

December 1, 2008

TO: David M. Spooner
Assistant Secretary
for Import Administration

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

RE: Issues and Decision Memorandum for the Final Results in the Expedited Sunset Review of the Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China

SUMMARY

We have analyzed the substantive response of the domestic interested parties in the sunset review of the antidumping duty order on certain cut-to-length carbon steel plate ("CTL plate") from the People's Republic of China ("PRC"). We recommend that you approve the positions we describe in this memorandum. Below is a complete list of issues in this sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping; and
2. Magnitude of the dumping margin likely to prevail.

History of the Order

On December 3, 1996, the Department initiated an antidumping duty investigation on CTL plate from the PRC.¹ On June 11, 1997, the Department preliminarily determined that CTL plate was being sold in the United States at less than fair value ("LTFV").² The Department and the Government of the PRC initialed a proposed agreement suspending the investigation on September 24, 1997. On October 24, 1997, the Department entered into an agreement with the Government of the PRC suspending the investigation.³ The Department published its final

¹ See Initiation of Antidumping Duty Investigations: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China, Ukraine, the Russian Federation, and the Republic of South Africa, 61 FR 64051 (December 3, 1996).

² See Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China, 62 FR 31972 (June 11, 1997).

³ See Suspension of Antidumping Duty Investigation: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China, ("Suspension Agreement") 62 FR 61773 (November 19, 1997).

determination of sales at LTFV in the Federal Register on November 20, 1997.⁴ On January 12, 1998, the Department amended the final determination of sales at LTFV. In the amended final determination, the Department calculated company-specific weighted average dumping margins ranging from 17.33 percent to 128.59 percent, and a PRC-wide rate of 128.59 percent.⁵

On January 8, 2003, the Department conducted a sunset review of the suspended antidumping duty investigation on CTL plate from the PRC where it determined that revocation of the suspended antidumping duty investigation would likely lead to continuation or recurrence of dumping.⁶ On September 4, 2003, the International Trade Commission (“ITC”) determined that termination of the agreements on CTL plate would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁷ On September 17, 2003, the Department announced the continuation of suspended antidumping duty investigations.⁸ Subsequent to the August 29, 2003, notification by the government of the PRC that it was withdrawing from the suspension agreement on CTL plate, the Department issued the antidumping order on CTL plate from the PRC on October 3, 2003.⁹

Since the issuance of the antidumping order, the Department has rescinded one administrative review¹⁰ and conducted one administrative review.¹¹ The Department is currently conducting a new shipper review for the period November 1, 2006 through October 31, 2007. The Department published the preliminary results on November 13, 2008.¹²

⁴ See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People’s Republic of China, 62 FR 61964 (November 20, 1997).

⁵ See Amended Final Determination of Sales at Less Than Fair Value: Certain Cut-to- Length Carbon Steel Plate From the People’s Republic of China, 63 FR 1821 (January 12, 1998).

⁶ See Cut-to-Length Carbon Steel Plate from the People’s Republic of China, the Russian Federation, and South Africa; Final Results of Expedited Sunset Review of Suspended Antidumping Duty Investigations, 68 FR 1038 (January 8, 2003).

⁷ See Cut-to-Length Carbon Steel Plate from China, Russia, and Ukraine; Investigations Nos. 731-TA-753-756 (Review), 68 FR 52614 (September 4, 2003)

⁸ See Continuation of Suspended Antidumping Duty Investigations: Cut-to-Length Carbon Steel Plate from the People’s Republic of China, the Russian Federation, and Ukraine, 68 FR 54417 (September 17, 2003)

⁹ See Suspension Agreement on Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China; Termination of Suspension Agreement and Notice of Antidumping Duty Order, 68 FR 60081 (October 21, 2003)

¹⁰ See Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China: Notice of Rescission of Antidumping Duty Administrative Review, 70 FR 44560 (August 3, 2005)

¹¹ See Cut-to-Length Carbon Steel Plate from the People’s Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 71 FR 75710, (December 18, 2006).

¹² See Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China: Preliminary Results of New Shipper Review, 73 FR 67124, (November 13, 2008).

Background

On August 1, 2008, the Department published the notice of initiation of the sunset review of the antidumping duty order on CTL plate from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”).¹³ On August 5, 2008, the Department received a notice of intent to participate from a domestic interested party, Nucor Corporation (“Nucor”). On August 15, 2008, the Department received a notice of intent to participate from SSAB North America Division (“SSAB NAB”), Evraz NA Oregon Steel Mills (“OSM”), and Evraz NA Claymont (“Claymont”), domestic interested parties. The Department received a notice of intent to participate from ArcelorMittal USA, a domestic interested party, on August 18, 2008. Submissions of the notices of intent to participate filed by Nucor, SSAB NAB, OSM, Claymont, and ArcelorMittal (collectively “domestic interested parties”) were within the deadline specified in section 19 C.F.R. 351.218(d)(1)(i) of the Department’s regulations. The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as domestic producers of CTL plate in the United States. On August 29, 2008, the Department received a substantive response from the domestic interested parties within the deadline specified in section 19 C.F.R. 351.218(d)(3)(i) of the Department’s regulations. We did not receive responses from any respondent interested parties to 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 determined to conduct an expedited review of the order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted a sunset review to determine whether revocation of the antidumping duty order 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 investigation 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 order. In addition, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments made by the domestic interested parties in this proceeding.

1. Likelihood of continuation or recurrence of dumping

Interested Party Comments

The domestic interested parties argue that the imposition of antidumping measures directly impacted the level of imports of subject merchandise from the PRC by causing the volume of subject imports to decline significantly. The domestic interested parties contend that the decrease of imports of the subject merchandise from the PRC into the United States indicates a strong likelihood of a recurrence of dumping should the antidumping order be revoked.

¹³ See Initiation of Five-year (“Sunset”) Review, 73 FR 44968 (August 1, 2008).

Department Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”),¹⁴ the Department normally determines 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.¹⁵ In this case, the Department found dumping at above *de minimis* levels in the original antidumping duty investigation of CTL plate from the PRC, as well as in the subsequent administrative reviews it has conducted since the original antidumping duty investigation.¹⁶

Consistent with section 752(c)(1)(B) of the Act, the Department also considers the volume of imports of subject merchandise before and after issuance of the order or acceptance of the suspension agreement. Using statistics provided by the ITC Trade DataWeb, the Department finds that imports of CTL plate from the PRC dramatically decreased in 1997 from the prior year, when the Department published the suspension agreement. Import volumes fluctuated during the years 1998 through 2000 but remained at levels significantly below those experienced before the suspension agreement. Since 2000, and subsequent to the publication of the order in 2003, import volumes have declined even more significantly and have remained at levels far below the volume imported before the issuance of the suspension agreement. See import statistics provided at Attachment 1.¹⁷

Not only have imports from the PRC decreased since the suspension agreement and subsequent order, but companies have also continued to dump with the discipline of an order in place. The Department finds that the existence of dumping margins even with an order in place is highly probative of the likelihood of continuation or recurrence of dumping, if the order were to be revoked. Therefore, the Department determines that dumping would likely continue or recur if the order were revoked.

¹⁴ See, e.g., SAA accompanying the URAA, H.R. Doc. No. 103-316, vol. 1, 889 (1994); House Report, H. Rep. No. 103-826, pt. 1 (1994); and Senate Report, S. Rep. No. 103-412 (1994).

¹⁵ See, e.g., Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at comment 1; see also, Pure Magnesium in Granular Form from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 72 FR 5417 (February 6, 2007), and accompanying Issues and Decision Memorandum at comment 1.

¹⁶ See Cut-to-Length Carbon Steel Plate from the People’s Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 71 FR 75710, (December 18, 2006).

¹⁷ The Department ran a query using the following the HTS categories: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. The Department’s analysis of import trends is based on the aggregate data contained in these categories as shown in Attachment I.

2. Magnitude of the Margins Likely to Prevail

Interested Party Comments

The domestic interested parties argue that, consistent with the Department's normal practice, the Department should find that the magnitude of the margin of dumping that is likely to prevail is identical to the margins determined to exist in the original investigation.

Department Position

Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Normally, the Department will select a margin from the final determination in the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.¹⁸ Furthermore, pursuant to section 752(c)(4)(A), a dumping margin of "zero or *de minimis* shall not by itself require" that the Department determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at less than fair value. The Department continues to find that the margins calculated in the original investigation are the best indication of the margins likely to prevail if the order were revoked, because they are the only calculated rates without the discipline of an order in place.

Therefore, consistent with section 752(c)(3) and section 752(c)(4)(A) of the Act, the Department will report to the ITC the corresponding individual company rates and the PRC-wide rate from the original investigation as noted in the "Final Results of Review" section, below.

Final Results of Review

We determine that revocation of the antidumping duty order on CTL plate from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

¹⁸ See Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at comment 2.

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
Anshan (Anshan Iron and Steel Complex/Anshan International Trade Corp./Sincerely Asia Ltd.)	30.68
Baoshan (Baoshan Iron and Steel Corp./Baoshan International Trade Corp./Bao Steel Metals Trading Corp.)	30.51
China Metallurgical Import and Export Liaoning Co.	17.33
Shanghai Pudong Iron and Steel Co.	38.16
WISCO (Wuhan Iron and Steel Co./International Economic and Trading Corp./Cheerwu Trader Ltd.)	128.59
PRC-Wide	128.59

Recommendation

Based on our analysis of the substantive response received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this sunset review in the Federal Register.

David M. Spooner
Assistant Secretary
for Import Administration

(date)

Attachment I

**Imports of CTL Plate to the United States from the PRC
United States International Trade Commission DataWeb**

**CTL Steel: First Unit of Quantity by Customs Value
for PRC**

U.S. Imports for Consumption

Annual Data



	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
TOTAL	<i>In Actual Units of Quantity</i>											
First Unit of Quantity where quantities are collected in kilograms												
TOTAL	273,657,291	148,350,974	140,573,977	23,731,057	137,100,388	83,017,486	28,248,282	5,476,223	1,263,744	2,572,513	3,731,323	3,132,958

Sources: Data on this site have been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.