

July 30, 2010

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

FROM: Edward C. Yang
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum: Final Results of Expedited
Sunset Reviews of the Antidumping Duty Orders on Hot-Rolled
Flat-Rolled Carbon-Quality Steel Products from Brazil and Japan

Summary

We have analyzed the substantive responses of the interested parties in the second sunset reviews of the antidumping duty (“AD”) orders covering hot-rolled flat-rolled carbon-quality steel products (“hot-rolled steel”) from Brazil and Japan. We recommend that you approve the positions as set forth in the “Discussion of Issues” section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received a substantive response:

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

History of the Antidumping Duty Order for Brazil

On October 22, 1998, the Department of Commerce (“the Department”) initiated an AD investigation on hot-rolled steel from Brazil to determine whether the subject merchandise was being, or was likely to be sold in the United States at less than fair value (“LTFV”). See Initiation of Antidumping Duty Investigations: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil, Japan, and the Russian Federation, 63 FR 56607 (October 22, 1998).

On July 6, 1999, the Department and Brazilian producers Companhia Siderurgica Nacional (“CSN”), Usinas Siderurgicas de Minas Gerais (“USIMINAS”) and Companhia Siderurgica Paulista (“COSIPA”) signed an Antidumping Duty Suspension Agreement (“Suspension Agreement”) on hot-rolled steel from Brazil. See Suspension of Antidumping Duty Investigation; Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil, 64 FR 38792 (July 19, 1999). The Department continued the investigation at the request of the petitioners and, on July 6, 1999, the Department issued its final determination that imports of

subject merchandise were being, or were likely to be sold in the United States at LTFV. See Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil, 64 FR 38756 (July 19, 1999) and Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Notice of Amended Final Determination of Antidumping Duty Investigation, 64 FR 42908 (August 6, 1999). The International Trade Commission (“ITC”) also continued its investigation and notified the Department that an industry in the United States was materially injured by reason of LTFV imports of subject merchandise from Brazil pursuant to section 735(b)(1)(B) of the Tariff Act of 1930, as amended (“the Act”). See Certain Hot-Rolled Steel Products From Brazil and Russia, 64 FR 46951 (August 27, 1999).

At the petitioners’ request, the Department initiated an administrative review to review the status of, and compliance with, the terms of the Suspension Agreement. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 65 FR 53980 (September 6, 2000). On February 11, 2002, the Department published the final results of the review and terminated the Suspension Agreement. See Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil: Final Results of Antidumping Duty Administrative Review and Termination of the Suspension Agreement, 67 FR 6226 (February 11, 2002). Based on the Department’s and the ITC’s original affirmative final determinations and the termination of the Suspension Agreement, the Department issued an AD order on hot-rolled steel from Brazil on March 12, 2002. The effective date of the AD order is November 13, 2001, 90 days before the date of publication of the notice of termination of the agreement. See Antidumping Duty Order: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, 67 FR 11093 (March 12, 2002). In the AD order, based on its final determination, the Department determined the following rates:

Producer/Exporter for Brazil	Weighted Average Margin
CSN	41.27%
USIMINAS	43.40%
COSIPA	43.40%
All Others	42.12%

On July 31, 2001, domestic producers, Bethlehem Steel Corporation, LTV Steel Company Inc., National Steel Corporation, and United States Steel, LLC, requested an administrative review of the Suspension Agreement for hot-rolled steel from Brazil. The Department published in the Federal Register an initiation of administrative review. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 66 FR 43570 (August 20, 2001). However, the domestic producers thereafter withdrew their request for review and the Department subsequently rescinded the review. See Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil: Rescission of Administrative Review of the Agreement Suspending the Antidumping Duty Investigation, 67 FR 11463 (March 14, 2002).

On April 28, 2004, the Department initiated an administrative review at the request of CSN. In the final results of the review, the Department calculated a zero dumping margin for

CSN. See Notice of Final Results of Antidumping Duty Administrative Review: Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil, 70 FR 58683 (October 7, 2005).

In 2005, Comphania Siderurgica de Tubarao (“CST”), a producer/exporter of hot-rolled steel from Brazil, requested a new shipper review in which the Department determined a zero dumping margin for CST. See Notice of Final Results of New Shipper Review of the Antidumping Duty Order on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil, 70 FR 62297 (October 31, 2005).

In April 2005, the Department initiated administrative reviews of CSN and CST at the request of domestic producers Nucor Corporation and United States Steel Corporation. CSN and CST responded by requesting rescission of the reviews on the grounds of no shipments or entries to the United States during the period of review (“POR”). Based on United States Customs and Border Protection data, the Department confirmed there were no entries and the review was rescinded. See Certain Hot-Rolled Carbon Steel Flat Products from Brazil: Notice of Final Rescission of Antidumping Duty Administrative Review, 70 FR 69317 (November 15, 2005).

In April 2006, the Department initiated administrative reviews of CSN and CST at the request of Nucor Corporation. The Department rescinded the review because no shipments and no entries were made during the POR by either CSN or CST. See Notice of Rescission of Antidumping Duty Administrative Review: Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Flat Products from Brazil, 71 FR 39658 (July 13, 2006).

In April 2007, the Department initiated administrative reviews of CSN and CST at the request of Nucor Corporation. The Department rescinded the review after Nucor Corporation withdrew its request for both CSN and CST on August 14, 2007. See Certain Hot-Rolled, Flat-Rolled Carbon Quality Steel Products from Brazil: Rescission of Antidumping Duty Administrative Review, 72 FR 53990 (September 21, 2007).

In April 2008, the Department initiated administrative reviews of CSN and CST at the request of Nucor Corporation. The Department rescinded the review because there were neither shipments nor entries during the POR from either CSN or CST. See Certain Hot-Rolled, Flat-Rolled Carbon Quality Steel Products from Brazil: Final Rescission of Antidumping Duty Administrative Review, 73 FR 75079 (December 10, 2008).

In April 2009, the Department initiated an administrative review of USIMINAS/COSIPA at their request for the period of March 1, 2008 to February 28, 2009. The review is currently in progress; the Department’s preliminary results found a 4.93 percent dumping margin for USIMINAS/COSIPA. See Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil: Preliminary Results of Antidumping Duty Administrative Review and Extension of Time Limit for the Final Results, 75 FR 19369 (April 14, 2010) (“2008-2009 AR for HRS from Brazil”). The final results are currently due on October 11, 2010.

In the first sunset review, the Department found that revocation of the AD order would likely lead to continuation or recurrence of dumping. The decision was based on the decline in volume of imports and the dumping margins likely to prevail. See Certain Hot-Rolled Flat-

Rolled Carbon-Quality Steel Products From Brazil; Final Results of Expedited Sunset Review of Antidumping Duty Order, 69 FR 54630 (September 9, 2004) and accompanying Issues and Decision Memorandum (“Expedited Sunset Final for Brazil”).

There have been no scope determinations for this case to date.

The AD order on hot-rolled steel from Brazil currently remains in effect for the originally investigated companies CSN, USIMINAS, COSIPA, and for “All-Other” Brazilian producers and exporters of hot-rolled steel.

History of the Antidumping Duty Order for Japan

On May 6, 1999, the Department made a final determination that hot-rolled steel from Japan was being sold at LTFV. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan, 64 FR 24329 (May 6, 1999) (“Final Determination”). On June 18, 1999, the ITC notified the Department of its finding that an industry in the United States was materially injured by reason of LTFV imports of subject merchandise from Japan pursuant to section 735(b)(1)(B) of the Act. In the final determination, the Department included a finding that critical circumstances existed with respect to Kawasaki Steel Corporation (“Kawasaki”) and the “All Others” respondents, but did not exist with respect to NKK Corporation (“NKK”) and Nippon Steel Corporation (“Nippon”). See Final Determination, 64 FR at 24337. However, the ITC found that critical circumstances did not exist with respect to the subject merchandise from Japan. See Certain Hot-Rolled Steel Products From Japan, 64 FR 33514 (June 23, 1999). Based on the Department’s and the ITC’s findings, the Department published in the Federal Register an AD order on hot-rolled steel from Japan. See Antidumping Duty Order; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan, 64 FR 34778 (June 29, 1999). The AD order reflected the same weighted-average dumping margins as in the Final Determination.

Manufacturers/Producers/Exporters	Weighted-Average Margin
Nippon	19.65%
NKK	17.86%
Kawasaki	67.14%
All Others	29.30%

As a result of World Trade Organization dispute settlement, the Department published its Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan, 67 FR 71936, 71937 (December 3, 2002) (“Section 129 Determination”). This determination resulted in revised margins for each of the individual respondents, and a revised “All Others” margin:

Manufacturers/Producers/Exporters	Weighted-Average Margin
Nippon	18.37%
NKK	17.70%
Kawasaki	40.26%
All Others	22.92%

Both Kawasaki and Nippon challenged the Final Determination. With respect to Kawasaki, the Court of International Trade (CIT) upheld the Department's determination and there was no change to the dumping margin determined for Kawasaki in the investigation.¹ With respect to Nippon,² following a decision by the Court of Appeals for the Federal Circuit (CAFC),³ the Department issued an amended final determination reflecting a recalculated dumping margin of 19.95 percent for Nippon. See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan: Notice of Amended Final Determination Pursuant to Court Decision, 71 FR 28851 (May 18, 2006) ("Amended Final Determination").

The Department completed one administrative review of the AD order on hot-rolled steel from Japan for the period of February 19, 1999 through May 31, 2000. See Hot Rolled Flat-Rolled Carbon-Quality Steel Products from Japan: Final Results of Antidumping Duty Administrative Review, 67 FR 2408 (January 17, 2002). In that review, the Department found a zero dumping margin with respect to the sole respondent, Kawasaki. The Department rescinded the second and third administrative reviews. See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan: Rescission of Antidumping Duty Administrative Review, 67 FR 30873 (May 8, 2002) and Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan: Rescission of Antidumping Duty Administrative Review, 68 FR 1039 (January 8, 2003).

An administrative review was requested by the domestic industry for the period of June 1, 2004 through May 31, 2005 on JFE Steel Corporation ("JFE") and Kawasaki. Neither company responded to requests to participate in the review, resulting in the Department applying adverse facts available ("AFA"). Both JFE and Kawasaki received an AFA rate of 40.26 percent. See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan: Final Results of Antidumping Duty Administrative Review, 71 FR 31157 (June 1, 2006).

The domestic interested parties requested an administrative review of JFE, Nippon, and Kobe Steel, Ltd. ("Kobe") for the period of June 1, 2007 through May 31, 2008. Neither Nippon nor Kobe responded to the Department's questionnaire. JFE submitted a letter, received August 12, 2008, stating effective April 1, 2003, Kawasaki had changed its name to JFE as the result of a merger with NKK. The Department did not examine whether JFE was a successor to Kawasaki or NKK. Due to the lack of response, the Department applied an AFA rate of 40.26 percent to JFE, Nippon, and Kobe. See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan: Final Results of Antidumping Duty Administrative Review, 74 FR 27775 (June 11, 2009). ("2007-2008 AR for HRS from Japan")

¹ Kawasaki Steel Corp. v. United States, 110 F. Supp. 2d 1029 (CIT 2000).

² See Nippon Steel Corp. v. United States, 118 F. Supp. 2d 1366, 22 Ct. Int'l Trade 1158, 24 Ct. Int'l Trade 1158, (Ct. Int'l Trade 2000); Nippon Steel Corp. v. United States, 146 F. Supp. 2d 835, 25 Ct. Int'l Trade 377 (Ct. Int'l Trade 2001); Nippon Steel Corp. v. United States, 25 Ct. Int'l Trade 1192, 2001 Ct. Intl. Trade LEXIS 136, No. 01-122 (Ct. Int'l Trade Oct. 12, 2001); Nippon Steel Corp. v. United States, 25 Ct. Int'l Trade 1405, 2001 Ct. Intl. Trade LEXIS 160, No. 01-152 (Ct. Int'l Trade Dec. 27, 2001).

³ Nippon Steel Corporation v. United States, 337 F.3d 1373, 2003 U.S. App. Lexis 16316; 25 Int'l Trade Rep (BNA) 1449.

On July 29, 2009, Nippon requested an administrative review for the period of June 1, 2008 through May 31, 2009. However Nippon withdrew its request on August 14, 2009 and the Department rescinded the review. See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan: Rescission of Antidumping Duty Administrative Review, 74 FR 45181 (September 1, 2009).

In the first sunset review, the Department found that revocation of the order would likely lead to continuation or recurrence of dumping. The decision was based on the continuation of dumping and the decline in the volume of imports. See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan: Final Results of the Expedited Sunset Review of Antidumping Duty Order, 69 FR 61792 (October 21, 2004).

The Department made one scope determination in this case. On April 24, 2000, the Department determined that cold-reduced steel sheets in coils from El Salvador processed from Japanese hot-rolled steel are outside the scope of the AD order. See Notice of Scope Rulings, 65 FR 41957, 41958 (July 7, 2000).

Background

On April 1, 2010 the Department initiated the second sunset review of the AD orders on hot-rolled steel from Brazil and Japan in accordance with section 751(c) of the Act. See Initiation of Five-Year (“Sunset”) Review, 75 FR 16437 (April 1, 2010).

Within the deadline specified in 19 CFR 351.218(d)(1)(i), the Department received notices of intent to participate on behalf of United States Steel Corporation, Nucor Corporation, Gallatin Steel, SSAB N.A.D., Steel Dynamics, Inc., and ArcelorMittal USA Inc. (collectively “domestic interested parties”).⁴ The domestic interested parties claimed interested-party status as producers of subject merchandise in the United States as defined by section 771(9)(C) of the Act. The Department received an adequate substantive response from the domestic interested parties within the deadline specified in 19 CFR 351.218(d)(3)(i). The Department received no responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited, 120-day sunset reviews of these AD orders.

Discussion of Issues

In accordance with section 751(c)(3)(B) of the Act, the Department has conducted this combined sunset review to determine whether revocation of the AD orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in

⁴ Bethlehem Steel Corporation, US Steel Group, a unit of USX Corporation, Ispat Inland Steel, LTV Steel Company, Inc., National Steel Corporation, California Steel Industries, Gallatin Steel Company, Geneva Steel, Gulf States Steel Inc., IPSCO Steel Inc. (“IPSCO Steel”), Steel Dynamics, Weirton Steel Corporation, Independent Steelworkers Union, and United Steelworkers of America were petitioners in the original investigation. In 2002, International Steel Group was formed and it states it is now the successor company to petitioners LTV Steel Company, Weirton Steel Corporation, and Bethlehem Steel Corporation and a part of ArcelorMittal USA. Nucor is also a domestic interested producer of subject merchandise. IPSCO Steel is now known as SSAB according to the domestic interested parties.

making these determinations the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the AD order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the AD order were terminated. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

A. Brazil

The domestic interested parties claim “{d}umping of hot rolled steel from Brazil is likely to continue or recur if the Order is revoked”⁵ because “(i) dumping in excess of a de minimis level has continued and (ii) import volumes of the subject merchandise {have} declined significantly.”⁶ Thus, the domestic interested parties request that the AD order continue. See Domestic Interested Parties’ Submission of May 3, 2010 for more information.

Further, the domestic interested parties maintain that dumping has continued despite the order. In the ongoing administrative review, the Department found USIMINAS/COSIPA to be engaged in dumping at a rate of 4.93 percent in its preliminary results. See 2008-2009 AR for HRS from Brazil, 75 FR at 19375. Additionally, the domestic interested parties argue that data provided by the Bureau of the Census show Brazilian shipments of hot-rolled steel declined substantially “to a range of 0 to 3.61 percent”⁷ of the pre-order level for the years 2003 through 2005. Thus the domestic interested parties state “Brazilian producers and exporters cannot ship the subject merchandise to the United States without dumping.”⁸ The domestic interested parties conclude that a significant decline in and the near elimination of imports of subject merchandise indicates a strong probability that revocation of the order would result in a resumption of dumping. See Domestic Interested Parties’ Submission of May 3, 2010.

The Department’s Position

Consistent with 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 will be made on an order-wide basis. Furthermore, the Department normally will determine that revocation of an AD 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

⁵ Domestic Interested Parties’ Submission of May 3, 2010 at 4.

⁶ Id. at 4.

⁷ Id. at 11

⁸ Id.

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 AD order.

In making its likelihood determination, the Department considers whether dumping was found in the investigation and subsequent reviews after the issuance of the order. In the investigation of hot-rolled steel from Brazil, the Department found significant dumping of subject merchandise by three companies. Additionally, in the first sunset review in 2004, the Department found that revocation of the order would “lead to continuation or recurrence of dumping by Brazilian producers/exporters.”⁹ There is an ongoing administrative review for the period of March 1, 2008 to February 28, 2009.¹⁰

Consistent with section 752(c) of the Act, the Department has also considered the volume of imports before and after issuance of the order. The Department examined import data provided by the domestic interested parties and compared this data with official import data. Based on the analysis of these reports, the Department concludes that import volumes of subject merchandise decreased significantly to levels lower than prior to the order. Brazil exported to the United States 412,625 short tons of the subject merchandise in 1998, the year the investigation was initiated. In comparison, the maximum level of imports since the imposition of the order was in the year 2000 with 143,020 short tons, roughly a third of prior levels. In 2003 and 2005, there were no exports of the subject merchandise from Brazil to the United States. Section II.A.3 of the Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (“Sunset Policy Bulletin”), the SAA at 889, the House Report at 63 and the Senate Report at 52 state that “declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that absent an order dumping would be likely to continue.”

Given that (1) import volumes of hot-rolled steel declined significantly and (2) dumping by Brazilian producers of subject merchandise continues, as shown recently in 2008-2009 AR for HRS from Brazil, we determine that it is likely that revocation of the order would lead to continuation or recurrence of dumping by Brazilian producers/exporters.

B. Japan

The domestic interested parties argue revocation of the AD order “would likely lead to a continuation or recurrence of dumping by the Japanese producers/exporters of hot-rolled steel.”¹¹ Therefore the domestic interested parties request that the order be continued on the evidence of declining import volumes since the placement of the order and the weighted average dumping margins.

The domestic interested parties provided the Department statistics on import volume of the subject merchandise from Japan showing volume increased from “218,277 short tons in 1996

⁹ Expedited Sunset Final for Brazil, and accompanying Issues and Decisions Memorandum.

¹⁰ The preliminary results for the 2008-2009 administrative review published April 14, 2010 and this review has not yet gone to final. See 2008-2009 AR for HRS from Brazil.

¹¹ Domestic Interested Parties’ Submission May 3, 2010 at 13.

to 2.6 million short tons in 1998.”¹² In 2000, one full year after the imposition of the AD order in 1999, only 12,258 short tons were imported. The domestic interested parties demonstrate that for 1999-2004 “imports averaged. . . 15,173 short tons per year”¹³ and for 2005 through 2009 “an annual average of 11,388 short tons.”¹⁴ The domestic interested parties conclude “that Japanese producers/exporters are not able to sell subject merchandise at their significant pre-order volume level in the US under the discipline of the {AD} order.” Therefore, they conclude, revocation of the order would result in a continuation or recurrence of dumping.

The Department’s Position

As noted above, consistent with guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the SAA, H. Doc. No. 103-316, Vol. 1 (1994), the House Report, and the Senate Report, the Department’s determinations of likelihood will be made on an order-wide basis. Furthermore, the Department normally will determine that revocation of an AD 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 AD order.

The Department considered the company-specific dumping margins and “All Others” rate from the investigation on hot-rolled steel from Japan, as they were amended by the Section 129 Determination and litigation at the CIT and the CAFC and found that several companies were dumping subject merchandise in the United States at above de minimis levels. The SAA and the Sunset Policy Bulletin state that existence of dumping margins after the order, or the cessation of imports after the order, is highly probative of the likelihood of continuation or recurrence of dumping. Declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, the exporter would need to dump to sell at pre-order volumes. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that to reenter the U.S. market, they would have to resume dumping. Based on our analysis of import data provided by domestic interested parties, we found that import volumes of hot-rolled steel declined after the imposition of the order and have not reached pre-order volumes.

Consistent with the SAA and the Sunset Policy Bulletin, we find that there is likelihood of continued dumping or recurrence of dumping by Japanese producers/exporters, given that dumping continued and import volume remains at a small fraction of the volume shipped prior to the imposition of the order.

¹² Domestic Interested Parties’ Submission May 3, 2010 at 15.

¹³ Domestic Interested Parties’ Submission May 3, 2010 at 15.

¹⁴ Domestic Interested Parties’ Submission May 3, 2010 at 16.

2. Magnitude of Margins Likely to Prevail

A. Brazil

The domestic interested parties argue the Department should find the dumping margins likely to prevail were the order to be revoked are the margins determined in the investigation in accordance with section 752(c)(3) of the Act and the Department's Sunset Policy Bulletin:

Producer/Exporter for Brazil	Weighted Average Margin
CSN	41.27%
USIMINAS	43.40%
COSIPA	43.40%
All Others	42.12%

The Department's Position

The Department normally will provide to the ITC 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 or suspended investigation 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 this proceeding, duty absorption and the use of a more recently calculated margin do not apply.

The Department agrees with the domestic interested parties concerning the rates to report to the ITC. In the investigation, the Department found above de minimis levels of dumping for Brazilian producers/exporters of hot-rolled steel. We determine that the rates from the investigation are probative of the behavior of producers and exporters of hot-rolled steel from Brazil without the discipline of the order because these margins are the only calculated rates that reflect the behavior of exporters without the discipline of the order. Therefore, we will report to the ITC the company-specific and "All Others" rates from the investigation.

B. Japan

The domestic interested parties argue the Department should find the dumping margins likely to prevail were the order revoked are the "All-Others" margin determined in the original investigation and the most recent company-specific margins for Nippon and JFE calculated in the 2007-2008 AR for HRS from Japan because the higher rates for "Nippon and JFE provide a reasonable measure of the minimum amount of dumping that would continue or recur if the order were revoked as to those producers."¹⁵

¹⁵ Domestic Interested Parties' Submission May 3, 2010 at 18.

The Department's Position

The Department normally will provide to the ITC 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 or suspended investigation 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 duty absorption determinations. See Sunset Policy Bulletin at section II.B.2 and 3. In this proceeding, there have been no findings of duty absorption.

The Department agrees with the domestic interested parties regarding reporting the margins found in the original investigation, and we recognize that those margins were subsequently amended by the Section 129 Determination and the Amended Final Determination. In the original investigation, the Department found dumping above de minimis levels for Japanese producers/exporters of hot-rolled steel. In addition, no respondents provided comments for this sunset review. Consistent with Section II.B.I of the Sunset Policy Bulletin and the SAA at 890, we determine that the rates from the original investigation, as amended by the Section 129 Determination and the Amended Final Determination are probative of the behavior of producers and exporters of hot-rolled steel from Japan without the discipline of the order. We do not agree with the domestic interested parties regarding the rates later calculated for Nippon and JFE, in the 2007-2008 AR for HRS from Japan as these rates do not represent the behavior of the producers and exporters of hot-rolled steel from Japan without the discipline of the order. As such, we will report to the ITC the rates determined in the investigation, as amended by the Section 129 Determination and the Amended Final Determination.

Final Results of Review

We determine revocation of the AD order on hot-rolled steel from Brazil and Japan would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Producer/Exporter for Brazil	Weighted Average Margin
CSN	41.27%
USIMINAS	43.40%
COSIPA	43.40%
All Others	42.12%

Producer/Exporter for Japan	Weighted Average Margin
NKK	17.70%
Nippon	19.95%
Kawasaki	40.26%
All Others	22.92%

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final results of review and the final dumping margins in the Federal Register.

AGREE _____ DISAGREE _____

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

Date