

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

FROM: Ronald K. Lorentzen
Acting Director
Office of Policy

SUBJECT: Issues and Decision Memo for the Sunset Review of the Antidumping Duty Order on Stainless Steel Wire Rod from Japan; Final Results of Expedited Review

Summary

We have analyzed the substantive responses of interested parties in the expedited sunset review of the antidumping duty order covering stainless steel wire rod (“SSWR”) from Japan. 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 substantive responses by a domestic interested party:

1. Likelihood of continuation or recurrence of dumping
 - A. Weighted-average dumping margin
 - B. Volume of imports
2. Magnitude of the margin likely to prevail

Margins from investigation

History of the Order

On July 29, 1998, the Department of Commerce (“the Department”) published its final affirmative determination of sales at less than fair value (“LTFV”) in the *Federal Register* with respect to imports of SSWR from Japan. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Japan*; 63 FR 40434 (July 29, 1998). On September 15, 1998, the Department published the antidumping duty order. *See Antidumping Duty Order: Stainless Steel Wire Rod from Japan*; 63 FR 49328 (September 15, 1998). In the order, the Department found the following margins:

Daido Steel Co., Ltd.	34.21 percent <u>ad valorem</u>
Nippon Steel Corp.	21.18 percent <u>ad valorem</u>
Sanyo Special Steel Co., Ltd.	34.21 percent <u>ad valorem</u>
Sumitomo Electric Industries, Ltd.	34.21 percent <u>ad valorem</u>
All Others	25.26 percent <u>ad valorem</u>

Since the issuance of the antidumping duty order on SSWR from Japan the Department has not conducted any administrative reviews. The Department has not issued any duty absorption findings in the case. The order on SSWR from Japan remains in effect for all manufacturers, producers and exporters, except for Hitachi who received a zero margin rate in the investigation and as a result was excluded from the order.

Background

On August 1, 2003, the Department published the notice of initiation of the sunset review of the antidumping duty order on SSWR from Japan. *See Initiation of Five-Year (Sunset) Reviews*, 68 FR

45219 (August 1, 2003). The Department received Notices of Intent to Participate on behalf a domestic interested party, Carpenter Technology Corporation (“Carpenter Technology”), within the deadline specified in section 351.218 (d)(1)(i) of the *Sunset Regulations*. Carpenter Technology claimed interested party status under section 771(9)(C) of the Tariff Act of 1930, as amended (“the Act”), as a U.S. producer of SSWR.

We received a complete substantive response from Carpenter Technology on September 2, 2003, within a 30-day deadline specified in the *Sunset Regulations* under section 315.218(d)(3)(i). Carpenter Technology states that it has been involved in this proceeding since its inception and remains committed to full participation in this sunset review.

We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C) of the *Sunset Regulations*, the Department has determined to conduct an expedited, review of this 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 order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, 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 (“the Commission”) the magnitude of

the margin of dumping likely to prevail if the order is revoked. Below we address the comments of the interested party.

Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Carpenter Technology asserts that revocation of the order would likely lead to continuation or recurrence of dumping by Japanese manufacturers and exporters of SSWR. See September 2, 2003, substantive response of Carpenter Technology at 21.

With respect to weighted-average dumping margins, Carpenter Technology notes that the Department established a 34.21 percent dumping margin rate for Daido Steel Co., Ltd, a 21.18 percent dumping margin rate for Nippon Steel Corp., a 34.21 percent dumping margin rate for Sanyo Special Steel Co., Ltd., a 34.21 percent dumping margin rate for Sumitomo Electric Industries, Ltd, and an “All Others” rate of 25.26 percent. See September 2, 2003, substantive response of Carpenter Technology at 10 - 11.

Carpenter Technology contends that imports from Japan declined following the imposition of the order. See September 2, 2003, substantive response of Carpenter Technology at Attachment 1. Carpenter Technology notes that continued dumping after the imposition of the order provides a strong indication that continued dumping is likely to occur because the evidence would indicate that exporters need to dump to sell at pre-order volume. Therefore, the record of this case strongly supports that dumping of the subject SSWR from Japan would be likely to continue or recur if revocation of the order were to be revoked.

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), the House Report, H.R. 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. The Department clarified that determinations of likelihood will be made on an order-wide basis. *See* section II.A.2 of the *Sunset Policy Bulletin*. In addition, the Department indicated that it will normally determine that revocation of an antidumping 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 (*see* section II.A.3).

In making this determination, the Department considers 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 this case, our review of the U.S. Census Bureau, statistics indicates, that, import volumes declined. See December 1, 2003, Memo to File: Import Volume on SSWR from Japan. Further, dumping margins at levels above *de minimis* continued to exist after the issuance of the order. Therefore, given that dumping at levels above *de minimis* continued over the life of the order, import volumes of the subject

merchandise declined significantly after the imposition of the order, and respondent interested parties waived their right to participate in this review, the Department determines that dumping would likely continue or recur if the order on SSWR from Japan were revoked.

Magnitude of the Margin Likely to Prevail:

Interested Party Comments

In their substantive response, Carpenter Technology recommends that, consistent with the *Sunset Policy Bulletin*, the Department provide to the Commission the company-specific and “All Others” rates from the original investigation.

Department’s Position

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated 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* section II.B.1 of the *Sunset Policy Bulletin*. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.

The Department agrees with Carpenter Technology. Dumping margins from the final determination of the original investigation continue to exist. These margins are the only calculated margins that reflect the behavior of exporters and producers of SSWR from Japan without the

discipline of the order. Consistent with the *Sunset Policy Bulletin*, we determine that the margin calculated in the Department’s original investigation is probative of the behavior of the Japanese producers and exporters of SSWR if the order were revoked. Therefore, we will report to the Commission the company-specific and “all others” rate from the original investigation, except for Hitachi Metals, Ltd., who received a zero margin in the investigation and as a result is excluded from the order.

Final Results of Reviews

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

Japanese Manufacturers/Exporters	Weighted Average Margin (percent)
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	25.26

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

reviews in the *Federal Register*.

AGREE _____

DISAGREE _____

James J. Jochum
Assistant Secretary
for Import Administration

(Date)