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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 for the Expedited Sunset
Reviews of the Antidumping Duty Orders on Certain Small
Diameter Seamless Carbon and Alloy Steel Standard, Line
and Pressure Pipe from Argentina, Brazil, and Germany;
Final Results

SUMMARY

We have analyzed the substantive responses of interested parties in the expedited sunset reviews of the antidumping duty orders covering certain small diameter seamless carbon and alloy steel standard, line and pressure pipe (“seamless line pipe”) from Argentina, Brazil, and Germany. We recommend that for our final results you approve the positions we have developed in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues in these expedited sunset reviews for which we received substantive responses by parties:

1. Likelihood of continuation or recurrence of dumping
 - Weighted-average dumping margin
 - Volume of imports
2. Magnitude of the margin likely to prevail
 - Margins from investigation
 - Use of a more recent margin

HISTORY OF THE ORDERS

The Department of Commerce (“the Department”) published its antidumping duty orders in the *Federal Register* with respect to imports of seamless line pipe from Argentina, Brazil, and Germany at the following rates:¹

Argentina

Siderca SAIC	108.13
All Other Argentinean Manufacturers and Exporters	108.13

Brazil

Mannesmann S.A.	124.94
All Other Brazilian Manufacturers and Exporters	124.94

Germany

Mannesmannrohren-Werke AG	57.72
All Other German Manufacturers and Exporters	57.72

On July 3, 2000, the Department initiated sunset reviews of the antidumping duty orders on seamless line pipe for Argentina, Brazil, Germany and Italy. *See Notice of Initiation of Five-Year (“Sunset”) Reviews*, 65 FR 41053 (July 3, 2000). The Department published the final results of these reviews on November 7, 2000, as noted below in each country section.

On June 29, 2001, the International Trade Commission (“the ITC”), pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”), determined that revocation of the antidumping duty order on seamless line pipe from Argentina, Brazil, and Germany would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The ITC further determined that revocation of the antidumping duty order on seamless line pipe from Italy would not be likely to lead to continuation or recurrence of material injury.² *See* USITC Publication 3429 (June 2001), Investigations Nos. 701-TA-362 and 731-TA-707-710 (Review). Accordingly, the Department published a notice of continuation of the antidumping duty orders on seamless line pipe from the countries listed above, pursuant to 19 CFR 351.218(f)(4). *See Continuation of Antidumping Duty Orders: Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil, and Germany*, 66 FR 37004 (July 16, 2001) (“Continuation Notice”).

¹ *See Notice of Antidumping Duty Order: Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina*, 60 FR 39708 (August 3, 1995); *Notice of Antidumping Duty Order and Amended Final Determination: Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Brazil*, 60 FR 39707 (August 3, 1995); and *Notice of Antidumping Duty Order and Amended Final Determination: Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Germany*, 60 FR 39704 (August 3, 1995).

² Following the ITC’s negative finding of likelihood of continuation of dumping with regard to imports of seamless line pipe from Italy, the Department revoked the order on seamless line pipe from Italy in accordance with section 751(d)(2) of the Act, and 19 CFR 351.222(i)(2)(i), effective August 3, 2000. *See Revocation of Antidumping and Countervailing Duty Orders: Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Italy*, 66 FR 36999 (July 16, 2001).

Argentina

During the first-five year review period, no administrative reviews were conducted. As a result of the first sunset review, pursuant to sections 751(c) and 752 of the Act, the Department determined that revocation of the antidumping duty order on seamless line pipe from Argentina would likely lead to continuation or recurrence of dumping. *See Final Results of Expedited Sunset Reviews: Seamless Pipe from Argentina, Brazil, Germany, and Italy*, 65 FR 66708 (November 7, 2000).

Since the final results of the first sunset review, the Department has completed no administrative reviews of seamless line pipe from Argentina. United States Steel Corporation (“US Steel”), a domestic interested party, had requested an administrative review of Siderca SAIC (“Siderca”) for the period August 2004 through July 2005. On November 7, 2005, Siderca certified that neither it nor its U.S. affiliate, Tenaris Global Services U.S.A. Corporation, had made any shipments or entries for consumption in the United States of subject merchandise during the period of review. On December 15, 2005, based on Siderca’s statement and on an internal Customs data query to confirm Siderca’s claim that it did not export subject merchandise to the United States during the 2004-2005 period, the Department rescinded the administrative review. *See Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina: Notice of Rescission of Antidumping Duty Administrative Review*, 70 FR 74292, 74293 (December 15, 2005).

Brazil

On July 3, 2000, the Department initiated the first sunset review of the antidumping duty order on seamless line pipe from Brazil pursuant to section 751(c) of the Act. Prior to the first sunset review, no administrative reviews were conducted. As a result of the first sunset review, pursuant to sections 751(c) and 752 of the Act, the Department determined that revocation of the antidumping duty order on seamless line pipe from Brazil would likely lead to continuation or recurrence of dumping. *See Final Results of Expedited Sunset Reviews: Seamless Pipe from Argentina, Brazil, Germany, and Italy*, 65 FR 66708 (November 7, 2000).

Since the final results of the first sunset review, there have been two administrative reviews of seamless line pipe from Brazil covering the periods of 2002-2003 and 2003-2004. In the 2002-2003 administrative review, the Department calculated a margin of 12.67 percent for V & M do Brasil, S.A. (“VMB”).³ In the administrative review covering the period of 2003-2004, the Department calculated a margin of 14.60 percent for VMB.⁴

Germany

During the first five-year review period, the Department conducted one administrative review of the order on seamless line pipe from Germany for the period 1995-1996, for one company, Mannesmannrohren-Werke AG (“Mannesmann”). The

³ In 2000, V & M do Brasil S.A. became the successor to Mannesmann S.A. *See Notice of Final Results of Antidumping Duty Administrative Review: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Brazil*, 70 FR 7243, 7244 (February 11, 2005).

⁴ *See Notice of Final Results of Antidumping Administrative Review: Small Diameter Circular Seamless Carbon and Alloy Steel Standard Line and Pressure Pipe from Brazil*, 70 FR 60282 (October 17, 2005).

Department calculated a margin of 21.94 percent.⁵ Following a decision from the Court of International Trade (“CIT”) in 2001, the Department amended the margin to 20.08 percent.⁶ As a result of the first sunset review, the Department determined that revocation of the antidumping duty order on seamless line pipe from Germany would likely lead to continuation or recurrence of dumping, reporting rates of 57.72 percent for Mannesmann and all-other manufacturers/exporters. *See Final Results of Expedited Sunset Reviews: Seamless Pipe from Argentina, Brazil, Germany, and Italy*, 65 FR 66708 (November 7, 2000); *see also Continuation Notice*.

Since the final results of the first sunset review, the Department has initiated one administrative review of seamless line pipe from Germany for the period 2004-2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 56631 (September 28, 2005). The review was timely requested by a domestic interested party, US Steel, for four German manufacturers/exporters of seamless line pipe: Vallourec & Mannesmann Tubes - V&M Deutschland GmbH (the successor to Mannesmann), Mannesmann Pipe & Steel Corporation, Benteler Stahl/Rohr GmbH (“Benteler Stahl”), and Benteler Steel and Tube Corporation (“BST”). However, US Steel withdrew its request for review and as there were no other requesting parties involved with the review, the administrative review was rescinded. *See Rescission of Antidumping Duty Administrative Review: Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Germany*, 70 FR 76773 (December 28, 2005). There have been no further segments conducted for this proceeding.

BACKGROUND

On June 1, 2006, the Department initiated sunset reviews of the antidumping duty orders on seamless line pipe from Argentina, Brazil, and Germany, pursuant to section 751(c) of the Act. *See Initiation of Five-Year (“Sunset”) Reviews*, 71 FR 31153 (June 1, 2006). The Department invited parties to comment.

The Department received notices of intent to participate from the following domestic interested parties: US Steel and Koppel Steel Corporation (“Koppel Steel”) (collectively, “domestic interested parties”) 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 a domestic like product. The Department received comments from US Steel and Koppel Steel on July 3, 2006. The Department did not receive substantive responses to the notice of initiation from any respondent interested parties, except as described below. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these orders.

⁵ *See Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Germany: Amendment of Final Results of Antidumping Duty Administrative Review*, 63 FR 20579 (April 27, 1998).

⁶ *See Small Diameter Circular Seamless Carbon and Alloy Steel Standard Line and Pressure Pipes From Germany; Notice of Amended Final Results of Antidumping Duty Administrative Review in Accordance With Final Court Decision*, 66 FR 12465 (February 27, 2001).

Germany

On July 3, 2006, the Department received notice of intent to participate and a substantive response from one German manufacturer/exporter, Benteler Stahl, and its U.S. affiliate, BST, pursuant to 19 CFR 351.218(d)(4). Benteler Stahl claims that BST, the U.S. affiliate, did not import subject merchandise into the United States during the five years preceding the publication of the notice of initiation of these sunset reviews, nor during the calendar year prior to the year of initiation of the antidumping investigation (*i.e.*, 1994). On July 14, 2006, Benteler submitted its rebuttal to the domestic interested parties' substantive response. Domestic interested parties also filed a rebuttal submission on July 14, 2006, stating that Benteler Stahl and BST failed to show that they accounted for 50 percent or more of total exports of subject merchandise to the United States during the five years prior to the initiation of these sunset reviews. The domestic interested parties further argued that because no additional substantive responses were received by the Department with regard to the German sunset review of seamless line pipe, the Department must find that Benteler Stahl's submission is inadequate, and, as such, the Department should conduct an expedited sunset review.

Section 751(c)(3)(B) of the Act provides that if the Department receives inadequate responses from the respondent interested parties, the Department will conduct an expedited sunset review. The Department determined that Benteler and BST failed to show that they account for 50 percent or more of total exports of subject merchandise to the United States during the five years preceding the year of the initiation of these sunset reviews. Furthermore, the Department determined that there was no indication that Benteler had exported subject merchandise during this sunset period, and that the company did not provide import volume data in their July 3, 2006, response. Thus, the Department determined that, Benteler Stahl's response being inadequate, it would issue the final results for an expedited sunset review not later than 120 days after the date of the publication in the *Federal Register* of the notice of initiation. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, through Richard O. Weible, Office Director, from Dena M. Crossland, Import Compliance Specialist, dated July 21, 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 these antidumping duty orders would likely lead to the 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 periods after the issuance of the antidumping duty order. 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 likely lead to a continuation or recurrence of dumping by the Argentinean, Brazilian and German manufacturers, producers, and exporters of the subject merchandise due to continued or resumed dumping. *See* Substantive Response of Domestic Interested Parties for Argentina, July 3, 2006 (“Substantive Response for Argentina”); Substantive Response of Domestic Interested Parties for Brazil, July 3, 2006 (“Substantive Response for Brazil”); Substantive Response of Domestic Interested Parties for Germany, July 3, 2006 (“Substantive Response for Germany”). *See also*, Response of Respondent Interested Parties for Germany, July 3, 2006 (“Respondent Response for Germany”); Rebuttal Response of Domestic Interested Parties, July 14, 2006 (“Domestic Rebuttal for Germany”); Rebuttal Response of Respondent Interested Parties, July 14, 2006, (“Respondent Rebuttal for Germany”). The domestic interested parties contend that the dumping margins remain at above *de minimis* levels for all manufacturers, producers, and exporters of the subject merchandise, as described below.

Argentina

Domestic interested parties argue that dumping of seamless line pipe from Argentina is likely to continue or recur if the order is revoked. According to domestic interested parties, since the imposition of the order, dumping in excess of a *de minimis* level has continued, and import volumes of the subject merchandise decreased significantly. Domestic parties state that no administrative reviews have been completed since the order was issued, and the 108.13 percent dumping margin in the original investigation is the margin in effect for all Argentine producers of the subject merchandise. Domestic parties argue that the 108.13 percent dumping margin is the only evidence in this proceeding of the level of dumping of seamless line pipe from Argentina. Domestic interested parties state that in other sunset reviews, the Department determined that dumping continued at a margin equal to the cash deposit rate where no administrative reviews had been conducted. *See Certain Helical Spring Lock Washers from the People’s Republic of China and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 27227 (May 10, 2006) and accompanying Issues and Decision Memorandum at Comment 8; *see also Grain-Oriented Electric Steel From Italy and Japan: Final Results of Expedited Sunset Reviews of Antidumping Duty Orders*, 65 FR 41433 (July 5, 2000) and accompanying Issues and Decision Memorandum at Comment 5.

Regarding import volumes, domestic parties refer to Bureau of the Census IM-145 import data at page 10 of their July 3, 2006, submission (“Substantive Response for Argentina”), and argue that post-order shipments of seamless line pipe from Argentina dropped to a range of only 3.42 percent to 17.64 percent of the pre-order level. Domestic interested parties state that Siderca is the only Argentine producer of seamless line pipe, and during the period of August 2004 through July 2005, the Department found that Siderca made no shipments of subject merchandise to the United States. Domestic interested parties conclude that imports of subject merchandise ceased after the order was entered and that Census statistics are overstated. Domestic interested parties maintain

that the cessation of imports following entry of the order underscores the fact that Argentine producers and exporters simply cannot export subject merchandise to the United States without dumping.

Brazil

In its substantive response, domestic interested parties argue that the revocation of the antidumping duty order on seamless line pipe from Brazil would result in continued dumping margins above *de minimis*. See Substantive Response for Brazil at 8.

According to domestic interested parties, the Department found dumping margins above *de minimis* during the two administrative reviews following the first sunset review, which, domestic parties argue, on its own is a sufficient basis for the Department to conclude that dumping is likely to occur in the absence of the order. *Id.*

Domestic interested parties further contend that the Department's practice is not to revoke an order if import volumes have declined significantly. See *Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18872 (April 16, 1998) ("Policy Bulletin"). Domestic interested parties state that after the imposition of the order, Brazilian shipments of seamless line pipe declined substantially, arguing that post-order shipments dropped to a range of 0.02 percent to 70.61 percent of the pre-order level. *Id.* Domestic interested parties contend that these significantly lower import volumes underscore the fact that Brazilian exporters cannot export seamless line pipe to the United States without dumping. Domestic interested parties argue that this steep decline in imports warrants continuation of the order. See Substantive Response for Brazil at 8-10.

Germany

Domestic interested parties argue that dumping of seamless line pipe from Germany is likely to continue or recur if the order is revoked. According to domestic interested parties, since the imposition of the order, dumping in excess of a *de minimis* level has continued, and import volumes of the subject merchandise decreased significantly. As outlined above, the Department completed one administrative review of the order on seamless pipe from Germany for the period 1995-1996, calculating a rate (following an amendment to the final results margin on remand) of 20.08 percent. The Department found at the final results of the first five-year sunset review period that dumping would be likely to continue or recur if the order on seamless pipe was revoked, and the Department reported rates of 57.72 percent for Mannesmann and the rate of 57.72 percent from the investigation as the rate in effect for all German manufacturers of seamless line pipe, thus continuing the order.

Domestic parties argue that the rate of 20.08 percent from the 1995-1996 administrative review is the only rate calculated and published by the Department since the investigation, and that the continued existence of an above *de minimis* margin is a sufficient basis for the Department to conclude that dumping would be likely to continue should the order on seamless line pipe be revoked. Regarding import volumes, domestic parties refer to Bureau of the Census IM-145 import data at page 9 of their July 3, 2006, submission ("Substantive Response for Germany"), and argue that post-order shipments of seamless line pipe from Germany dropped to a range of 18.33 percent to 42.46 percent of the pre-order level, a reduction which, in itself, warrants continuation of the order.

In its rebuttal response dated July 14, 2006, Benteler Stahl argues that the factual bases of the Department's findings at the original investigation and the 1995-1996 review are poor indicators of the likelihood of continued dumping, as 1) both the investigation and review covered only a single German producer, Mannesmann, which is now under new ownership, and 2) none of the findings from either the investigation or the review are relevant to the actual business situation today. Benteler Stahl argues that the margin from the investigation (*i.e.*, 57.72 percent) was reduced substantially following the final results of the 1995-1996 administrative review (*i.e.*, 20.08 percent). Moreover, Benteler Stahl argues that neither of the two rates established are reflective of Benteler Stahl's business practice, as Benteler Stahl was never investigated or reviewed and, furthermore, reportedly made no shipments of subject merchandise to the United States during the year preceding the investigation, and the five years preceding this sunset review. With regard to the import volumes provided by the domestic interested parties, Benteler Stahl states that the volumes do not provide an accurate picture of the volumes of seamless line pipe imported from Germany following the imposition of the antidumping duty order, as the reported volumes include mechanical tubing and hollows for redrawing, two categories of pipe excluded from the scope of the order.

Department's Position

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the 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. In addition, the Department normally will determine that revocation of an 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 an order and import volumes for the subject merchandise declined significantly. In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considered the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order.

Using import trade statistics from the IM-145 reports from the U.S. Census Bureau, and the ITC Interactive Tariff and Trade Data Web ("USITC DataWeb"), the Department compared import volumes for the period before and after the period following the imposition of the antidumping duty orders, to import volumes covering the period 2001 through 2005, the years following the first sunset review. *See* Memorandum to the File from Dena Crossland, Patrick Edwards, and David Kraus, Case Analysts, through Abdelali Elouaradia, Program Manager, regarding the "Import Volumes for the Final Results of Expedited Five-Year (Sunset) Reviews of the Antidumping Duty Orders on Seamless Standard, Line and Pressure Pipe from Argentina, Brazil, and Germany," dated September 29, 2006 ("Import Volumes Memo"). We note that import volumes for all countries continue to be well below pre-initiation levels, and are inclusive of seamless pipe not covered by these antidumping duty orders.

In the first sunset review, the Department made an affirmative likelihood determination for these antidumping duty orders and continued these orders based on the

ITC's affirmative injury determination. *See* Continuation Notice. No party challenged these determinations. Collection and assessment of dumping duties on entries of subject merchandise continue. Also, in subsequent administrative reviews of certain orders, the Department has found margins above *de minimis* levels. On the basis of the information on the record, we find that dumping would be likely to continue or recur if the antidumping duty orders were revoked.

Below is the Department's analysis for each country:

Argentina

The Department has not conducted any administrative reviews of the antidumping duty order on seamless line pipe from Argentina during the period at issue for this sunset review. However, the Department determined rates above *de minimis* for all Argentine producers and exporters in the first sunset review. Cash deposit rates above *de minimis* remain in effect for all imports of seamless line pipe from Argentina, and no respondent interested party has sought to change these rates by requesting an administrative review since the first sunset review. Furthermore, using data from the USITC DataWeb, the Department finds that imports of seamless line pipe ranged from 3,931 short tons to 9,909 short tons during the period at issue for the current sunset review (2001-2005). This is in contrast to pre-order volumes of 27,319 short tons and 31,528 short tons, respectively, in 1993 and 1994. *See* Import Volumes Memo.

The SAA provides that 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 because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes. *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 order were removed. *See* SAA at 889-890.

No factual information has been put on the record to show that revocation would not lead to a recurrence of dumping. Because above *de minimis* cash deposit rates remain in effect and import volumes have declined substantially since the imposition of the order, the Department determines that dumping would be likely to continue or recur if the order were revoked.

Brazil

The Department has completed two administrative reviews since the first sunset review. Cash deposit rates remain above *de minimis*, with an effective rate of 124.94 percent for all Brazilian manufacturers/exporters, with the exception of VMB, for which the Department calculated a rate of 14.60 percent in the 2003-2004 administrative review. Using statistics provided by the USITC DataWeb, the Department finds that pre-order import quantities of seamless line pipe from Brazil totaled 23,988 short tons in 1993, and 8,189 short tons in 1994. Import volumes were substantially lower in 2001, 2002, 2003, and 2005, ranging from 42 short tons to 3,960 short tons; however, in 2004 import volumes equaled 9,682 short tons. *See* Import Volumes Memo.

The SAA provides that the existence of dumping margins after the order, or the cessation of imports after the order, is highly probative of the likelihood of continuation

or recurrence of dumping should the order be revoked. *See* SAA at 889-890. Import volumes have fluctuated during the period 2001-2005; in some years during that period, import volumes were significantly lower than pre-order volumes, while in other years import volumes approximated pre-order volumes. Thus, on the basis of above *de minimis* cash deposit rates and significantly decreased import volumes for certain years, the Department determines that dumping is likely to continue or recur if the order on seamless line pipe from Brazil is revoked.

Germany

The Department determined rates to be above *de minimis* for all German producers and exporters at the final results of the first sunset review. Furthermore, using data from the USITC DataWeb, the Department finds that imports of seamless line pipe ranged from 17,779 short tons to 29,535 short tons during the period at issue for the current sunset review (2001-2005). This is in contrast to pre-initiation volumes of 27,929 short tons and 36,395 short tons, respectively, in 1993 and 1994. *See* Import Volumes Memo.

According to domestic interested parties, imports following issuance of the order ranged from only 18.33 percent to 42.46 percent of the pre-initiation level. *See* Substantive Response for Germany at 10. To provide evidence for its claim of decreasing import volumes, domestic interested parties provided import volumes of the subject merchandise under the appropriate Harmonized Tariff Schedule subheadings. *See id.* at 8-10 (based on U.S. Department of Commerce, Bureau of the Census, Imports for Consumption, IM-145). However, the HTSUS categories for seamless line pipe, within the context of these sunset reviews is a basket category and does not disaggregate pipe from mechanical tubing, and therefore, contains import volume data which may in-part be comprised of non-subject merchandise.

The SAA provides that 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 because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes. *See* SAA at 890. In the case of Argentina and Brazil, a discernable decline in imports is evident, despite the basket category classification of the HTSUS under which seamless line pipe falls. For Germany, however, the volume of imports under the HTSUS subheadings does not provide a clear indication that imports of subject-merchandise seamless line pipe declined or increased with any consistency since the issuance of the antidumping order. *See* Import Volumes Memo. However, the continued existence of above *de minimis* margins with regard to imports of seamless line pipe from Germany indicates that dumping would recur or continue if the order were revoked. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the order were removed. *See* SAA at 889-890. *See* section on “Magnitude of the Margin Likely to Prevail: Germany” below for further discussion.

No factual information has been put on the record to show that revocation would not lead to a recurrence of dumping. Because above *de minimis* cash deposit rates remain in effect, the Department determines that dumping would be likely to continue or recur if the order were revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

Argentina

Domestic interested parties contend that in accordance with the legislative history and the Department's normal practice, the Department should find the magnitude of the margin of dumping to be equal to the rates determined to exist in the original investigation. *See* Substantive Response for Argentina at 11.

Brazil

Domestic interested parties argue that the dumping margins currently in place would likely prevail if the order were revoked. *See* Substantive Response for Brazil at 10. Domestic interested parties cite the Policy Bulletin (63 FR 18873) and the SAA at 890, stating that the Department "will normally select a margin from the investigation, because that is the only calculated rate that reflects the behavior of the exporters... without the discipline of an order in place." Accordingly, domestic interested parties contend that the current margin of 124.94 percent for VMB and all-other Brazilian manufacturers/exporters of subject merchandise should be reported to the ITC as the margin likely to prevail were the order to be revoked.

Germany

Domestic interested parties argue that, in accordance with the legislative history and the Department's normal practice, the Department should find the magnitude of the margin of dumping to be equal to the rates determined to exist in the original investigation.⁷ *See* Substantive Response for Germany at 10. Benteler Stahl contends that the statute does not limit the Department to the margin calculated in the original investigation when determining the likelihood of continuation or recurrence of dumping, but rather indicates that "a more recently calculated rate may be more appropriate." *See* Respondent Rebuttal for Germany at 3. *See also* section 752(c)(1) of the Act; SAA, at 890-91.

Benteler Stahl also states that the rate from the investigation is not reflective of the business practices of Benteler Stahl or BST and would, therefore, be inappropriate for the Department to report a margin from the investigation as the margin likely to prevail.

Department's Position

Section 752(c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. The Department normally will select a margin from the final determination of the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. *See* SAA at 890; and the House Report at 64. For companies not investigated specifically or for companies that did not begin

⁷ Domestic interested parties cite specifically to the Policy Bulletin, 63 FR at 18873, which states that the Department will "{normally} select a margin from 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."

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.

The Department must determine the appropriate rates to report to the ITC for seamless line pipe from Argentina, Brazil, and Germany. Below is the Department’s analysis for each country:

Argentina

In the final determination of the first sunset review of seamless line pipe from Argentina, the Department determined that the margins calculated in the original investigation were probative of the behavior of Argentine producers and exporters. The Department has not conducted any administrative reviews of seamless line pipe from Argentina since the first sunset review. The Department finds that the margins calculated in the original investigation are probative of the behavior of all Argentine producers and exporters because these are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Therefore, the Department finds that margins from the original investigation are the appropriate margins to report to the ITC. Consistent with section 752(c) of the Act, the Department will report to the ITC the company-specific and “all others” rates from the investigation as indicated in the “Final Results of the Review” section of this memorandum below.

Brazil

Since the first sunset review, there have been two administrative reviews of the order on seamless line pipe from Brazil, which have resulted in margins of 12.67 percent and 14.60 percent. The Department continues to find that the margins calculated in the original investigation are probative of the behavior of all Brazilian producers and exporters because these are the only rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Thus, the Department finds that the margins from the original investigation are the appropriate margins to report to the ITC. Consistent with section 752(c) of the Act, the Department will report to the ITC company-specific and “all others” rates from the investigation as indicated in the “Final Results of Review” section of this memorandum below.

Germany

With regard to seamless line pipe from Germany, the Department has conducted one administrative review since the imposition of the order, resulting in a margin of 20.08 percent. The Department has not conducted a review of the order on seamless line pipe from Germany since the completion of the first sunset review. The Department continues to find that the margins in the original investigation are probative of the behavior of all German producers and exporters because these are the only rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place.

Additionally, the most recently completed and only review of seamless line pipe from Germany (*i.e.*, 1995-1996) yielded an above *de minimis* margin of 20.08 percent. Moreover, an above *de minimis* cash deposit rate remains in effect for all German manufacturers of seamless line pipe.

With regard to Benteler Stahl's contention that the rates established at the investigation do not accurately reflect the business practices of Benteler Stahl or BST, the company is not in a position to determine the appropriate rates for German companies because, by its own admission, it did not sell subject merchandise during this sunset period. In addition, it is the Department's responsibility in making its likelihood determination and in determining rates, to evaluate both criteria of the sunset review on an order-wide basis, not a company-specific basis. Thus, the Department finds that the margins from the original investigation are the appropriate margins to report to the ITC. Consistent with section 752(c) of the Act, the Department will report to the ITC the company-specific and "all others" rates from the investigation as indicated in the "Final Results of Review" section of this memorandum.

FINAL RESULTS OF REVIEWS

As a result of these reviews, the Department determines that revocation of the antidumping duty orders 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>Argentina</u>	
Siderca S.A.	108.13
All Other Argentinean Manufacturers and Exporters	108.13
<u>Brazil</u>	
Vallourec and Mannesmann do Brasil, S.A.	124.94
All Other Brazilian Manufacturers and Exporters	124.94
<u>Germany</u>	
Vallourec & Mannesmann Tubes - V&M Deutschland GmbH	57.72
All Other German Manufacturers and Exporters	57.72

RECOMMENDATION

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

AGREE_____

DISAGREE_____

Stephen J. Claeys
Acting Assistant Secretary
for Import Administration

Date