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Sunset Reviews  
Public Document  
AD-CVD/O2: HP

MEMORANDUM TO: John M. Andersen  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

FROM: James Maeder  
Director  
AD/CVD Operations, Office 2

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset  
Reviews of the Antidumping Duty Orders on Stainless Steel Wire  
Rod from Italy, Japan, the Republic of Korea, Spain, and Taiwan

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### Summary

We have analyzed the responses of the interested parties in the sunset reviews of the antidumping duty orders covering stainless steel wire rod (SSWR) from Italy, Japan, the Republic of Korea (Korea), Spain, and Taiwan. We recommend that you approve the positions described 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 margin likely to prevail

### History of the Orders

#### *Italy*

On July 29, 1998, the Department of Commerce (the Department) published its final determination in the less than fair value (LTFV) investigation of SSWR from Italy.<sup>1</sup> On September 15, 1998, the Department published the antidumping duty order on SSWR from Italy.<sup>2</sup> For Italy, the Department found the following antidumping duty margins:

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<sup>1</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Italy, 63 FR 40422 (July 29, 1998).

<sup>2</sup> See Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy, 63 FR 49327 (Sept. 15, 1998).

Acciaierie Valbruna S.r.l./Acciaierie di Bolzano S.p.A.	1.27 (excluded)
Cogne Acciai Speciali S.r.l.	11.25 <sup>3</sup>
All-Others Rate	11.25 <sup>4</sup>

### *Japan*

On July 29, 1998, the Department published its final determination in the LTFV investigation of SSWR from Japan.<sup>5</sup> On September 15, 1998, the Department published the antidumping duty order on SSWR from Japan.<sup>6</sup> For Japan, the Department found the following antidumping duty margins:

Daido Steel Co., Ltd.	34.21
Hitachi Metals, Ltd.	0.00 (excluded)
Nippon Steel Corp.	21.18
Sanyo Special Steel Co., Ltd.	34.21
Sumitomo Electric Industries, Ltd.	34.21
All-Others Rate	25.26

### *Korea*

On July 29, 1998, the Department published its final determination in the LTFV investigation of SSWR from Korea.<sup>7</sup> On September 15, 1998, the Department published the antidumping duty order on SSWR from Korea.<sup>8</sup> On August 8, 2001, the Department published an amended final determination pursuant to a court decision on SSWR from Korea.<sup>9</sup> For Korea, the Department found the following antidumping duty margins:

Dongbang Special Steel Co., Ltd./Changwon Specialty Steel Co., Ltd./Pohang Iron and Steel Co., Ltd.	5.77
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<sup>3</sup> As a result of Section 129 proceedings to implement the findings of the WTO Panel in US-Zeroing (EC), the margin changed from 12.73 percent to 11.25 percent. See Implementation of the Findings of the WTO Panel in US--Zeroing (EC): Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders, 72 FR 25261, 25263 (May 4, 2007) (Section 129 Notice).

<sup>4</sup> Id.

<sup>5</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Japan, 63 FR 40434 (July 29, 1998).

<sup>6</sup> Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Japan, 63 FR 49328 (Sept. 15, 1998).

<sup>7</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Korea, 63 FR 40404 (July 29, 1998).

<sup>8</sup> Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod From Korea, 63 FR 49331 (Sept. 15, 1998).

<sup>9</sup> See id., as amended by Stainless Steel Wire Rod From Korea: Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision, 66 FR 41550 (Aug. 8, 2001), corrected at 66 FR 46066 (Jan. 8, 2002).

Sammi Steel Co., Ltd.	28.44
All-Others Rate	5.77

### *Spain*

On July 29, 1998, the Department published its final determination in the LTFV investigation of SSWR from Spain.<sup>10</sup> On September 15, 1998, the Department published an amended final determination and antidumping duty order on SSWR from Spain.<sup>11</sup> For Spain, the Department found the following antidumping duty margins:

Roldan S.A.	2.71 <sup>12</sup>
All-Others Rate	2.71 <sup>13</sup>

### *Taiwan*

On July 29, 1998, the Department published its final determination in the LTFV investigation of SSWR from Taiwan.<sup>14</sup> On September 15, 1998, the Department published an amended final determination and antidumping duty order on SSWR from Taiwan.<sup>15</sup> For Taiwan, the Department found the following antidumping duty margins:

Walsin Cartech Specialty Steel Corp.	8.29
Yieh Hsing Enterprise Corp., Ltd.	0.02 (excluded)
All-Others Rate	8.29

### *Administrative Reviews*

Since the issuance of the antidumping duty orders, the Department has conducted no administrative reviews with respect to SSWR from Italy or Japan. The Department has conducted four administrative reviews with respect to SSWR from Korea, one administrative review with respect to SSWR from Spain, and one administrative review with respect to SSWR from Taiwan.<sup>16</sup>

<sup>10</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Spain, 63 FR 40391 (July 29, 1998).

<sup>11</sup> See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod From Spain, 63 FR 49330 (Sept. 15, 1998).

<sup>12</sup> As a result of Section 129 proceedings to implement the findings of the WTO Panel in US-Zeroing (EC), the margin changed from 4.76 percent to 2.71 percent. See Section 129 Notice, 72 FR at 25263 (May 4, 2007).

<sup>13</sup> Id.

<sup>14</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Taiwan, 63 FR 40461 (July 29, 1998).

<sup>15</sup> See Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod From Taiwan, 63 FR 49332 (Sept. 15, 1998).

<sup>16</sup> See Stainless Steel Wire Rod From Korea: Final Results of Antidumping Duty Administrative Review, 67 FR 6685 (Feb. 13, 2002), as amended in Stainless Steel Wire Rod from Korea: Amended Final Results of Antidumping Duty Administrative Review, 67 FR 11096 (Mar. 12, 2002); Stainless Steel Wire Rod From Korea: Final Results of Antidumping Duty Administrative Review, 69 FR 19153 (Apr. 12, 2004); Stainless Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 72 FR 6528 (Feb. 12,

*Duty Absorption, Changed Circumstances Reviews, and Scope Inquiries*

The Department has conducted a scope inquiry with respect to SSWR from Italy, Japan, Spain, and Taiwan, in which the Department found that certain stainless steel bar that is manufactured in the United Arab Emirates from SSWR imported from multiple subject countries is excluded from the scope of the antidumping duty orders.<sup>17</sup> In addition, the Department has conducted a changed circumstances review with respect to SSWR from Italy, where the Department found that Acciaierie Valbruna S.p.A. (Valbruna) was the successor-in-interest to Acciaierie Valbruna S.r.l., a company excluded from the antidumping duty order on SSWR from Italy.<sup>18</sup> There have been no duty absorption findings concerning SSWR from Italy, Japan, Korea, Spain, and Taiwan.

Background

In 2003, the Department conducted the first sunset review on imports of SSWR from Italy, Japan, Korea, Spain, and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the same rates as found in the original investigations.<sup>19</sup> In July 2004, the International Trade Commission (ITC) 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.<sup>20</sup> Thus, in August 2004, the Department published a notice of continuation of these antidumping duty orders.<sup>21</sup>

On July 1, 2009, the Department published the notice of initiation of the second sunset review of the antidumping duty orders on SSWR from Italy, Japan, Korea, Spain, and Taiwan, pursuant to section 751(c) of the Act.<sup>22</sup> The Department received a notice of intent to participate from

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2007); Stainless Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 72 FR 46035 (Aug. 16, 2007); Stainless Steel Wire Rod from Spain: Final Results of Antidumping Duty Administrative Review, 66 FR 10988 (Feb. 21, 2001); Stainless Steel Wire Rod From Taiwan: Final Results of Antidumping Duty Administrative Review, 66 FR 52587 (Oct. 16, 2001).

<sup>17</sup> See Notice of Scope Rulings, 70 FR 41374, 41375 (July 19, 2005).

<sup>18</sup> See Stainless Steel Wire Rod from Italy: Notice of Final Results of Changed Circumstances Antidumping Duty Review, 71 FR 24643 (Apr. 26, 2006).

<sup>19</sup> See Stainless Steel Wire Rod From Italy: Final Results of Expedited Sunset Review of Antidumping Duty Order, 68 FR 68862 (Dec. 10, 2003); Stainless Steel Wire Rod From Japan: Final Results of Expedited Sunset Review of Antidumping Duty Order, 68 FR 68864 (Dec. 10, 2003); Stainless Steel Wire Rod From South Korea: Final Results of Expedited Sunset Review of Antidumping Duty Order, 68 FR 68863 (Dec. 10, 2003); Stainless Steel Wire Rod From Spain: Final Results of Expedited Sunset Review of Antidumping Duty Order, 68 FR 68866 (Dec. 10, 2003); and Stainless Steel Wire Rod From Taiwan: Final Results of Expedited Sunset Review of Antidumping Duty Order, 68 FR 68865 (Dec. 10, 2003).

<sup>20</sup> See Stainless Steel Wire Rod from Italy, Japan, Korea, Spain, Sweden, and Taiwan, 69 FR 45077 (July 28, 2004).

<sup>21</sup> See Continuation of Antidumping Duty Orders: Stainless Steel Wire Rod From Italy, Japan, Korea, Spain, Sweden, and Taiwan, 69 FR 50167 (Aug. 13, 2004).

<sup>22</sup> See Initiation of Five-Year ("Sunset") Reviews, 74 FR 31412 (July 1, 2009).

Carpenter Technology Corporation (Carpenter), a domestic interested party, within the deadline specified in 19 CFR 351.218(d)(1)(i). Carpenter claimed interested party status under section 771(9)(C) of the Act, as a manufacturer of a domestic-like product in the United States.

The Department received a complete substantive response to the notice of initiation from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive responses from respondent interested parties with respect to any of the orders covered by these sunset reviews, nor was a hearing requested. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting expedited (120-day) sunset reviews of the antidumping duty orders on SSWR from Italy, Japan, Korea, Spain, and Taiwan.

The orders on SSWR from Italy, Japan, Korea, Spain, and Taiwan remain in effect for all manufacturers, producers, and exporters of the subject merchandise except for the following companies, who received zero or *de minimis* rates in the investigation and as a result were excluded from the orders: Valbruna; Hitachi Metals, Ltd.; and Yieh Hsing Enterprise Corp., Ltd.<sup>23</sup>

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to a 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 investigation 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 party believes that revocation of these antidumping duty orders would likely lead to a continuation or recurrence of dumping by the manufacturers/producers and exporters of the subject merchandise, as well as material injury to the U.S. industry. See substantive response of the domestic interested party for Italy, Japan, Korea, Spain, and Taiwan (July 31, 2009) at 21.

With respect to volume of exports, the domestic interested party asserts that the imposition of the orders has had a dramatic impact on the volume of imports of SSWR from producers and exporters. The domestic interested party points to record history of the orders to demonstrate that the discipline of the orders has forced foreign producers of subject merchandise either to

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<sup>23</sup> See Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy, 63 FR 49327 (Sept. 15, 1998); Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Japan, 63 FR 49328 (Sept. 15, 1998); and Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod From Taiwan, 63 FR 49332 (Sept. 15, 1998).

increase their prices to reduce dumping levels or to significantly reduce their volume of sales to the United States. See the July 31 response at 22. Nonetheless, the domestic interested party states that the administrative reviews conducted by the Department reveal that the subject producers and exporters have continued to sell subject merchandise in the United States at less than fair value. See the July 31 response at 23.

Citing to the Department's Policy Bulletin, the domestic interested party concludes that the Department should determine that revocation of an antidumping duty order is inappropriate where dumping continued at any level above *de minimis* after the issuance of the order.<sup>24</sup> In sum, the domestic interested party argues that record evidence strongly supports the conclusion that dumping of SSWR by producers, manufacturers, and exporters from Italy, Japan, Korea, Spain, and Taiwan would be likely to continue or recur if the orders were to be revoked.

#### 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.<sup>25</sup> 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.<sup>26</sup> 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 duty order.

*Italy:* The Department examined the ITC data for the relevant periods which show that imports of SSWR from Italy fluctuated between 1,076,413 kilograms and 5,190,715 kilograms after the sunset review in 2003. The pre-order level in 1997 was 7,897,796 kilograms. See the October 29, 2009, memorandum to the file from Holly Phelps entitled, "Placing Data from the ITC Trade Dataweb on the Record of the Expedited Sunset Reviews of Stainless Steel Wire Rod (SSWR) from Italy, Japan, Korea, Spain, and Taiwan" (ITC Dataweb Memo). Given that there have been no administrative reviews since the investigation, dumping margins continue 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:* The Department examined the ITC data for the relevant periods which show that imports of SSWR from Japan fluctuated between 100,466 kilograms and 262,654 kilograms after the sunset review in 2003. The pre-order level in 1997 was 12,389,325 kilograms. See ITC Dataweb Memo. Given that there have been no administrative reviews since the investigation,

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<sup>24</sup> See Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin, 63 FR 18871 (Apr. 16, 1998) (Policy Bulletin).

<sup>25</sup> See SAA at 879 and House Report at 56.

<sup>26</sup> See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

dumping margins continue 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.

*Korea:* The Department examined the ITC data for the relevant periods which show that imports of SSWR from Korea declined after the sunset review in 2003. By 2008, the imports had ceased. The pre-order level in 1997 was 11,814,147 kilograms. See ITC Dataweb Memo. Given that dumping margins continue at above *de minimis* levels and imports have ceased, the Department determines that dumping is likely to continue or recur if the order were revoked.

*Spain:* The Department examined the ITC data for the relevant periods which show that imports of SSWR from Spain declined after the sunset review in 2003. By 2008, the imports had ceased. The pre-order level in 1997 was 4,295,306 kilograms. See ITC Dataweb Memo. Given that dumping margins continue at above *de minimis* levels and imports have ceased, the Department determines that dumping is likely to continue or recur if the order were revoked.

*Taiwan:* The Department examined the ITC data for the relevant periods which show that imports of SSWR from Taiwan fluctuated between 6,709,218 kilograms and 11,135,823 kilograms after the sunset review in 2003. The pre-order level in 1997 was 20,247,179 kilograms. See ITC Dataweb Memo. Given that dumping margins continue 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.

## 2. Magnitude of the Margin Likely to Prevail

### Interested Party Comments

The domestic interested party requests that the Department report to the ITC the antidumping duty margins that were determined in the investigation, as amended, in accordance with the Policy Bulletin. These rates are set forth in the “History of the Orders” section, above.<sup>27</sup>

### Department’s Position:

Normally, the Department will provide to the ITC the company-specific margin from the investigation for each company. See *Eveready Battery Co. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999). 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. See *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People’s Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (Dec. 5, 2006) (Hot-Rolled), and accompanying Issues and Decision Memorandum at Comment 2. The Department’s preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate

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<sup>27</sup> Regarding Taiwan, the domestic interested party states that the Department should report to the ITC the antidumping duty margins for Walsin Cartech Specialty Corp. and the “All-Others” rate that were determined in the investigation, as amended (i.e., 8.29 percent). However, the domestic interested party then lists the 8.24 percent margins from the final determination. See the July 31 response at 25. We believe that the 8.24 percent margins listed were typographical errors.

that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. See Hot-Rolled at Comment 2. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC. See section 752(c)(3) of the Act. See also Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands, 65 FR 65294 (Nov. 1, 2000), and accompanying Issues and Decision Memorandum at Comment 3.

Since the orders, the Department has conducted no administrative reviews of the antidumping duty orders on SSWR from Italy or Japan. Exports from Italy and Japan are also below pre-order levels. Therefore, the Department finds that it is appropriate to provide the ITC with the amended final determination rates from the LTFV investigation of SSWR from Italy and the final determination rates from the LTFV investigation of SSWR from Japan because these are the only calculated antidumping duty rates that exist.

We also find it appropriate to provide the ITC with the amended final determination rates from the LTFV investigations of SSWR from Korea, Spain, and Taiwan. Although administrative reviews have been conducted, exports from Taiwan are significantly below pre-order levels, while exports from Spain and Korea have ceased. This indicates that the order has imposed a discipline on exports. Thus, the amended final determination rates from the LTFV investigations reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place.

#### Final Results of Reviews

We determine that revocation of the antidumping duty orders on SSWR from Italy, Japan, Korea, Spain, and Taiwan 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>Italy</u>	
Cogne Acciai Speciali S.r.l.	11.25
All-Others Rate	11.25
<u>Japan</u>	
Daido Steel Co., Ltd.	34.21
Nippon Steel Corp.	21.18
Sanyo Special Steel Co., Ltd.	34.21
Sumitomo Electric Industries, Ltd.	34.21
All-Others Rate	25.26

Korea

Dongbang Special Steel Co., Ltd./Changwon Specialty Steel Co., Ltd./Pohang Iron and Steel Co., Ltd.	5.77
Sammi Steel Co., Ltd.	28.44
All-Others Rate	5.77

Spain

Roldan S.A.	2.71
All-Others Rate	2.71

Taiwan

Walsin Cartech Specialty Steel Corp.	8.29
All-Others Rate	8.29

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Recommendation

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

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

\_\_\_\_\_  
 John M. Andersen  
 Acting Deputy Assistant Secretary  
 for Antidumping and Countervailing Duty Operations

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 Date