

MEMORANDUM TO: James J. Jochum
Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of
the Antidumping Duty Order Certain Hot-Rolled Flat-Rolled Carbon-
Quality Steel Products from Brazil; Final Results

SUMMARY:

We have analyzed the substantive responses of the interested parties participating in the first sunset review of the antidumping duty order on certain hot-rolled flat-rolled carbon-quality steel products (“hot-rolled steel”) from Brazil. We recommend that 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 this expedited sunset review for which we received comments by the domestic interested parties. Respondent interested parties did not comment.

1. Likelihood of Continuation or Recurrence of Dumping

- A. Volume of imports
- B. Weighted-average dumping margins

2. Magnitude of the Margin Likely to Prevail

- A. Margins from the investigation

History of the Antidumping Duty Order

On October 22, 1998, the Department of Commerce (“the Department”) initiated an antidumping duty investigation on hot-rolled steel from Brazil to determine whether hot-rolled steel was being, or was likely to be sold in the United States at less than fair value (“LTFV”). See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan, and the Russian Federation, 63

FR 56607 (October 22, 1998)(“Initiation of Investigation”)

On July 6, 1999, the Department and Brazilian producers Compenhia Siderurgica Nacional (“CSN”), Usinas Siderurgicas De Minas Gerais (“USIMINAS”) and Companhia Siderurgica Paulista (“COSIPA”) signed an Antidumping Duty Suspension Agreement (“Agreement”) on hot-rolled steel from Brazil. See Suspension of Antidumping Duty Investigation: Hot-Rolled Flat-Rolled Carbon-Quality Steel Product from Brazil, 64 FR 38792 (July 19, 1999)(Appendix 1). The Department also continued the investigation at the request of the petitioners, and on July 6, 1999, the Department issued its final determination that imports of subject merchandise were being, or were likely to be sold in the United States at less than fair value. See Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil; Notice of Final Determination of Sales at Less than Fair Value, 64 FR 38756 (July 19, 1999) and, as amended, Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Notice of Amended Final Determination of Antidumping Duty Investigation, 64 FR 42908 (August 6, 1999) (“Amended Final”). The International Trade Commission (“ITC”) also continued its investigation and issued a final affirmative investigation determination.

The Department initiated an administrative review to review the status of, and compliance with, the terms of the Agreement at petitioners request. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 65 FR 53980 (September 6, 2000) (“Initiation Notice”). The Department published preliminary results of the administrative review on August 8, 2001. On February 11, 2002, the Department published the final results of this review and terminated the Agreement. See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Product From Brazil; Final Results of Antidumping Duty Administrative Review and Termination of the Suspension Agreement, 67 FR 6226 (“Administrative Review and Termination of Agreement”). The effective date of the antidumping duty order is November 13, 2001, 90 days before the date of publication of the notice of suspension of liquidation. Because the suspension agreement was terminated, and based on the Department’s and ITC’s original affirmative final determination, the Department issued an antidumping duty order on hot-rolled-steel products from Brazil on March 12, 2002. The effective date of the antidumping duty order is November 13, 2001, 90 days before the date of publication of the notice of suspension of liquidation. See Antidumping Duty Order: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, 67 FR 11093 (March 12, 2002). In the order, and based on its final determination, the Department determined the following rates:

Manufacturers/Exporters/Producers	Weighted-Average Margin (%)
Compenhia Siderurgica Nacional (CSN)	41.27
Usinas Siderurgicas De Minas Gerais (USIMINAS)/	43.40

Companhia Siderurgica Paulista (COSIPA)	43.40
"All Others"	42.12

On July 31, 2001, domestic producers, Bethlehem Steel Corporation, LTV Steel Company Inc., National Steel Corporation, and United States Steel, LLC, requested an administrative review of hot-rolled steel from Brazil. The Department published in the Federal Register, a notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 66 FR 43570 (August 20, 2001). However, the domestic producers withdrew their request for review and the Department subsequently rescinded the review. See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil; Rescission of Administrative Review of the Agreement Suspending the Antidumping Duty Investigation, 67 FR 11463 (March 14, 2002). On April 28, 2004, the Department initiated an administrative review at the request of CSN. Final results of this review are due on March 31, 2005.

The antidumping duty order on hot-rolled steel from Brazil remains in effect for CSN, USIMINAS, COSIPA, and for all other Brazilian manufacturers, producers, and exporters of hot-rolled steel.

Background

On May 3, 2004, the Department initiated the first sunset review of the antidumping duty order on hot-rolled steel products from Brazil in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”). See Initiation of Five-year (“Sunset”) Reviews, 69 FR 24118 (May 3, 2004).

Within the deadline specified in section 351.218(d)(1)(i) of the Department’s regulations, the Department received notices of intent to participate on behalf of Nucor Corporation (“Nucor”), United States Steel Corporation (“U.S. Steel”), International Steel Group, Inc. (“ISG”), Gallatin Steel Company (“Gallatin”), IPSCO Steel Inc. (“IPSCO”), Steel Dynamics, Inc. (“SDI”) and Ispat Inland Inc. (a division of Ispat Inland Flat Products)(collectively “domestic interested parties”).¹ The domestic interested parties claimed interested-party status as producers of subject merchandise in the United States as defined by section 771(9)(C) of the Act. The Department received complete substantive responses from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department’s regulations. The Department received no responses from respondent interested

¹ Gallatin, IPSCO, SDI, U.S. Steel and Ispat Inland Inc. were petitioners in the original investigation. ISG was formed in 2002 and is the successor company to petitioners LTV Steel Company and Bethlehem Steel Corporation and is a domestic producer of subject merchandise. Nucor is also a domestic interested producer of subject merchandise.

parties. 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 conducted an expedited, 120-day sunset review of this antidumping duty order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations the Department shall consider 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 provides that the Department shall provide to the International Trade Commission ("ITC") the magnitude of the margin of dumping likely to prevail if the antidumping duty order were terminated. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

The domestic interested parties assert that revocation of the antidumping duty order on hot-steel from Brazil would likely lead to the recurrence of dumping at margins equal to or greater to those found in the original investigation. See Domestic interested parties substantive response ("Domestic Response"), June 2, 2004, at 4.

The domestic interested parties maintain that the terms of the Agreement directly impacted the level of imports from Brazil. Id. Import data provided by the domestic interested parties through the IM 145 CD-ROM, the Department, and Bureau of the Census for the period 1997 through March 2004, demonstrates that in 1998 (the year of the Agreement) imports volumes of hot-rolled steel totaled 450,519 short tons and in 1999 imports declined to under 50,000 short tons. Id. at 4-5 and Attachment 1. In addition, the domestic interested parties note that prices of subject merchandise declined below the agreed reference prices as stated in the Agreement. Id. Since the termination of the Agreement and imposition of the order, import volumes have nearly ceased. Id. at 5. In 2002, import volumes of hot-rolled steel from Brazil totaled 675 short tons. In 2003, there were no Brazilian imports, and in 2004, subject imports amounted to just 136 short tons. Id. With respect to the margins of dumping, the domestic interested parties contend that the Department identified cash deposit rates that ranged from 41.27 to 43.40 percent for CSN, USIMINAS/COSIPA and "All Others".

The domestic interested parties conclude that a significant decline and near elimination of import of subject merchandise indicates a strong likelihood of a recurrence of dumping were the order

revoked. Id. 6

Department's Position

Drawing on 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) at 826, the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. See Policies Regarding the Conduct of the Five-Year ("Sunset") Reviews of Antidumping & Countervailing Duty Orders, Policy Bulletin, No. 98.3 (April 16, 1998) ("Sunset Policy Bulletin"). The Department clarified that determinations of likelihood will be made on an order-wide (country wide) basis. See Sunset Policy Bulletin at section II.A.2. Further, in a sunset review the Department normally will determine that revocation of an antidumping order or termination of a suspended dumping investigation 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 or the suspension agreement, as applicable; (b) imports of the subject merchandise ceased after issuance of the order or the suspension agreement, as applicable; or (c) dumping was eliminated after the issuance of the order or the suspension agreement, as applicable, and import volumes for the subject merchandise declined significantly. See Sunset Policy Bulletin at section II.A.3.

In making its likelihood determination, the Department considers whether dumping was found in the investigation and subsequent reviews after the issuance of the order. In the investigation of hot-rolled steel from Brazil the Department found significant dumping of subject merchandise by three companies.

Consistent with section 752(c) of the Act, the Department also considered the volume of imports before and after issuance of the order. The Department examined import data provided by the domestic interested parties and compared this data with official import data. Based on the analysis of these reports, the Department concluded that import volumes of subject merchandise decreased significantly lower than their pre-order levels. Section II.A.3 of the Sunset Policy Bulletin, the SAA at 889, the House Report at 63 and the Senate Report at 52 state 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."

Given that (1) import volumes of hot-rolled steel declined significantly, and (2) dumping by Brazilian producers of hot-rolled steel continues, we determine that it is likely that revocation of the order would lead to continuation or recurrence of dumping by Brazilian producers/exporters.

2 Magnitude of Margins Likely to Prevail

Interested Party Comments

The domestic interested parties assert that the Department should find that the dumping margins likely to prevail were the order revoked are the margins determined in the original investigation, because there have been no administrative reviews of the antidumping duty order that provide alternative

calculated rates. *Id.* at 7. Thus, the rates from the investigation are the only calculated rates that best reflect the behavior of exporters without the discipline of the order. *Id.*
Department's Position:

In the Sunset Policy Bulletin, the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. For companies not specifically investigated or for companies that did not begin shipping until after the order or suspended investigation was issued, the Department normally will provide a margin based on the "all others" rate from the investigation because these rates are the only calculated rates that best reflect the behavior of exporters without the discipline of the order in place. See Sunset Policy Bulletin at section II.B.1. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. See Sunset Policy Bulletin at section II.B.2 and 3. In this proceeding, duty absorption and the use of a more recently calculated margin do not apply.

The Department agrees with the domestic interested parties concerning the rates to report to the Commission. In the investigation, the Department found above de minimis levels of dumping for Brazilian producers/exporters of hot-rolled steel. In addition, there have been no administrative reviews of this order.

We determine that the rates from the investigations are probative of the behavior of producers and exporters of hot-rolled steel from Brazil without the discipline of the order because these margins are the only calculated rates that reflect the behavior of exporters without the discipline of the order. Therefore, we will report to the ITC the company-specific and "all others" rates from the investigation.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturers/Exporters/Producers	Margin Rate (Percent)
Compendia Siderurgica Nacional (CSN)	41.27
Usinas Siderurgicas De Minas Gerais (USIMINAS)/	43.40
Companhia Siderurgica Paulista (COSIPA)	43.40
"All Others" Brazilian producers/exporters/manufacturers	42.12

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 review in the Federal Register.

Agree _____

Disagree _____

 Jeffrey A. May
 Acting Assistant Secretary
 for Import Administration

(Date)