

MEMORANDUM TO: James J. Jochum
Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Orders on Stainless Steel Sheet and Strip in Coils from the Republic of Korea, Taiwan, and the United Kingdom; Final Results.

SUMMARY:

We have analyzed the substantive responses of the interested parties participating in the first sunset review of the antidumping duty orders on stainless steel sheet and strip in coils ("SSSS") from the Republic of Korea ("Korea"), Taiwan, and the United Kingdom ("UK"). We recommend that you approve the positions we have developed in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues in these expedited sunset reviews for which we received comments by the domestic interested parties. Respondent interested parties did not comment.

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
 - B. More recent margin

History of the Antidumping Duty Orders

KOREA

On June 8, 1999, the Department of Commerce ("the Department") determined that SSSS

from Korea was being or was likely to be sold in the United States at less than fair value ("LTFV"). See Notice of Final Determination of Sales at Less Than Fair Value; Stainless Steel Sheet and Strip in Coils from the Republic of Korea, 64 FR 30664 (June 8, 1999)("Final Determination"). On July 19, 1999, the International Trade Commission ("ITC") notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act of 1930, as amended ("the Act") that an industry in the United States was materially injured by reason of LTFV imports of subject merchandise. On the basis of its affirmative finding of sales at LTFV, and the findings of the ITC, the Department issued antidumping duty orders on SSSS from the Korea. See Notice of Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from UK, Taiwan, and the Republic of Korea, 64 FR 40555 (July 27, 1999). The Department amended its final determination in the antidumping duty investigation on SSSS from Korea in order to implement the report of the WTO dispute settlement panel addressing various aspects of the Department's Final Determination. See Amendment of Final Determinations of Sales at Less Than Fair Value; Stainless Steel Plate in Coils from the Republic of Korea; and Stainless Steel Sheet & Strip in Coils from the Republic of Korea; 66 FR 45279 (August 28, 2001)("Amended Final Determination").

The revised dumping margins from the investigation are as follows:

Manufacturers/Exporters	Weighted-Average Margin (Percent)
Pohang Iron & Steel Co., Ltd. ("POSCO")	2.49
Taihan Electric Wire Co., Ltd. ("Taihan")	58.79
All Others	2.49

Since the issuance of the antidumping duty order, the Department has completed two administrative reviews. See Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 64950 (December 17, 2001), amended at 67 FR 2194 (January 16, 2002)("Amended First Review"); and Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 68 FR 6713 (February 10, 2003), amended at 68 FR 12039, 12041 (March 13, 2003)("Amended Second Review"). In the first review, the Department found dumping margins of 7.88 percent for Samwon Precision Metals Company ("Samwon"), and 2.74 percent for Daiyang Metal Company, Ltd. ("DMC"). In the second administrative review, the Department found a dumping margin of 5.44 percent for DMC. The Department rescinded the third and fourth administrative reviews. See Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Rescission of Antidumping Duty Administrative Review, 67 FR 68989 (November 14, 2002); and Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Rescission of Antidumping Duty Administrative Review, 68 FR 56622 (October 1, 2003). The Department has conducted one changed circumstances review of this order. See Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, 67 FR 43583 (June 28, 2002). In that changed circumstances review the Department determined that INI Steel Company ("INI") is the successor-in-interest to Inchon Iron and

Steel Company (“Inchon”) and these companies remain separate legal entities.¹ Inchon was excluded from the investigation. See Final Determination, 64 FR 30664 (June 8, 1999).

TAIWAN

On June 8, 1999, the Department determined that SSSS from Taiwan was being or was likely to be sold at LTFV in the United States. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Taiwan, 64 FR 30592 (June 8, 1999) (“Final Determination”). The Department subsequently issued an antidumping duty order on SSSS from Taiwan. See Notice of Antidumping Duty Orders: Stainless Steel Sheet and Strip in Coils from the United Kingdom, Taiwan, and the Republic of Korea, 64 FR 40555 (July 27, 1999). Chang Mein was excluded from the order because its margin was *de minimis*. Respondents Tung Mung and YUSCO contested the Department's determination. As a result of litigation, we amended our final determination and excluded Tung Mung from the order. On November 9, 2004, the Department issued the amended final determination of the antidumping duty order on SSSS from Taiwan. See Stainless Steel and Strip in Coils From Taiwan: Amended Final Determination of Antidumping Duty Investigation (November 9, 2004). The fourth administrative review is currently ongoing. The table below shows the amended final determination results.

Manufacturers/Exporters	Weighted-Average Margin (Percent)
Tung Mung/Ta Chen	15.40
Tung Mung	0.00
YUSCO/Ta Chen	36.44
YUSCO	21.10
All Others	12.61

Since the issuance of the order on SSSS from Taiwan, the Department has completed three administrative reviews. In the first administrative review, the Department found dumping margins of zero for YUSCO, zero for Tung Mung, 21.10 percent for Chia Far Industries Co., Ltd. (“Chia Far”), and 12.61 percent “All Others”. See Stainless Steel Sheet and Strip from Taiwan: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 6682, 6684 (February 13, 2002) (“First Administrative Review”). Petitioners and Chia Far contested various aspects of the Department's first administrative review. The appeal of this review is currently pending before the CIT. In the second

¹ In the third administrative review of the countervailing duty order on SSSS from Korea, the Department determined that INI and Sammi were one entity and, thus, calculated a single subsidy rate for both companies. See Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea, 69 FR 2113 (January 14, 2004).

administrative review, the Department found dumping margins of zero for YUSCO, 1.11 percent for Chia Far, 21.10 percent for Tung Mung, and 12.61 percent "All Others". See Stainless Steel Sheet and Strip in Coils from Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 76721 (December 13, 2002). In the third administrative review, the Department found dumping margins of 1.96 percent for YUSCO, 0.98 percent for Chia Far, 21.10 percent for Tung Mung, and 12.61 percent "All Others". See Stainless Steel Sheet and Strip in Coils From Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 69 FR 5960 (February 9, 2004). The fourth administrative review is currently ongoing.

UK

On June 8, 1999, the Department determined that SSSS from the UK was being or was likely to be sold in the United States at LTFV. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the United Kingdom, 64 FR 30688 (June 8, 1999)("Final Determination"). In the Final Determination the Department found the following margins:

Manufacturers/Exporter	Weighted-Average Margin (Percent)
Avesta Sheffield Ltd. and Avesta Sheffield NAD, Inc.	14.84
All Others	14.84

The Department subsequently issued an antidumping duty order on SSSS from the UK. See Notice of Antidumping Duty Order: Stainless Steel Sheet and Strip in Coils From United Kingdom, Taiwan and South Korea, 64 FR 40555 (July 27, 1999). Since the issuance of the order there have been no administrative reviews.

Background

On June 1, 2004, the Department initiated the first sunset reviews of the antidumping duty orders on SSSS from Korea, Taiwan, and the UK in accordance with section 751(c) of the Act. See Initiation of Five-year ("Sunset") Reviews, 69 FR 30874 (June 1, 2004). The Department received notices of intent to participate on behalf of Allegheny Ludlum Corporation ("Allegheny Ludlum"), North American Stainless ("NAS"), Nucor Corporation ("Nucor"), the United Steelworkers of America, AFL-CIO/CLC ("USWA"); Local 3303 United Auto Workers ("Local 3303 UAW")(formerly the Butler Armco Independent Union); and the Zanesville Armco Independent Organization, Inc. ("ZAIO") (collectively "domestic interested parties"). The domestic interested parties claimed interested party status as either U.S. producers of the subject merchandise or certified unions whose workers are engaged in the production of the subject merchandise, as defined by sections 771(9)(C) and (D) of the Act. 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. The

Department received no responses from respondent interested parties in 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 conducted expedited, 120-day sunset reviews of these antidumping duty 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 likely 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 orders. 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 antidumping duty orders were terminated. Below we address the comments of the domestic interested parties. Respondent interested parties did not comment.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Parties Comments

The domestic interested parties assert that revocation of the antidumping duty orders on SSSS from Korea, Taiwan, and the UK would likely lead to continued dumping by foreign producers/exporters. See Domestic interested parties' July 1, 2004, substantive response, at 45 ("Domestic Response"). Domestic interested parties argue that, although respondents in almost all of these cases have reduced their sales to the United States, they continue to sell at less than fair value. Id.

In their substantive response, domestic interested parties point to the history of dumping margins and import volumes by producers and exporters of SSSS from Korea, Taiwan, and the UK to demonstrate that revocation of these orders would likely lead to continued dumping.

Domestic interested parties note that in the Korean proceeding on SSSS, the Department found margins of dumping that ranged from 2.49 to 58.79 percent in the investigation. In the first and second administrative reviews, dumping margins ranged between 2.74 percent and 7.88 percent. Id. at 24-27. In the Taiwanese investigation, domestic interested parties point to the margins found in subsequent reviews that ranged from 0.98 to 34.95 percent. Id. at 33-37. In the UK final determination, domestic interested parties note that the Department established a dumping margin of 14.85 percent. Id. at 38. In addition, there have been no subsequent administrative reviews of the antidumping duty order on SSSS from the UK to suggest that those margins do not reflect current pricing behavior.

With respect to import volumes, in the antidumping duty order on SSSS from Korea, domestic

interested parties maintain that imports more than doubled from 1995 to 1998, and reached their peak in that year before the imposition of the order. In 1999, the year of the antidumping duty order, imports declined to 17,556 tons, compared to pre-order volume of 32,714. In 2000, although import volumes increased to 33,145 tons, imports declined substantially to 8,124 tons in 2001, 4,610 tons in 2002, and 4,438 tons in 2003. Id. at 52-53 and Attachment 2.

In the antidumping duty order on SSSS from Taiwan, import volumes increased slightly in 1999 to 27,141 tons from its 1998 pre-order volumes of 26,260 tons, then declined in 2000 to 25,799 tons and plummeted by 49 percent in 2001 before declining further in 2002 and 2003. Domestic parties contend that by 2003 import volumes of SSSS from Taiwan totaled 11,225 tons, the lowest levels for such imports since 1996, and only 43 percent of pre-order levels. Id. at 55 and Attachment 2.

In the antidumping duty order on SSSS from the UK, import volumes totaled 8,078 tons in 1998, the year before imposition of the antidumping duty order. See Domestic Response at 56 and Attachment 2. Immediately following imposition of the antidumping duty order, import volumes plummeted to 913 tons in 1999, and 494 tons in 2000. Import volumes remained at low levels from 2001 to 2003, totaling 513 tons. Id. at 56 and Attachment 2. Domestic interested parties infer that the imposition of the order caused import volumes to decrease, because exporters of the subject merchandise could not sell at pre-order volumes without dumping.

Therefore, domestic interested parties maintain that the Department should conclude that the record of these cases strongly supports that dumping of SSSS from Taiwan, Korea and the UK would be likely to continue or recur if the order were revoked. Id. at 53 (Korea), at 56 (Taiwan), and at 56 (UK).

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, vol. 1 (1994) at 826, 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 and 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 (country-wide) basis. See Sunset Policy Bulletin at section II.A.2. Further, in a sunset review the Department normally will determine that revocation of an antidumping order or termination of a suspended dumping investigation 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 or the suspension agreement, as applicable; (b) imports of the subject merchandise ceased after issuance of the order or the suspension agreement, as applicable; or (c) dumping was eliminated after the issuance of the order or the suspension agreement, as applicable, and import volumes for the subject merchandise declined significantly.

See Sunset Policy Bulletin at section II.A.3.

In the investigation on SSSS from Korea, Taiwan, and the UK, the Department found significant dumping of subject merchandise. Since the imposition of these orders, we find that dumping has continued at above de minimis levels for producers and exporters from Korea, Taiwan, and the UK. In addition, the Department considered the ITC trade data, submitted by the domestic interested parties, as well as U.S. Customs imports statistics based on the Harmonized Tariff Schedule, including volume and value of imports for the period 1999 through 2004, and names of manufacturers, producers, and exporters of subject merchandise. Based on the analysis of these reports, the Department concludes that overall import volumes of subject merchandise from Korea, Taiwan and the UK have declined, since the imposition of the orders.

As discussed above in Section II.A.3 of the Sunset Policy Bulletin, the SAA at 889, the House Report at 63 -64, “if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed”. 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. The records of these orders demonstrates that import volumes of SSSS from Korea, Taiwan and the UK declined after the imposition of these orders, and dumping by producers and exporters of SSSS continues at levels above de minimis. Based on these findings, we determine that it is likely that revocation of these orders would likely lead to continuation or recurrence of dumping.

2. Magnitude of Margins Likely to Prevail

Interested Party Comments

Domestic interested parties assert that the Department should report to the ITC 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 because these rates provide a reasonable measure of the minimum amount of dumping by certain producers. See Domestic Response at 58-60.

Department's Position

Concerning the margin of dumping to report to the ITC, the Department’s normal practice is to report margins from the investigation because these rates are the only calculated rates that best reflect the behavior of exporters without the discipline of the order. However, the Department may, in response to an argument from an interested party, provide to the ITC a more recently calculated margin for a particular company where, for that company, dumping margins increased, even if the increase was a result of the application of best information or facts available. See Sunset Policy Bulletin at section II.B.2.

With respect to the UK order, the Department determines that it is appropriate to report to the ITC the rates from the investigation because these rates are the only calculated rates that reflect the behavior of companies without the discipline of the order. No other administrative reviews have been conducted by the Department. Therefore, we will report to the ITC the rates as published in the investigation, as listed in the Final Results of Review section of this notice.

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. With respect to Korean producer/exporter DMC, which was not included in the original investigation, the Department finds it appropriate to report a more recently calculated margin. As mentioned above, in certain instances, it may be more appropriate for the Department to provide the ITC with a more recently calculated margin. Specifically, if dumping margins have declined over the life of an order and imports have remained steady or increased, the Department may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review. In addition, the Department may, in response to an argument from an interested party, provide to the ITC a more recently calculated margin for a particular company where, for that company, dumping margins increased. Following the imposition of the order, DMC’s import volumes and dumping margins increased. This company continued dumping at increasing rates with the discipline of the order in place. Therefore, we find that increasing import volumes coupled with increasing dumping margins provide sufficient cause for the Department to report to the ITC a rate other than that calculated in the amended final determination. We determine that is appropriate to report to the ITC a more recent rate for DMC because the more recent rate better reflects the behavior of DMC.

In regard to Samwon, another Korean company that was not included in the original investigation, interested parties argue that the Department should report a more recently calculated rate. In the Department’s analysis of this sunset review we find that dumping margins and import volumes have not increased for Samwon over the life of the order. Therefore, the Department does not find it appropriate to report a more recently calculated margin for Samwon. The Department will report to the ITC the “All Others” rate from the amended final determination because it is the only calculated rate that reflects the behavior of this company without the discipline of the order. For all other companies and the “All Others” rate the Department will report the rates from the amended final determination.

In regard to the Taiwan order, after considering the weighted-average dumping margins determined in the investigation and subsequent reviews the Department determines that it is appropriate to report to the ITC the rates from the amended final determination because they are the only calculated rates that reflect the behavior of companies without the discipline of the order. Domestic interested parties argue that for exporter Chia Far, the Department should report a higher rate from the most recent administrative review, in lieu of the All Others rate included in the amended final determination. However, since the imposition of the antidumping duty order, Chia Far’s rate has not, in fact, increased. Because Chia Far was not originally investigated, the Department will provide a margin based on the “All Others”

rate from the investigation. Thus, with respect to the Taiwan order, the Department will report to the ITC the “All Others” rate from the amended final determination because it is the only calculated rate that reflects the behavior of this company without the discipline of the order. For all other companies the Department will report to the ITC the company-specific rates and “All Others” rate from the amended final determination.

Final Results of Reviews

As a result of these reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

KOREA

<u>Manufacturer/Exporter</u>	<u>Weighted-Average Margin (Percent)</u>
Pohang Iron and Steel Co., Ltd. ("POSCO")	2.49
Inchon Iron and Steel Co., Ltd. ("Inchon")	Excluded
Taihan Electric Wire Co., Ltd. ("Taihan")	58.79
Daiyang Metal Co. Ltd. ("DMC")	5.44
All Others	2.49

TAIWAN

<u>Manufacturers/Exporters</u>	<u>Weighted-Average Margin (Percent)</u>
Tung Mung/Ta Chen	15.40
Tung Mung	Excluded
YUSCO/Ta Chen	36.44
YUSCO	21.00
All Others	12.61

UK

<u>Manufacturers/Exporters</u>	<u>Weighted-Average Margin (Percent)</u>
Avesta Sheffield Ltd. and Avesta Sheffield NAD, Inc.	14.84
All Others	14.84

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we shall publish the final results of reviews in the Federal Register.

Agree _____ X _____ Disagree _____

ORIGINAL SIGNED

James J. Jochum
Assistant Secretary
for Import Administration

November 15, 2004
Date