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Second Sunset Review
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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 Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Clad Steel Plate from Japan

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Summary

We have analyzed the substantive response of the domestic interested parties in the second sunset review of the antidumping duty order covering clad steel plate from Japan. 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 this sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping

2. Magnitude of the margin likely to prevail

History of the Order

On July 2, 1996, the Department published an antidumping duty order on clad steel plate from Japan. See Notice of Antidumping Order: Clad Steel Plate From Japan, 61 FR 34421 (July 2, 1996). On October 5, 2001, the Department of Commerce (the Department) published its final results of expedited sunset review of clad steel plate from Japan finding that the revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at weighted-average margins of 118.53 percent for the Japan Steel Company, and 118.53 percent for "all other" exporters. See Final Results of Expedited Sunset Review: Clad Steel Plate From Japan, 66 FR 51007 (Oct. 5, 2001).

Since the first sunset review on clad steel plate from Japan and the issuance of the antidumping order regarding imports of clad steel plate from Japan, the Department has conducted no administrative reviews or changed circumstances reviews. The order remains in effect for all manufacturers, producers, and exporters of the subject merchandise from Japan.

On October 2, 2006, the Department initiated the second sunset review of the antidumping duty order on clad steel plate from Japan pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-Year (Sunset) Reviews, 71 FR 57921 (Oct. 2, 2006) (Notice of Initiation). The Department received a notice of intent to participate from the following domestic interested parties: Mittal Steel USA (Mittal Steel); and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (collectively USW), within the deadline specified in 19 CFR 351.218(d)(1)(i). Mittal Steel claims interested party status under section 771(9)(C) of the Act as a domestic manufacturer of clad steel plate, while USW claims interested party status under section 771(9)(D) of the Act as a certified union or recognized union group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of clad steel products.

The Department received a complete substantive response from Mittal Steel within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We did not receive a substantive response from respondent interested parties in this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting 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 second 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 this determination, 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 provides that the Department shall provide to the U.S. International Trade Commission (ITC) the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the domestic interested party.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Mittal Steel asserts that revocation of this antidumping duty order would likely lead to a continuation or recurrence of dumping by the Japanese producers of the subject merchandise. See the November 1, 2006, substantive response of Mittal Steel at page 4. According to Mittal Steel, in the first sunset review, the Department considered the weighted-average dumping margins and volume of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. Mittal Steel states that, based on this analysis, the Department found that the weighted-average dumping margin of 118.53 percent found in the investigation had continued to exist for the life of the antidumping order on clad steel plate from Japan. See the November 1, 2006, substantive response of Mittal Steel at page 6. Mittal Steel asserts that since there have not been any administrative reviews of this antidumping duty order, the weighted-average dumping margin found in the investigation and the first sunset review continues to exist for clad steel plate from Japan. See id.

Regarding import volumes, Mittal Steel provided ITC Dataweb figures demonstrating that imports of clad steel plate from Japan increased rapidly prior to the order and declined even more rapidly after the order. See the November 1, 2006, substantive response of Mittal Steel at page 7. Mittal Steel notes that the ITC determined in its final injury determination that the decline in subject import volumes, subsequent to the filing of the petition, was related to the ongoing investigation. Further, Mittal Steel maintains that the volume of subject imports has been minimal since the first year following the imposition of the antidumping duty order, which indicates that Japanese producers cannot ship clad steel plate to the United States at pre-order volumes without dumping. Therefore, Mittal asserts that it is reasonable to assume that the exporters of subject merchandise could not sell in the United States without dumping. See the November 1, 2006, substantive response of Mittal Steel at page 8. Consequently, Mittal Steel concludes that dumping is likely to continue or recur if the order on clad steel plate from Japan were revoked.

Department's Position

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically in the Statement of Administrative Action (SAA), the Department's determinations of likelihood will be made on an order-wide basis.[1] 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. For example, declining import volumes accompanied by the continued existence of dumping margins after the issuance of an order may provide a strong indication that, absent an order, dumping would be likely to continue

[1] See SAA at 879.

because the evidence would indicate that the exporter needs to dump in order to sell at pre-order volumes. See SAA at 889. Further, 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. 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 order.

In this case, the Department found dumping at above *de minimis* levels in the original antidumping duty investigation. The cash deposit rates established in the original investigation remain in effect and there have been no administrative reviews of the antidumping duty order. In addition, import statistics provided by Mittal Steel and confirmed by the ITC Dataweb demonstrate that import volumes decreased significantly following the imposition of the antidumping duty order. Specifically, ITC Dataweb indicates no imports of subject merchandise between 2001 and 2004, and imports of 39,509 kilograms in 2005. The pre-order import level was 1,421,882 kilograms in 1995. See Exhibit 1.

Therefore, given that dumping margins have continued to exist at levels above *de minimis* since the issuance of the order, and there have been substantially lower import levels after the imposition of the order when compared to pre-order levels, the Department finds that dumping would likely continue or recur if the order were revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

In its substantive response, Mittal Steel states that the antidumping duty margin from the original investigation is the margin that will likely prevail if the order were revoked. See the November 1, 2006, substantive response of Mittal Steel at page 9. Mittal Steel maintains that, because nothing has changed since the first sunset review, the dumping margin likely to prevail if the antidumping order were revoked would be 118.53 percent, the margin from the original investigation. See the November 1, 2006, substantive response of Mittal Steel at page 10.

Department's Position

Pursuant to section 752(c)(3) of the Act and the SAA at 890, the Department normally will provide to the ITC the company-specific margin from the investigation for each company. 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. Exceptions to this approach include the use of a more recently calculated margin, where appropriate.

After considering the dumping margins determined in the investigation, and because there have been no subsequent administrative reviews of this antidumping duty order, the Department will

report to the ITC the margins from the investigation for the magnitude of the margin likely to prevail.

Final Results of Review

We determine that revocation of the antidumping duty order on clad steel plate from Japan 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)
The Japan Steel Company	118.53
All Others	118.53

Recommendation

Based on our analysis of the substantive response 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 _____

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David M. Spooner
Assistant Secretary
for Import Administration

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(Date)

Exhibit 1