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Sunset Reviews  
Public Document  
AD/CVD 1: BH

MEMORANDUM TO: Paul Piquado  
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 the Expedited Sunset Reviews of the Antidumping Duty Orders on Stainless Steel Bar from Brazil, India, Japan, and Spain

### Summary

We have analyzed the substantive responses of the domestic interested parties in the third sunset reviews of the antidumping duty orders covering stainless steel bar from Brazil, India, Japan, and Spain.<sup>1</sup> We recommend that you approve the positions we developed 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 margins likely to prevail

### History of the Orders

#### *Brazil*

The Department of Commerce (the Department) published its final affirmative determination of sales at less than fair value (LTFV) with respect to imports of stainless steel bar (SSB) from Brazil on December 28, 1994. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Brazil*, 59 FR 66914 (Dec. 28, 1994). In the determination, the Department found a weighted-average dumping margin of 19.43 percent *ad valorem* for Acos Villares, S.A., and 19.43 percent *ad valorem* for all other manufacturers, producers, and exporters of SSB from Brazil. *Id.* at 66916. Subsequently, the Department published the

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<sup>1</sup> We received no responses from respondent interested parties.



antidumping duty order on SSB from Brazil. *See Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (Feb. 21, 1995) (*Antidumping Duty Orders*).

Since the issuance of the antidumping duty order, the Department has conducted three administrative reviews of the order.<sup>2</sup> There have been no new-shipper, changed-circumstances or duty-absorption reviews of the antidumping duty order.<sup>3</sup> There have not been any scope rulings on SSB from Brazil. The order remains in effect for all manufacturers, producers, and exporters of SSB from Brazil.

### *India*

The Department published its final affirmative determination of sales at LTFV with respect to imports of SSB from India on December 28, 1994. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915 (Dec. 28, 1994). In the determination, the Department found a weighted-average dumping margin of 3.87 percent *ad valorem* for Grand Foundry Limited, 21.02 percent *ad valorem* for Mukand Limited, and 12.45 percent *ad valorem* for all other manufacturers, producers, and exporters of SSB from India. *Id.* at 66921. Subsequently, the Department published the antidumping duty order on SSB from India. *See Antidumping Duty Orders*. Since the issuance of the antidumping duty order, the Department has conducted numerous administrative and new shipper reviews of the order.<sup>4</sup> On

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<sup>2</sup> *Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review*, 74 FR 33995 (Jul. 14, 2009); *Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review*, 75 FR 39663 (Jul. 12, 2010); *Stainless Steel Bar From Brazil: Final Results of Antidumping Duty Administrative Review*, 76 FR 1599 (Jan. 11, 2011).

<sup>3</sup> Duty-absorption inquiries may not be conducted on pre-Uruguay Round Agreements Act (URAA) orders. *See FAG Italia S.p.A. v. United States*, 291 F.3d 806, 819 (Fed. Cir. 2002).

<sup>4</sup> *Stainless Steel Bar From India: Final Results of New Shipper Antidumping Duty Administrative Review*, 62 FR 4029 (Jan. 28, 1997); *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 62 FR 37030 (Jul. 10, 1997); *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 63 FR 13622 (Mar. 20, 1998); *Stainless Steel Bar from India: Final Results of New Shipper Antidumping Duty Administrative Review*, 63 FR 19712 (Apr. 21, 1998); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 64 FR 13771 (Mar. 22, 1999); *Stainless Steel Bar from India: Final Results of Antidumping Duty New Shipper Review*, 65 FR 3662 (Jan. 24, 2000); *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review and New Shipper Review and Partial Rescission of Administrative Review*, 65 FR 48965 (Aug. 10, 2000), as amended by *Stainless Steel Bar From India: Notice of Amended Final Results Pursuant to Final Court Decision*, 68 FR 40250 (Jul. 7, 2003); *Stainless Steel Bar From India: Final Results of Antidumping New Shipper Review*, 65 FR 75923 (Dec. 5, 2000); *Stainless Steel Bar From India: Final Results of Antidumping New Shipper Review*, 66 FR 27629 (May 18, 2001); *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 66 FR 31208 (June 11, 2001); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review*, 67 FR 45956 (Jul. 11, 2002), as amended by *Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar From India*, 67 FR 53336 (Aug. 15, 2002); *Stainless Steel Bar from India: Final Results of New Shipper Antidumping Duty Administrative Review*, 67 FR 69721 (Nov. 19, 2002); *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 68 FR 47543 (Aug. 11, 2003); *Stainless Steel Bar From India: Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 69 FR 55409 (Sept. 14, 2004); *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023 (Sept. 13, 2005); *Notice of Final Results and Final Partial Rescission of Antidumping*

November 6, 2008, the Department completed a changed-circumstances review that determined India Steel Works Limited is the successor-in-interest to Isibars Limited for antidumping duty cash deposit purposes. *See Stainless Steel Bar From India: Final Results of Changed Circumstances Antidumping Duty Review*, 73 FR 66011, 66012 (Nov. 6, 2008). On May 23, 2005, the Department issued a scope ruling in which it determined that SSB, manufactured in the United Arab Emirates out of stainless steel wire rod that is manufactured in India, is not included in the scope of the antidumping duty order on SSB from India. *See Notice of Scope Rulings*, 70 FR 55110 (Sept. 20, 2005). On September 14, 2004, the Department revoked the order with respect to SSB produced and exported by Viraj.<sup>5</sup> On September 12, 2011, the Department revoked the order with respect to SSB produced and/or exported by Venus.<sup>6</sup> There have been no duty-absorption reviews of the antidumping duty order. *See supra* footnote 3. The order remains in effect for all other manufacturers, producers, and exporters of SSB from India.

### *Japan*

The Department published its final affirmative determination of sales at LTFV with respect to imports of SSB from Japan on December 28, 1994. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Japan*, 59 FR 66930 (Dec. 28, 1994). In the determination, the Department found a weighted-average dumping margin of 61.47 percent *ad valorem* for each of the three respondent companies (Aichi Steel Works, Ltd. (Aichi), Daido Steel Co., Ltd., and Sanyo Special Steel Co., Ltd.). *Id.* at 66931. The Department found that the rate for all other manufacturers, producers, and exporters of SSB from Japan was 61.47 percent *ad valorem*. *Id.* Subsequently, the Department published the antidumping duty order on SSB from Japan. *See Antidumping Duty Orders*. Since the issuance of the antidumping duty order, the Department has conducted three administrative reviews of the order.<sup>7</sup>

The Department has completed two changed-circumstances reviews of the antidumping duty order. On September 16, 1999, after completing the first changed-circumstances review, the

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*Duty Administrative Review: Stainless Steel Bar from India*, 71 FR 37905 (Jul. 3, 2006); *Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 51595 (Sept. 10, 2007); *Stainless Steel Bar From India: Notice of Final Results of Antidumping Duty Administrative Review*, 73 FR 52294 (Sept. 9, 2008); *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 74 FR 47198 (Sept. 15, 2009); *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 75 FR 54090 (Sept. 3, 2010); *Stainless Steel Bar from India: Final Results of the Antidumping Duty Administrative Review, and Revocation of the Order, in Part*, 76 FR 56401 (Sept. 13, 2011) (*Venus Revocation*).

<sup>5</sup> In the notice we referred to Viraj Alloys, Ltd., Viraj Forgings, Ltd., and Viraj Impoexpo, Ltd. collectively as “Viraj.” *See Stainless Steel Bar From India: Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 69 FR 55409, 55411 (Sept. 14, 2004) (*Viraj Revocation*).

<sup>6</sup> In the notice we referred to Venus Wire Industries Pvt., Ltd., Precision Metals, Sieves Manufacturers (India) Pvt., Ltd., and Hindustan Inox, Ltd. collectively as “Venus.” *See Venus Revocation*, 76 FR 56403.

<sup>7</sup> *Stainless Steel Bar From Japan: Final Results of Antidumping Administrative Review*, 64 FR 36333 (Jul. 6, 1999); *Stainless Steel Bar From Japan: Final Results of Antidumping Administrative Review*, 65 FR 13717 (Mar. 14, 2000); *Stainless Steel Bar From Japan: Final Results of Antidumping Duty Administrative Review*, 67 FR 62227 (Oct. 4, 2002) (*Japan 01/02 Review*).

Department revoked the order with respect to K-M35FL steel bar from Japan because it was not produced in commercial quantities in the United States and because the domestic interested parties had no further interest in the order with respect to K-M35FL steel bar. *See Stainless Steel Bar From Japan: Final Results of Changed-Circumstances Review, and Revocation of Order In Part*, 64 FR 50273 (Sept. 16, 1999). On December 7, 2006, after completing the second changed-circumstances review, the Department found that the continued relief provided by the order with respect to a particular product from Japan was no longer of interest to the domestic industry and therefore revoked the order on SSB from Japan with regard to the product that meets the following specifications: certain valve/stem stainless steel round bar of 21-2N modified grade, having a diameter of 5.7 millimeters (with a tolerance of 0.025 millimeters), in length no greater than 15 meters, having a chemical composition consisting of a minimum of 0.50 percent and a maximum of 0.60 percent of carbon, a minimum of 7.50 percent and a maximum of 9.50 percent of manganese, a maximum of 0.25 percent of silicon, a maximum of 0.04 percent of phosphorus, a maximum of 0.03 percent of sulfur, a minimum of 20.0 percent and a maximum of 22.00 percent of chromium, a minimum of 2.00 percent and a maximum of 3.00 percent of nickel, a minimum of 0.20 percent and a maximum of 0.40 percent of nitrogen, a minimum of 0.85 percent of the combined content of carbon and nitrogen, and a balance minimum of iron, having a maximum core hardness of 385 HB and a maximum surface hardness of 425 HB, with a minimum hardness of 270 HB for annealed material. *See Final Results of Antidumping Duty Changed-Circumstances Review and Revocation of Order in Part: Stainless Steel Bar from Japan*, 71 FR 70959 (Dec. 7, 2006). On October 15, 1997, the Department determined that “Keystone 2000,” a specialty stainless steel bar product, is within the scope of the antidumping duty order. *See Notice of Scope Rulings*, 63 FR 6722 (Feb. 10, 1998). There have been no duty-absorption reviews of the antidumping duty order. *See supra* footnote 3. The order remains in effect for all manufacturers, producers, and exporters of SSB from Japan.

### *Spain*

The Department published its final affirmative determination of sales at LTFV with respect to imports of SSB from Spain on December 28, 1994. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Spain*, 59 FR 66931 (Dec. 28, 1994). In the final determination the Department found a weighted-average dumping margin of 62.85 percent *ad valorem* for Acerinox, S.A. (and all successor companies), 7.74 percent *ad valorem* for Roldan, S.A., and 25.80 percent *ad valorem* for all other manufacturers, producers, and exporters of SSB from Spain. *Id.* at 66939. The Department published its amended final affirmative determination of sales at LTFV with respect to imports of SSB from Spain on March 2, 1995. *See Amended Final Determination and Antidumping Duty Order: Stainless Steel Bar From Spain*, 60 FR 11656 (Mar. 2, 1995). In the amended final determination the Department found a weighted-average dumping margin of 62.85 percent *ad valorem* for Acenor, S.A. (and all successor companies, including Digeco, S.A. and Clorimax, SRL), 7.72 percent *ad valorem* for Roldan, S.A., and 25.77 percent *ad valorem* for all other manufacturers, producers, and exporters of SSB from Spain. *Id.* at 11658. The Department published the antidumping duty order on SSB from Spain and the amended final determination concurrently. *Id.* at 11656.

Since the issuance of the antidumping duty order, the Department has conducted one administrative review of the order.<sup>8</sup> There have been no new-shipper, changed-circumstances or duty-absorption reviews of the antidumping duty order. *See supra* footnote 3. There have not been any scope rulings on SSB from Spain. The order remains in effect for all manufacturers, producers, and exporters of SSB from Spain.

### Sunset Reviews

The Department conducted the first sunset reviews of the orders on SSB from Brazil, India, Japan, and Spain pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the same rates as it found in the original investigations. *See Stainless Steel Bar From Brazil, India, Japan, and Spain; Final Results of Antidumping Duty Expedited Sunset Reviews*, 65 FR 25909 (May 4, 2000) (*First Sunset Reviews*). The International Trade Commission (ITC) determined, pursuant to section 751(c) of the Act, that revocation of these orders would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Stainless Steel Bar From Brazil, India, Japan, and Spain*, 66 FR 17927 (Apr. 4, 2001). Thus, the Department published the notice of continuation of these antidumping duty orders pursuant to section 777(i)(1) of the Act. *See Continuation of Antidumping Duty Orders: Stainless Steel Bar From Brazil, India, Japan, and Spain*, 66 FR 19919 (Apr. 18, 2001).

The Department conducted the second sunset reviews of the orders on SSB from Brazil, India, Japan, and Spain pursuant to section 751(c) of the Act, and found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the same rates as it found in the original investigations. *See Stainless Steel Bar from Brazil, India, Japan, and Spain; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 38372 (Jul. 6, 2006) (*Second Sunset Reviews*). The ITC determined, pursuant to section 751(c) of the Act, that revocation of these orders would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Stainless Steel Bar From Brazil, India, Japan, and Spain*, 72 FR 1243 (Jan. 10, 2007). Thus, the Department published the notice of continuation of these antidumping duty orders pursuant to section 777(i)(1) of the Act. *See Stainless Steel Bar from Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Orders*, 72 FR 2858 (Jan. 23, 2007).

On December 1, 2011, the Department published the notice of initiation of the third sunset reviews of the antidumping duty orders on SSB from Brazil, India, Japan, and Spain pursuant to sections 751(c) and 777(i)(1) of the Act. *See Initiation of Five-Year (“Sunset”) Review*, 76 FR 74775 (Dec. 1, 2011). The Department received a notice of intent to participate in the reviews from Carpenter Technology Corporation, Crucible Industries LLC, Electralloy a G.O. Carlson Inc. Co, Universal Stainless & Alloy Products, Inc., and Valbruna Slater Stainless,

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<sup>8</sup> *Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review*, 72 FR 42395 (Aug. 2, 2007).

Inc. (collectively, the domestic interested parties) within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as producers of the subject merchandise in the United States. We received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We 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 has conducted expedited (120-day) sunset reviews of these orders.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted the sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to 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 the weighted-average dumping margins determined in the investigations 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 orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide the ITC with 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*

On January 3, 2012, the domestic interested parties submitted a substantive response in each sunset review. *See* Sunset Reviews of the Antidumping Duty Orders on Stainless Steel Bar From Brazil, India, Japan, and Spain, dated January 3, 2012 (Domestic Substantive Response). The domestic interested parties assert that revocation of the antidumping duty orders would lead to a continuation of dumping by producers and exporters of subject merchandise from Brazil, India, Japan, and Spain as well as material injury to the domestic industry. They argue that the records of the proceedings demonstrate that, since the imposition of the antidumping duty orders, most respondents have continued dumping and reduced the volume of subject merchandise exported to and sold in the United States. They also argue that, if the antidumping duty orders were revoked, the foreign producers and exporters would need to dump in order to sell SSB in significant quantities.

The domestic interested parties assert that section 752(c)(1) of the Act instructs the Department to consider the weighted-average dumping margins from the original investigation and subsequent administrative reviews as well as “the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order or acceptance of the suspension agreement.” They also argue that the Department has explained 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, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes,” citing *Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin*, 63 FR 18871, 18872 (Apr. 16, 1998) (*Policy Bulletin*) (quoting the Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, at 889 (1994), the House Report, H.R. Rep. No. 103-826, at 63 (1994), and Senate Report, S. Rep. No. 103-412, at 52 (1994)). The domestic interested parties also cite the following from the *Policy Bulletin*:

{e}xistence of dumping margins after the order . . . is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed.

*Id.*

*Brazil*

The domestic interested parties state that, in the original investigation, the Department found a dumping margin of 19.43 percent *ad valorem* for Acos Villares, S.A. as well as for all other Brazilian producers/exporters of SSB. The imposition of antidumping duties at this margin, the domestic parties argue, has had a dramatic impact on the volume of SSB exported from Brazil. The domestic interested parties state that, in the two-year period preceding the petition (1992-1993), imports of SSB from Brazil averaged 4,403 short tons annually. Domestic Substantive Response at 38. The domestic interested parties also state that, in 1995, the year in which antidumping duties were first imposed, imports of SSB from Brazil fell to 51 short tons and remained at that level through 1996. *Id.* They also state that, during the period from 1997 through 2005, imports of SSB from Brazil averaged one-fifth the pre-petition average or 891 short tons annually. *Id.* The domestic interested parties state that, during the current sunset review period from 2006 through 2010, the average annual import volume of SSB from Brazil was 557 short tons which is 87 percent lower than the average in the two years preceding the petition. *Id.*

The domestic interested parties state that, the results of each of the three administrative reviews of the order indicate affirmative dumping margins. Such results, the domestic parties argue, taken together with the decline in imports, illustrate perfectly the scenario in the Department’s *Policy Bulletin*, 63 FR at 18872, where “declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes.” Further, citing the *Policy Bulletin*, they assert that “the Department normally 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. . . .” Domestic Substantive Response at 38. The domestic interested parties state that, based on a continuation of dumping and a significant decline in import volumes following the antidumping duty order,

the Department should conclude that revocation would likely lead to continuation or recurrence of dumping in the United States by producers and/or exporters of SSB from Brazil. The domestic interested parties state that the fact that imports have declined significantly since the imposition of the order lends further support to this conclusion. Accordingly, the domestic interested parties argue that the Department should conclude that the antidumping duty order on SSB from Brazil should be extended for an additional five years.

### *India*

In the original investigation, the Department found dumping margins of 3.87 percent *ad valorem* for one producer, Grand Foundry, 21.02 *ad valorem* for another producer, Mukand, and 12.45 percent *ad valorem* for all other producer/exporters. Domestic Substantive Response at 39. The domestic interested parties state that, following the imposition of the antidumping duty order on SSB from India, imports declined significantly. *Id.* They argue that, even though imports have increased in recent years, and despite the revocations of Viraj and Venus, the record demonstrates that producers/exporters of SSB from India continue to dump in the U.S. market. *Id.* Specifically, the domestic interested parties argue that, during the years in which the order has been in effect, the Department has continued to find dumping margins ranging from 2.01 percent to 21.02 percent for seventeen other Indian producers. Domestic Substantive Response at 40. They assert that, based on the continuation of post-order dumping, it is reasonable for the Department to conclude that producers/exporters of SSB from India cannot sell the product at normal value in the United States competitively and that revocation of the order would result in continued dumping. *Id.* Accordingly, the domestic interested parties argue that the Department should conclude that the antidumping duty order on SSB from India should be extended for an additional five years. *Id.*

### *Japan*

The domestic interested parties state that, in the original investigation, the Department found a dumping margin of 61.47 percent *ad valorem* for the three individual respondents investigated as well as for all other producers/exporters of SSB from Japan. They assert that, because only one Japanese respondent, Aichi, has requested reviews, the 61.47 percent *ad valorem* rate applies to all other producers/exporters. Accordingly, the domestic interested parties assert all producers/exporters of SSB, with the exception of Aichi, have a dumping rate of 61.47 percent. The imposition of antidumping duties at this margin, the domestic parties argue, has had a dramatic impact on the volume of SSB exported from Japan. The domestic interested parties state that, in the two-year period preceding the petition (1992-1993), imports of SSB from Japan averaged 15,016 short tons annually. Domestic Substantive Response at 40. The domestic interested parties also state that, in 1995, the year in which antidumping duties were first imposed, imports of SSB from Japan fell to 348 short tons. *Id.* at 41. They assert that import volumes continued to decline in 1996 and 1997 to 254 short tons and 118 short tons, respectively. *Id.* The domestic interested parties state that, during the period from 1998 through 2005, the average annual import volume of SSB from Japan was 634 short tons or 4.2 percent of the pre-petition average. *Id.*

The domestic interested parties argue that the post-order data illustrate the scenario of continued dumping and declining import volumes. Citing the *Policy Bulletin*, 63 FR at 18872, they assert that these two factors are highly probative of the likelihood of continuation or recurrence of dumping because, if dumping continues with the discipline of an order in place, it is reasonable to assume that it would continue if the discipline of an order was removed. Further, the domestic interested parties assert that these factors indicate that the exporter needs to dump to sell at pre-order volumes. Accordingly, the domestic interested parties argue that the Department should conclude that the antidumping duty order on SSB from Japan should be extended for an additional five years.

### *Spain*

The domestic interested parties state that, in the original investigation, the Department found a dumping margin of 62.85 percent *ad valorem* for Acenor, S.A. and all its successor companies, 7.72 percent *ad valorem* for Roldan, S.A., and 25.77 percent for all other producers/exporters of SSB from Spain. The imposition of antidumping duties at these margins, the domestic parties argue, has had a significant impact on the volume of SSB exported from Spain. The domestic interested parties state that, in the two-year period preceding the filing of the petition (1992-1993), imports of SSB from Spain averaged 6,491 short tons annually. Domestic Substantive Response at 42. They also state that, in 1995, the year in which antidumping duties were first imposed, imports of SSB from Spain fell to 1,276 short tons which is 80.3 percent less than the pre-filing volume. *Id.* Further, the domestic interested parties state that, during the period from 1996 through 2005, imports of SSB from Spain averaged 19.7 percent of the pre-petition average or 1,851 short tons annually. *Id.*

The domestic interested parties state that, as a result of the only administrative review conducted by the Department, where the Department assigned a dumping margin of 62.85 percent *ad valorem* for the sole respondent, Sidenor Industrial SL, significant dumping margins continue to exist against SSB from Spain. Such results, the domestic interested parties argue, taken together with the decline in imports, illustrate the scenario noted in the Department's *Policy Bulletin*, 63 FR at 18872, where "declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes." Further, citing the *Policy Bulletin*, they assert that "the Department normally 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. . . ." Domestic Substantive Response at 42. The domestic interested parties argue that the post-order data illustrate a scenario where "declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes," citing the *Policy Bulletin*, 63 FR at 18872. The domestic interested parties state that, based on a continuation of dumping and a significant decline in import volumes following the antidumping duty order, the Department should conclude that revocation would likely lead to

continuation or recurrence of dumping by producers and/or exporters of SSB from Spain. They state that the significant decline in import volumes since the imposition of the order supports this conclusion. Accordingly, the domestic interested parties argue that the Department should conclude that the antidumping duty order on SSB from Spain should be extended for an additional five years.

### Department's Position

Consistent with the guidance provided in the legislative history accompanying the URAA, specifically the SAA, H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department's determinations of likelihood of a recurrence or continuation 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 order.

Below we explain our findings for each order subject to the reviews:

### Brazil, Japan, and Spain

Import statistics from the Department and the ITC show that annual imports of the subject merchandise from Brazil, Japan, and Spain to the United States have declined significantly since the imposition of the respective antidumping duty orders. *See* the ITC statistics, the source of which is the Bureau of Census of the U.S. Department of Commerce, in Attachment 1 of this memorandum. Given the continued existence of dumping margins combined with declining import volumes, the Department determines that dumping is likely to continue or recur if it revokes the orders.

### India

Import statistics from the Department and the ITC show that, in the first full year following the imposition of the antidumping duty order, annual imports of the subject merchandise from India declined significantly. *See* Attachment 1. The import statistics from the Department and the ITC show that in the subsequent years of the order imports of SSB from India have increased even with the antidumping duty order in place. *See* Attachment 1. Also, according to the results of administrative reviews since the imposition of the order, the Department has continued to find dumping margins for several respondents that are above *de minimis*, indicating that several

Indian exporters of SSB continued to dump when selling SSB in the U.S. market. Where companies continue to dump with the discipline of an order in place, it is reasonable for the Department to assume that dumping would continue if the discipline were removed. As such, given the continued existence of dumping, the Department determines that dumping is likely to continue or recur if it revokes the order.

## 2. Magnitude of the Margins Likely to Prevail

### Interested-Party Comments

According to the domestic interested parties, the *Policy Bulletin* and SAA indicate that, when determining the magnitude of dumping margins likely to prevail if an order were revoked normally, the Department is to select a dumping margin from the original investigation. They cite the rationale provided in the SAA at 890 which provides that “{t}he Administration intends that Commerce normally will select the rate from the investigation, because that is the only calculated rate that reflects the behavior of exporters . . . without the discipline of an order or suspension agreement in place.”

The domestic interested parties assert that the *Policy Bulletin*, 63 FR at 18873, acknowledges that the SAA reflects appropriate policy and provides the following guidance:

Therefore, except as provided in paragraphs II.B.2 and II.B.3, the Department normally will provide to the Commission the margin that was determined in the final determination in the original investigation. . . . Specifically, the Department normally will provide the company-specific margin from the investigation for each company regardless of whether the margin was calculated using a company’s own information or based on best information available or facts available.

Finally, the domestic interested parties argue that the application of the principles set forth in the SAA and *Policy Bulletin* call for the Department to rely on the margins from the original investigations as listed below:

#### Brazil

Acos Villares, S.A.	19.43 percent
All Others	19.43 percent

#### India

Grand Foundry, Ltd.	3.87 percent
Mukand, Ltd.	21.02 percent
All Others	12.45 percent

### Japan

Aichi Steel Works, Ltd	61.47 percent
Daido Steel Co., Ltd	61.47 percent
Sanyo Special Steel Co., Ltd	61.47 percent
All Others	61.47 percent

### Spain

Acenor, S.A. (and all successor companies, including Digeco, S.A. and Clorimax, SRL)	62.85 percent
Roldan, S.A.	7.72 percent
All Others	25.77 percent

### Department's Position

Normally the Department will provide the company-specific margins from the original investigation to the ITC. For companies not investigated specifically or for companies that did not begin shipping until after the order was issued, normally the Department will provide a margin based on the "all others" rate from the investigation. 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 antidumping duty order or suspension agreement in place. Under certain circumstances, however, the Department may select a margin calculated more recently to report to the ITC.

In the first and second sunset reviews, the Department determined that the margin calculations in the investigations were probative of behavior without the discipline of the orders. *See First Sunset Reviews*, 65 FR at 25910, and *Second Sunset Reviews*, 71 FR at 38373. Since the first sunset reviews, the Department has completed one administrative review of the antidumping duty order on SSB from Japan and several administrative and new-shipper reviews of the antidumping duty order on SSB from India. *See Japan 01/02 Review* and *supra* footnote 4, respectively. Since the second sunset reviews, the Department has completed three administrative reviews of the antidumping duty order on SSB from Brazil, several administrative reviews of the antidumping duty order on SSB from India, and one administrative review of the antidumping duty order on SSB from Spain. *See supra* footnotes 2, 4 and 8, respectively.

Thus, the Department must determine the appropriate rates to report to the ITC regarding shipments of this merchandise.

As discussed above, the Department has conducted administrative reviews of the antidumping duty orders on SSB from Brazil, Japan and Spain. In the administrative review of the antidumping duty order on SSB from Japan, the Department applied adverse facts available, or 61.47 percent, to Aichi the only respondent for which the Department had completed an administrative review previously. *See Japan 01/02 Review*. While the Department has found *de*

*de minimis* margins for several respondents in reviews of the antidumping duty order on SSB from India, the Department has found margins above *de minimis* for other respondents. Absent argument or company-specific data indicating that such respondents with lower or *de minimis* margins maintained pre-order sales levels, the Department will provide the ITC with the rates from the original investigation. Accordingly, for each of these sunset reviews, the Department finds that it is appropriate to provide the ITC with the rates from the original investigations because these rates are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Thus, the Department will report to the ITC these same margins as listed in the “Final Results of Reviews” section below.

### Final Results of Reviews

We determine that revocation of the antidumping duty orders on SSB from Brazil, India, Japan, and Spain would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (Percent)
<u>Brazil</u>	
Acos Villares, S.A.	19.43
All Others	19.43
<u>India</u>	
Grand Foundry, Ltd.	3.87
Mukand, Ltd.	21.02
All Others	12.45
<u>Japan</u>	
Aichi Steel Works, Ltd	61.47
Daido Steel Co., Ltd	61.47
Sanyo Special Steel Co., Ltd	61.47
All Others	61.47
<u>Spain</u>	
Acenor, S.A. (and all successor companies, including Digeco, S.A. and Clorimax, SRL)	62.85
Roldan, S.A.	7.72
All Others	25.77

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 sunset reviews in the *Federal Register*, and notify the ITC of our determination.

AGREE   X  

DISAGREE \_\_\_\_\_

*/S/ Paul Piquado*

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Paul Piquado  
Assistant Secretary  
for Import Administration

  13 March, 2012    
Date