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

FROM: Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Reviews
of the Antidumping Duty Orders on Brass Sheet and Strip from Brazil,
Canada, France, Italy and Japan; Final Results

Summary

We have analyzed the responses of the interested parties in the second sunset reviews of the antidumping duty orders covering brass sheet and strip from Brazil, Canada, France, Italy and Japan. 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

The Department of Commerce (“Department”) published its final affirmative determinations of sales at less than fair value (“LTFV”) in the *Federal Register* with respect to imports of brass sheet and strip from Brazil, Canada, France, Italy and Japan at the following rates.¹

Brazil

Eluma Corporation	40.62
All Others	40.62

Canada

ArrowHead Metals Limited	2.51
Noranda Metals Industries Limited (“Noranda”)	11.54
All Others	8.10

France

Trefimetaux S.A.	42.24
All Others	42.24

Italy

LMI - La Metalli Industriale SpA	5.44 Amended
All Others	5.44 Amended

Japan

Nippon Mining Co., Ltd.	57.98
Sambo Copper Alloy Co., Ltd.	13.30
Mitsubishi Shindoh Co., Ltd.	57.98
Kobe Steel, Ltd.	57.98
All Others	45.72

The Department later published in the *Federal Register* antidumping duty orders on brass sheet and strip from Brazil, Canada, France, Italy and Japan.²

¹ See Final Determination of Sales at Less Than Fair Value; Brass Sheet and Strip from Brazil, 51 FR 40831 (November 10, 1986); Final Determination of Sales at Less Than Fair Value Brass Sheet and Strip from Canada, 51 FR 44319 (December 9, 1986); Final Determination of Sales at Less Than Fair Value Brass Sheet and Strip from France, 52 FR 812 (January 9, 1987); Final Determination of Sales at Less Than Fair Value Brass Sheet and Strip from Italy, 52 FR 816 (January 9, 1987); and Final Determination of Sales at Less Than Fair Value Brass Sheet and Strip from Japan, 53 FR 23296 (June 21, 1988).

² See Antidumping Duty Order: Brass Sheet and Strip from Brazil, 52 FR 1214 (January 12, 1987); Antidumping Duty Order: Brass Sheet and Strip from Canada, 52 FR 1217 (January 12, 1987); Antidumping Duty Order: Brass Sheet and Strip from France, 52 FR 6995 (March 6, 1987); Antidumping Duty Order: Brass Sheet and Strip from Italy, 52 FR 6997 (March 6, 1987), amended at 56 FR 23272 (May 21, 1991); and Antidumping Duty Order: Brass Sheet and Strip from Japan, 53 FR 30454 (August 12, 1988).

Since the issuance of the antidumping duty orders, the Department has conducted ten administrative reviews with respect to brass sheet and strip from Canada,³ and three administrative reviews with respect to brass sheet and strip from Italy.⁴ The Department has conducted no administrative reviews with respect to imports of brass sheet and strip from Brazil, France, and Japan.

There have been no changed circumstances determinations concerning the brass sheet and strip antidumping orders. The Department determined that Brazilian exporters were not circumventing the antidumping duty order because we determined that brass circles from Brazil that were imported for use in the production of vent valves for air ventilation in boiler systems were outside the scope of the order.⁵ The Department determined that imports of brass plate from Canada that was rolled down slightly into brass sheet and strip in the United States constituted circumvention of the antidumping duty order on brass sheet and strip from Canada.⁶ The orders remain in effect for all manufacturers, producers, and exporters of the subject merchandise from Brazil, France, Italy and Japan. Ratcliffs Canada, Inc. has been revoked from the antidumping duty order on Canada.⁷

The Department conducted the first sunset reviews on imports of brass sheet and strip from Brazil, Canada, France, Italy and Japan, 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

³ See Brass Sheet and Strip from Canada; Final Results of the Antidumping Duty Administrative Review, 55 FR 31414 (August 2, 1990); Final Results of the Antidumping Duty Administrative Review of Brass Sheet and Strip from Canada and Revocation, in Part, of the Antidumping Duty Order, 56 FR 57317 (November 8, 1991); Brass Sheet and Strip from Canada; Final Results of the Antidumping Duty Administrative Review, 57 FR 20460 (May 13, 1992); Brass Sheet and Strip from Canada; Final Results of the Antidumping Duty Administrative Review, 60 FR 49582 (September 26, 1995); Brass Sheet and Strip from Canada; Final Results of the Antidumping Duty Administrative Review, 61 FR 46618 (September 4, 1996); Brass Sheet and Strip from Canada; Final Results of the Antidumping Duty Administrative Review, 62 FR 16759 (April 8, 1997); Brass Sheet and Strip from Canada; Final Results of the Antidumping Duty Administrative Review and Notice if Intent Not to Revoke Order in Part, 63 FR 33037 (June 17, 1998); Brass Sheet and Strip from Canada; Amended Final Results of the Antidumping Duty Administrative Review in Accordance with Panel Decision Upon Remand, 65 FR 10048 (February 25, 2000); Brass Sheet and Strip from Canada; Final Results of the Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Order in Part, 64 FR 46344 (August 25, 1999); Notice of Amended Final Results of the Antidumping Duty Administrative Review; Brass Sheet and Strip from Canada, 65 FR 279 (January 4, 2000); and Brass Sheet and Strip from Canada; Final Results of the Antidumping Duty Administrative Review, 65 FR 37520 (June 15, 2000).

⁴ See Brass Sheet and Strip from Italy; Final Results of the Antidumping Duty Administrative Reviews, 57 FR 9235 (March 17, 1992); and Brass Sheet and Strip from Italy; Final Results of the Antidumping Duty Administrative Review, 57 FR 54969 (November 23, 1992).

⁵ See Notice of Scope Rulings, 59 FR 54888 (November 2, 1994).

⁶ See Scope Rulings, 58 FR 47124 (September 7, 1993).

⁷ See Final Results of Antidumping Duty Administrative Review of Brass Sheet and Strip from Canada, and Revocation, in Part, of the Antidumping Duty Order, 56 FR 57317 (November 8, 1991).

to lead to continuation or recurrence of dumping at the same rates as found in the original investigations.⁸ The International Trade Commission (“ITC or Commission”) determined, pursuant to section 751(c) of the Act, that revocation of these antidumping duty 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.⁹ Thus, the Department published the notice of continuation of these antidumping duty orders.¹⁰

On April 1, 2005, the Department published the notice of initiation of the second sunset reviews of the antidumping duty orders on brass sheet and strip from Brazil, Canada, France, Italy and Japan pursuant to section 751(c) of the Act. See Initiation of Five-Year (“Sunset”) Reviews, 70 FR 16800 (April 1, 2005). The Department received the Notice of Intent to Participate from Heyco Metals, Inc., Olin Corporation - Brass Group, Outokumpu American Brass, PMX Industries, Inc., Revere Copper Products, Inc., Scott Brass, International Association of Machinist and Aerospace Workers, United Auto Workers (Local 2367 and Local 1024), and United Steelworkers of America AFL-CIO/CLC (collectively “the domestic interested parties”), within the deadline specified in section 351.218(d)(1)(i) of the Department’s Regulations (“Sunset Regulations”). The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act, as manufacturers of a domestic-like product in the United States, and unions whose workers are engaged in the production of a domestic-like product 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 with respect to any of the orders covered by these sunset reviews.¹¹ As a result, pursuant to section 751(c)(4)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of these orders.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to

⁸ See Final Results of Expedited Sunset Reviews: Brass Sheet and Strip from Brazil, France and Korea, 64 FR 48351 (September 3, 1999); Final Results of Full Sunset Review: Brass Sheet and Strip from Canada, 64 FR 66165 (November 24, 1999); Final Results of Expedited Sunset Reviews: Brass Sheet and Strip from Italy, 64 FR 48348 (September 3, 1999); and Final Results of Expedited Sunset Review: Brass Sheet and Strip from Japan, 64 FR 49765 (September 14, 1999).

⁹ See ITC Sunset Determination, 65 FR 20832 (April 18, 2000).

¹⁰ See Continuation of Orders, 65 FR 25304 (May 1, 2000).

¹¹ On April 21, 2005, we received a notification on behalf of Nikko Metal Manufacturing Co., Ltd. in Japan (which claims to be the successor-in-interest to Nippon Mining Co., Ltd.) that it would not be submitting a substantive response.

continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the 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 to the ITC the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

The domestic interested parties believe that revocation of these antidumping duty orders would be likely to lead to a continuation or recurrence of dumping by the Brazilian, Canadian, French, Italian, and Japanese manufacturers, producers, and exporters of the subject merchandise due to continued dumping. See Substantive Response of domestic interested parties (May 2, 2005) at 34-35.

Brazil: The domestic interested parties state that the volume of imports subject to this order declined significantly after the imposition of the order and has not recovered. They also state that antidumping margins remain at 40.62 percent because there have been no administrative reviews completed. Thus, the domestic interested parties conclude that the substantial dumping margins and significant decline in the volume of imports following the issuance of the antidumping duty order demonstrate that revocation of the order will certainly lead to a continuation of dumping. See id. at 38-39.

Canada: As a result of many administrative reviews, the antidumping duty margins for Wolverine and its predecessor fluctuated between zero and 25.49 percent.¹² Imports volumes also fluctuated between approximately 13 million pounds and 36,000 pounds. Thus, the domestic interested parties conclude that producers cannot sell any commercially meaningful volumes of brass sheet and strip in the United States without dumping. See id. at 39-41.

France: The domestic interested parties state that the volume of imports subject to this order declined significantly after the imposition of the order and has not recovered. They also state that antidumping margins remain at 42.24 percent because there have been no antidumping administrative reviews completed. Thus, the domestic interested parties conclude that the substantial dumping margins and significant decline in the volume of imports following the issuance of the antidumping duty order demonstrate that revocation of the order will certainly lead to a continuation of dumping. See id. at 41-42.

¹² In the fourth administrative review, the Department determined that Wolverine was the successor company to Noranda. In the third administrative review, the Department determined that ArrowHead had gone out of business.

Italy: The domestic interested parties state that the volume of imports subject to this order declined significantly after the imposition of the order and has not recovered. They also state that antidumping margins fluctuated between 4.70 and 12.08 percent. Further, the margin has remained unchanged since the fifth administrative review, because there have been no further requests for review. Thus, the domestic interested parties conclude that the substantial dumping margins and significant decline in the volume of imports following the issuance of the antidumping duty order demonstrate that revocation of the order will certainly lead to a continuation of dumping. See id. at 43-44.

Japan: The domestic interested parties state that the volume of imports subject to this order declined significantly after the imposition of the order and has not recovered. They also state that antidumping margins remain at the levels set in the investigation because there have been no antidumping administrative reviews completed. Thus, the domestic interested parties conclude that the substantial dumping margins and significant decline in the volume of imports following the issuance of the antidumping duty order demonstrate that revocation of the order will certainly lead to a continuation of dumping. See id. at 45-46.

Department's Position

Consistent with 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), 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.¹³ 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.¹⁴ In addition, pursuant to 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.

Brazil: Using statistics provided by the domestic interested parties in their May 2, 2005, "Response to Notice of Initiation" at Enclosure 2, the Department finds that imports of Brazilian brass sheet and strip fluctuated between 114,665 pounds and zero after the sunset review in 1999, but remained far below pre-order levels and below the 1999 level. Given that there have been no reviews since the investigation, dumping continues at above *de minimis* levels, and imports are below pre-order levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

¹³ See SAA at 879 and House Report at 56.

¹⁴ See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

Canada: Using statistics provided by the domestic interested parties in their May 2, 2005, “Response to Notice of Initiation” at Enclosure 2, the Department finds that imports surpassed levels since the first sunset review but have not returned to pre-order levels. Since the completion of our first sunset review in 1999, annual imports of Canadian brass sheet and strip have fluctuated between 4,755,822 pounds and 36,533 pounds. Given that dumping has continued at above *de minimis* levels, and that imports are below pre-order volumes, the Department determines that dumping is likely to continue or recur if the order were revoked.

France: Using statistics provided by the domestic interested parties in their May 2, 2005, “Response to Notice of Initiation” at Enclosure 2, the Department finds that imports of French brass sheet and strip fluctuated between 142,391 pounds and zero after the sunset review in 1999, but remained significantly below pre-order volumes. Given that there have been no reviews since the investigation, dumping continues at above *de minimis* levels, and imports are below pre-order levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

Italy: Using statistics provided by the domestic interested parties in their May 2, 2005, “Response to Notice of Initiation” at Enclosure 2, the Department finds that imports of Italian brass sheet and strip have fluctuated between 295,937 pounds and 114,372 pounds since the completion of our first sunset review in 1999, but always remained below pre-order levels and 1999 levels. Given that dumping continues at above *de minimis* levels, and imports are below pre-order levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

Japan: Using statistics provided by the domestic interested parties in their May 2, 2005, “Response to Notice of Initiation” at Enclosure 2, the Department finds that imports of Japanese brass sheet and strip have fluctuated between 4,665,730 pounds and 2,823,821 pounds since the completion of the first sunset review, but always remained below pre-order levels and 1999 levels. Given that there have been no reviews since the investigation, dumping has continued at levels above *de minimis*, and imports are below pre-order levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

Brazil: In their May 2, 2005, substantive response, the domestic interested parties request that the Department report to the ITC the margin that was determined in the final LTFV determination in the original investigation in accordance with the SAA. See pages 46-48. The domestic interested parties recommend the following dumping margins:

Eluma Corporation	40.62
All Others	40.62

Canada: In their May 2, 2005, substantive response, the domestic interested parties request that the Department report to the ITC the margin that was determined in the final LTFV determination in the original investigation in accordance with the SAA. See pages 46-48. The domestic interested parties recommend the following dumping margins:

Wolverine Tube, Inc.	11.54
All Others	8.10

France: In their May 2, 2005, substantive response, the domestic interested parties request that the Department report to the ITC the margin that was determined in the final LTFV determination in the original investigation in accordance with the SAA. See pages 46-48. The domestic interested parties recommend the following dumping margins:

Trefimetaux S.A.	42.24
All Others	42.24

Italy: In their May 2, 2005, substantive response, the domestic interested parties request that the Department report to the ITC the margin that was determined in the final LTFV determination in the original investigation in accordance with the SAA. See pages 46-48. The domestic interested parties recommend the following dumping margins:

LMI - La Metalli Industriale, SpA	5.44
All Others	5.44

Japan: In their May 2, 2005, substantive response, the domestic interested parties request that the Department report to the ITC the margin that was determined in the final LTFV determination in the original investigation in accordance with the SAA. See pages 46-48. The domestic interested parties recommend the following dumping margins:

Nippon Mining Co., Ltd.	57.98
Sambo Copper Alloy Co., Ltd.	13.30
Mitsubishi Shindoh Co., Ltd.	57.98
Kobe Steel, Ltd.	57.98
All Others	45.72

Department's Position

Normally the Department will provide to the ITC the company-specific margin from the investigation for each company. For companies not investigated specifically, or for companies that did not begin shipping until after the order was issued, the Department normally will provide

a margin based on the “all others” rate from the investigation. The Department’s preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin, to report to the ITC.

Since the first sunset review, the Department conducted no administrative reviews for brass sheet and strip from Brazil, France, Italy, and Japan. Therefore, the Department must determine the appropriate rates to report to the ITC regarding brass sheet and strip from Brazil, France, Italy and Japan. The Department finds that it is appropriate to provide the ITC with the rates from the investigation because these 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 section.

With respect to brass sheet and strip from Canada, in the first sunset review, the Department reported to the ITC the following margins from the original investigation: Wolverine Tube, Inc. 11.54 percent, and 8.10 percent for all other Canadian manufacturers. Since the first sunset review, the Department completed an administrative review of Wolverine that resulted in a dumping rate of 3.38 percent. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rate. Again, the Department finds that it is appropriate to provide the ITC with the rates from the investigation because these 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 section.

Final Results of Review

We determine that revocation of the antidumping duty orders on brass sheet and strip from Brazil, Canada, France, Italy and Japan 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>	
Eluma Corporation	40.62
All Others	40.62
<u>Canada</u>	
Wolverine Tube, Inc.	11.54
All Others	8.10

<u>France</u>	
Trefimetaux S.A.	42.24
All Others	42.24

<u>Italy</u>	
LMI - La Metalli Industriale, SpA	5.44
All Others	5.44

<u>Japan</u>	
Nippon Mining Co., Ltd.	57.98
Sambo Copper Alloy Co., Ltd.	13.30
Mitsubishi Shindoh Co., Ltd.	57.98
Kobe Steel, Ltd.	57.98
All Others	45.72

Recommendation

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

AGREE _____

DISAGREE _____

 Joseph A. Spetrini
 Acting Assistant Secretary
 for Import Administration

 (Date)