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Sunset Reviews
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May 30, 2006

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum

RE: Expedited Sunset Reviews of the Antidumping Duty Orders on
Corrosion-Resistant Carbon Steel Flat Products from Australia,
Canada, France, Germany, Japan, and South Korea

Summary

We have analyzed the responses of the interested parties in the second sunset reviews of the antidumping duty orders covering corrosion-resistant carbon steel flat products (“CORE”) from Australia, Canada, France, Germany, Japan, and South Korea. We received no responses from respondent interested parties in the reviews of Australia, Germany, Japan, and South Korea and inadequate respondent participation in the reviews of Canada and France. 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 (“the Department”) issued antidumping duty orders on CORE from these countries on August 19, 1993.¹ In the first five-year (“sunset”) reviews of these orders, the Department found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and the International Trade Commission (“ITC”) determined, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“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. As a result, on December 15, 2000, the Department published the notice of continuation of these antidumping duty orders.²

Since the continuation of these orders, the Department has conducted administrative reviews of the orders on Canada,³ Japan,⁴ and South Korea.⁵

¹ See Antidumping Duty Orders on Certain Cold-Rolled Carbon Steel Flat Products and Certain Corrosion Resistant Carbon Steel Flat Products from Korea, 58 FR 44159 (August 19, 1993); Antidumping Duty Order: Certain Corrosion-Resistant Carbon Steel Flat Products from Australia, 58 FR 44161 (August 19, 1993); Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada, 58 FR 44162 (August 19, 1993); Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products from Japan, 58 FR 44163 (August 19, 1993); Antidumping Duty Orders and Amendments to Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from France, 58 FR 44169, (August 19, 1993); Antidumping Duty Orders and Amendments to Final Determinations of Sales at Less Than Fair Value: Certain Hot Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Germany, 58 FR 44170 (August 19, 1993)

² Continuation of Antidumping and Countervailing Duty Orders on Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, South Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom, 65 FR 78469 (December 15, 2000).

³ Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Final Results of Antidumping Duty Administrative Review, 71 FR 13582 (March 16, 2006); Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Final Results of Antidumping Duty Administrative Review, 70 FR 13458 (March 21, 2005); Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Final Results of Antidumping Duty Administrative Review, 69 FR 2566 (January 16, 2004), as amended, Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Amended Final Results of Antidumping Duty Administrative Review, 69 FR 8380 (February 24, 2004).

⁴ Certain Corrosion-Resistant Carbon Steel Flat Products from Japan: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind In Part, 71 FR 27450 (May 11, 2006).

⁵ Notice of Final Results of the Tenth Administrative Review and New Shipper Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 70 FR 12443 (March 14, 2005); Notice of Amended Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 71 FR 13962 (March 20, 2006); Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 71 FR 7513 (February 13,

On November 1, 2005, the Department published the notice of initiation of the second sunset reviews of the antidumping duty orders on CORE from Australia, Canada, France, Germany, Japan, and South Korea pursuant to section 752(a) of the Act. See Initiation of Five-Year (“Sunset”) Reviews, 70 FR 65884 (November 1, 2005).

The Department received notices of intent to participate from the following domestic interested parties: United States Steel Corporation (“U.S. Steel”); Mittal Steel USA ISG Inc. (“Mittal Steel”); Nucor Corporation (“Nucor”); Ispat-Inland (“Ispat”); Oregon Steel Mills, Inc. (“Oregon Steel”) (hereinafter, collectively “domestic interested parties”); and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (“USW”), 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 U.S. producers of the domestic like product. USW claimed interested party status under section 771(9)(D) of the Act as a union representing the domestic CORE industry. We received complete substantive responses from the domestic interested parties⁶ within the 30-day deadline specified in 19 CFR 351.218(d)(3)(I).

The Department did not receive a substantive response from any respondent in any of the sunset reviews of the AD orders on CORE from Australia, Germany, Japan, and South Korea. The Department received a substantive response from Stelco Inc. (“Stelco”), a producer and exporter of CORE from Canada, in the sunset review of the AD order on CORE from Canada. In the sunset review of the AD order on CORE from France, the Department received a substantive response from Duferco Coating SA and Sorral SA (collectively “Duferco Sorral”) and a waiver of participation on behalf of Arcelor; both producers of subject merchandise. The Department determined that it had received inadequate respondent participation in each of these sunset reviews. Neither Stelco (Canada) nor Duferco Sorral (France) accounted for more than 50 percent of the exports to the United States over the five years preceding these reviews, the level that the Department normally considers to be an adequate response to the notice of initiation by respondent interested parties. See 19 CFR 351.218(e)(1)(ii)(A); Memorandum from the Sunset Team to Stephen J. Claeys, Adequacy Determination: Sunset Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from Canada (December 21, 2005); Memorandum from the Sunset Team to Stephen J. Claeys, Adequacy Determination: Sunset Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from France (December 21, 2005). As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited reviews of these orders.

On February 28, 2006, the Department extended the deadline for the final results of these reviews for 90 days, until May 30, 2006. See Certain Corrosion-Resistant Carbon Steel Flat Products

2006), as amended.

⁶ Despite filing a notice of intent to participate, the USW neither filed its own nor joined the domestic interested parties in the substantive responses filed.

from Australia, Canada, France, Germany, Japan, and South Korea: Extension of Time Limits for Final Results of Expedited Reviews, 71 FR 10006 (February 28, 2006).

Discussion of the Issues

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

In their substantive responses, the domestic interested parties state that revocation of these antidumping duty orders would be likely to lead to a continuation or recurrence of dumping of CORE from Australia, Canada, France, Germany, Japan, and South Korea.

Australia: The domestic interested parties state that Australian producers have continued to dump at levels above de-minimis since the issuance of the order. In addition, they note that imports of CORE from Australia declined significantly following the issuance of the order. See substantive response from domestic interested parties to the Department, Five-Year Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from Australia (December 1, 2005) at (“Domestic Substantive Response on Australia”) 8-10.

Canada: The domestic interested parties state that Canadian producers have continued to dump CORE at levels above de minimis since the issuance of the order. They also assert that imports of Canadian CORE have been significantly below pre-order levels for the majority of the post-order periods of review. See substantive response from domestic interested parties to the Department, Five-Year Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from Canada (December 1, 2005) at 8-11.

Stelco asserts that dumping of subject merchandise would not be likely to continue or recur if the order is revoked. Stelco basis its assertion on the claim that revocation of the order would have little to no effect on Stelco’s operations. Further, Stelco notes that the legislative history relied upon by the Department provides that declining dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to dump to maintain market share. Stelco asserts that both conditions are present in Stelco’s case. See substantive response from Stelco to the Department Corrosion-Resistant Carbon Steel Flat Products from Canada:

Submission of Substantive Response to Sunset Review Notice of Initiation (December 1, 2005) (“Stelco Substantive Response”) at 6-7.

France: The domestic interested parties state that French producers have continued to dump CORE at levels above de minimis since the issuance of the order. They note that, in the absence of any administrative reviews, the dumping margins determined in the investigation continue to exist for all shipments of subject merchandise. In addition, they note that imports of French CORE declined significantly following the issuance of the order. See substantive response from domestic interested parties to the Department, Five-Year Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from France (December 1, 2005) at 8-11.

Duferco Sorral states that it does not foresee any negative impact from revocation of the order. Duferco Sorral asserts that worldwide steel prices, and prices for CORE in particular, are at such high levels that there is no reason to believe that there is any reason to sell at dumped prices in any market, including the United States. See substantive response from Duferco Sorral, Corrosion-Resistant Carbon Steel Flat Products - Sunset Review (Second Review), (December 1, 2005) (“Duferco Sorral Substantive Response”) at 2.

Germany: The domestic interested parties state that German producers have continued to dump CORE at levels above de minimis since the issuance of the order. They note that, in the absence of any administrative reviews, the dumping margins determined in the investigation continue to exist for all shipments of subject merchandise. In addition, they note that imports of German CORE declined significantly following the issuance of the order. See substantive response from domestic interested parties to the Department, Five-Year Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany (December 1, 2005) at 9-11.

Japan: The domestic interested parties note that each of the Japanese producers has been found to be dumping at above de minimis rates in every review conducted since the issuance of the order and, therefore, they assert that the Japanese producers have continued to dump CORE at levels above de minimis since the issuance of the order. In addition, they note that imports of Japanese CORE declined significantly following the issuance of the order. See substantive response from domestic interested parties to the Department, Five-Year Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from Japan (December 1, 2005) at 8-9.

South Korea: The domestic interested parties state that, with the exception of Hyundai Hysco (a recent new shipper), each of the Korean producers have been found to be dumping at rates above de minimis in multiple periods of review. In addition, they assert that imports of Korean CORE have been significantly below pre-order levels for the majority of the post-order periods of review, including the most recent (August 2003 - July 2004). See substantive response from domestic interested parties to the Department, Five-Year Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from South Korea (December 1,

2005) at 9-11.

Department's Position

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, 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.⁷ 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.⁸ 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.

With respect to each of these orders, the Department finds that dumping has continued at above de minimis levels since the issuance of the orders. Further, using statistics provided by the domestic interested parties in their December 1, 2005, substantive responses, the Department finds that imports of CORE from Australia, France, Germany, Japan have declined significantly since the issuance of the order and, in the most recent five years (August 1999 - July 2004) for which information was provided, imports remain significantly below pre-order volumes. Similar to the assertions of Stelco, statistics provided by the domestic interested parties with respect to Canada show increasing import volumes over the most recent five years, peaking in August 2002 - July 2003 at above pre-order volumes and declining slightly the following year. The statistics provided by domestic interested parties with respect to South Korea demonstrate that in the five years from August 1998 through July 2003, import volumes were significantly above pre-order levels for South Korea. However, in the most recent year and in prior years, imports were significantly below pre-order levels. Irrespective of the import volumes, dumping at above de minimis levels has continued by producers and exporters of subject merchandise from each of the countries covered by these reviews. Therefore, the Department determines that dumping is likely to continue or recur if each of these orders were revoked. See SAA at 890 ("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").

2. Magnitude of the Margins Likely to Prevail

Interested Party Comments

⁷ See SAA at 879 and House Report at 56.

⁸ See SAA at 889-890, House Report at 63-64, and Senate Report at 52.

In their December 1, 2005, substantive responses, the domestic interested parties request that the Department report to the ITC the margins that were determined in the final determination of the original less-than-fair-value investigations of Canada, France, Germany, Japan, and South Korea. See domestic interested parties substantive responses for Canada, at 11; for France, at 11; for Germany, at 11-12; for Japan, at 10; and for South Korea, at 11-12. With respect to Australia, the domestic interested parties note that the Department may provide a more recently calculated dumping margin when the dumping margins increased after the issuance of the order. Because in the two administrative reviews conducted by the Department, the Department has twice determined dumping margins of 39.05 percent for The Broken Hill Proprietary Company Ltd., the domestic interested parties recommend that the Department report to the ITC the more recently calculated margin. See Domestic Substantive Response on Australia at 10-12.

Stelco asserts that a de minimis or zero dumping margin is likely to prevail for Stelco if the Department revokes the order on CORE from Canada. Stelco supports this assertion by noting the Department may provide the ITC a more recently calculated rate and referring to the de minimis margins calculated for Stelco in the final results of the 2002-2003 administrative review and in the preliminary results of the 2003-2004 administrative review. Stelco argues that its export volume of subject merchandise to the United States has increased, particularly in recent years, while its dumping margins have declined over the life of the order and are now virtually non-existent. See Stelco Substantive Response at 7-9.

Duferco Sorral asserts that the antidumping duty rate likely to prevail if the order on CORE from France is revoked is zero. See Duferco Sorral Substantive Response at 3.

Department's Position

The Department will normally provide to the ITC the company-specific margin from the investigation for each company. See SAA at 890. For companies not investigated specifically or 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. See Section 752(c)(3) of the Act; See, e.g., Internal-Combustion Forklift Trucks from Japan; Final Results of the Expedited Sunset Review of the Antidumping Order, 70 FR 58373 (October 6, 2005), and accompanying Issues and Decision Memorandum at "Magnitude of the Margin Likely to Prevail." The Department prefers to select a margin from the investigation because 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. See SAA at 890. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC. Id. at 890-891.

Australia: With respect to CORE from Australia, there have been no administrative reviews since the order. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rates. 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. Additionally, the respondent interested parties did not dispute these rates. Thus, the

Department will report to the ITC the same margins as listed in the Final Results of Reviews section.

Canada: With respect to CORE from Canada, there have been seven administrative reviews since the order. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rates. Parties representing Stelco have requested that the Department revoke the order because a continuance of dumping is unlikely to occur. Despite Stelco's contention that a recent administrative review resulted in a de minimis margin for Stelco, the most recent review revealed the recurrence of an above de minimis margin. See Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Final Results of Antidumping Duty Administrative Review, 71 FR 13582, 13583 (March 16, 2006).

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 the same margins as listed in the Final Results of Reviews section.

France: With respect to CORE from France, there have been no administrative reviews since the order. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rates. 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. Additionally, the respondent interested parties did not dispute these rates. Thus, the Department will report to the ITC the same margins as listed in the Final Results of Reviews section.

Germany: With respect to CORE from Germany, there have been no administrative reviews since the order. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rates. 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. Additionally, the respondent interested parties did not dispute these rates. Thus, the Department will report to the ITC the same margins as listed in the Final Results of Reviews section.

Japan: With respect to CORE from Japan, there have been two administrative reviews since the order. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rates. 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. Additionally, the respondent interested parties did not dispute these rates. Thus, the Department will report to the ITC the same margins as listed in the Final Results of Reviews section.

South Korea: With respect to CORE from South Korea, there have been five administrative

reviews since the order. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rates. 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. Additionally, the respondent interested parties did not dispute these rates. Thus, the Department will report to the ITC the same margins as listed in the Final Results of Reviews section.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on CORE from Australia, Canada, France, Germany, Japan, and South Korea would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
Australia	
Broken Hill Proprietary Company Ltd. (“BHP”)	24.96%
All Others	24.96%
Canada	
Dofasco, Inc.	11.71%
Stelco, Inc.	22.70%
All Others	18.71%
France	
Usinor Sacilor	29.41%
All Others	29.41%
Germany	
Thyssen Stahl AG (“Thyssen”)	10.02%
All Others	10.02%
Japan	
Kawasaki Steel Corporation (“KSC”)	36.41%
Nippon Steel Corporation (“NSC”)	36.41%
All Others	36.41%
South Korea	
Pohang Iron and Steel Company, Ltd.	17.70%
All Others	17.70%

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 _____

David H. Spooner
Assistant Secretary
for Import Administration

(Date)

