by the continued existence of dumping after the issuance of the order provides an indication that, absent an order, dumping would be likely to continue, because the evidence indicates that the exporter would need to dump to sell at pre-order volumes.

Based on the existence of dumping and the decline of import volumes after the issuance of these orders, and no responses from respondent parties, the Department finds that dumping is likely to continue or recur if the antidumping duty orders on SSPC from Canada, South Africa, and Taiwan were to be revoked.

2. Magnitude of the Margin

Interested Parties Comments

The domestic interested parties contend that given the persistent dumping by certain producers, the Department should report to the Commission the highest margin calculated in any segment of these proceedings for any given respondent that remains under order as the rate most indicative of the dumping margin likely to prevail. *Id.* at 38.

Department's Position:

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. For companies not specifically investigated 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 because these rates are the only calculated rates that best reflect the behavior of exporters

without the discipline of the order in place. *See Sunset Policy Bulletin* at section II.B.1. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See Sunset Policy Bulletin* at section II.B.2 and 3.

In response to the domestic interested parties suggestion, we note that the highest margins calculated with respect to the orders on Canada and South Africa are the rates calculated in the investigation. In the investigations on Canada and South Africa, the Department found dumping margins above *de minimis* levels. There have been no administrative reviews with respect to the order on Canada. On July 7, 2000, the Department initiated an administrative review of the order on South Africa.. That review was rescinded following the withdrawal of the request by petitioners.¹⁹ With respect to the antidumping duty order on Taiwan, the Department rescinded the first, third, and fourth administrative reviews. In the second administrative reviews the Department determined to maintain YUSCO's margin of 8.02 percent from the investigation because it did not respond to the Department's questionnaire. In that review, the Department determined that it was not appropriate to apply a higher rate which existed on the record for YUSCO/Ta Chen as the result of middlemen dumping to YUSCO alone because there was no evidence of middleman dumping in that period of review. There has been no evidence of middleman dumping in the last two administrative reviews. Therefore, the highest calculated margin, which is appropriate for this review, is 8.02 percent for YUSCO.²⁰

Consistent with section II.B.1. of the *Sunset Policy Bulletin* we shall provide the Commission with the rates from the investigations as found in the Final Results of Review section of this memo.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping orders would

¹⁹ *See Stainless Steel Plate in Coils From South Africa; Notice of Rescission of Antidumping Duty Administrative Review*, 65 FR 49784 (August 15, 2000)

²⁰ *See Stainless Steel Plate in Coils From Taiwan; Final Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 40914 (June 14, 2002).

likely lead to continuation or recurrence of dumping at the margins listed below.

Manufacturers/Producers/Exporters	Weighted-average Margin (percent)
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Canada

Atlas Stainless Steels	15.35
All Others	11.10

South Africa

Columbus Stainless	41.63
All Others	41.63

Taiwan

Yieh United Steel Corp. ("YUSCO")	8.02
YUSCO/Ta Chen Stainless Pipe, Ltd.	10.20
All Others	7.39

Recommendation

Based on our analysis of the substantive responses received, 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*.

Agree _____

Disagree _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date