



**UNITED STATES DEPARTMENT OF COMMERCE**  
**International Trade Administration**  
Washington, D.C. 20230

A-580-810  
A-583-815  
Sunset Reviews  
Public Document  
Operations (6):JA

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

FROM: Christian Marsh *CPM*  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum: Final Results of Expedited  
Sunset Reviews of the Antidumping Duty Orders on Welded  
ASTM A-312 Stainless Steel Pipe from South Korea and Taiwan

Summary

We have analyzed the substantive responses of the interested parties in the third sunset reviews of the antidumping duty (AD) orders covering welded ASTM A-312 stainless steel pipe (WSSP) from South Korea and Taiwan. We recommend that you approve the positions as set forth in the "Discussion of Issues" section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received a substantive response:

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Margins likely to Prevail

History of the Antidumping Duty Orders through the Second Sunset Review

On December 30, 1992 the Department of Commerce (the Department) published the antidumping duty orders on WSSP from South Korea and Taiwan. With respect to South Korea, the Department determined final weighted-average dumping margins of 2.67 percent for Pusan Steel Pipe Co., Ltd. (PSP);<sup>1</sup> 7.92 percent for Sammi Metal Products, Ltd. (Sammi); and 7.00 percent for "All Others."<sup>2</sup>

In the Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe from Taiwan, the Department determined weighted average dumping margins of 3.27 percent for Ta Chen Stainless Steel Pipe Co., Ltd. (Ta Chen), 31.90 percent for Jaung Yuann

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<sup>1</sup> See Certain Welded Stainless Steel Pipe from Korea; Final Results of Antidumping Duty Changed Circumstances Review, 63 FR 16979 (April 7, 1998).

<sup>2</sup> See Antidumping Duty Order and Clarification of Final Determination: Certain Welded Stainless Steel Pipes from Korea, 57 FR 62301 (December 30, 1992) and Notice of Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe from the Republic of Korea, 60 FR 10064 (February 23, 1995).



Enterprise Co., Ltd. and Yeun Chyang Industrial and 19.94 percent for “All Others.” See 57 FR 62300 (December 30, 1992). In 2000, the Department revoked the order with respect to Ta Chen. See Certain Welded Stainless Steel Pipe From Taiwan: Final Results of Antidumping Duty Administrative Review and Determination to Revoke Order In Part, 65 FR 39367 (June 26, 2000).

In the first sunset review of these antidumping duty orders, the Department determined that revocation of these orders would likely lead to the continuation or recurrence of dumping. See Final Results of Expedited Sunset Reviews: Certain Welded Stainless Steel Pipes From the Republic of Korea and Taiwan 65 FR 5607 (February 4, 2000) (First Sunset Review). On October 2, 2000, the International Trade Commission (ITC) determined, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), that revocation of the antidumping duty orders on WSSP from South Korea and Taiwan would be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>3</sup> Accordingly, the Department published the Continuation of Antidumping Duty Orders: Certain Welded Stainless Steel Pipe from South Korea and Taiwan, 65 FR 61143 (October 16, 2000).

In the second sunset review of these antidumping duty orders, the Department determined that revocation of these orders would likely lead to the continuation or recurrence of dumping. See Welded ASTM A-312 Stainless Steel Pipe from South Korea and Taiwan: Notice of Final Results of Expedited (“Sunset”) Reviews of Antidumping Duty Orders, 71 FR 96 (January 3, 2006) (Second Sunset Review). On August 26, 2006, the ITC determined pursuant to the Act that revocation of the antidumping duty orders on WSSP from South Korea and Taiwan would be likely to lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>4</sup> Accordingly, the Department published the Continuation of Antidumping Duty Orders on Welded ASTM A-132 Stainless Steel Pipe from Korea and Taiwan, 71 FR 53412 (September 11, 2006).

Since the publication of the continuation notice on September 11, 2006, the case histories are as follows:

#### South Korea

The Department conducted administrative reviews of two review periods: December 1, 2006 through November 30, 2007 (2006-2007 POR) and December 1, 2007 through November 30, 2008 (2007-2008 POR) for SeAH Steel Corporation (SeAH). On June 30, 2009, the Department published the final results of an administrative review for SeAH with a dumping margin of 9.05 percent in the 2006-2007 POR. See Certain Welded Stainless Steel Pipes From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 74 FR 31242. These final results were amended pursuant to a final court decision. See Certain Welded Stainless Steel

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<sup>3</sup> See Certain Welded Stainless Steel Pipes from Korea and Taiwan, 65 FR 58806 (October 2, 2000) and USITC Publication 3351, Investigation Nos. 731-TA-540 and 731-TA-541 (September 2000).

<sup>4</sup> See Certain Welded Stainless Steel Pipes from Korea and Taiwan 71 FR 48942 (August 22, 2006) and USITC Publication 3877, Investigation Nos. 731-TA-540 and 731-TA-541 (August 2006)(Second Review).

Pipes From the Republic of Korea: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Amended Final Results, 76 FR 37320 (June 27, 2011). In the amended final results, the weighted-average dumping margin for SeAH was changed to 6.01 percent.

On May 19, 2010, the Department published the final results of an administrative review for SeAH for the 2007-2008 POR; the weighted-average dumping margin was 2.92 percent. See Certain Welded Stainless Steel Pipes From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 75 FR 27987 (May 19, 2010).

### Taiwan

No interested parties requested an administrative review for any of the periods of review (PORs) from December 1, 2005 through November 30, 2010.

### Background

On July 1, 2011, pursuant to section 751(c) of the Act, the Department initiated the third sunset reviews of the antidumping duty orders on WSSP from South Korea and Taiwan.<sup>5</sup> On July 15, 2011, the domestic interested parties, Bristol Metals LLC and Felker Brothers Corp., filed a notice of intent to participate in both sunset reviews. The notices of intent to participate were timely filed according to 351.218(d) of the Department's regulations. The domestic interested parties claimed interested party status under section 777(9)(C) of the Act as U.S. producers of subject merchandise.

On July 29, 2011, we received a complete substantive response to the notice of initiation from the domestic interested parties within the specified time pursuant to section 351.218(d)(3)(i) of the Department's regulations. We received no response from respondent interested parties to these proceedings. As a result, pursuant to section 751(c)(3)(B) of the Act and Section 351.218(3)(l)(ii)(C)(2) of the Department's regulations, the Department conducted expedited sunset reviews of these antidumping duty orders.<sup>6</sup>

### Discussion of Issues

In accordance with section 751(c)(3)(B) of the Act, the Department has conducted these sunset reviews to determine whether revocation of the antidumping duty (AD) orders would be likely to lead to continuation or recurrence of dumping. Section 752(c)(1) 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 AD order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the

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<sup>5</sup> See Initiation of Five-Year ("Sunset") Reviews, 76 FR 38613 (July 1, 2011).

<sup>6</sup> Pursuant to section 351.218(e)(l)(ii)(C)(l) of the Department's regulations, the Department notified the ITC that respondent interested companies provided an inadequate response to the Notice of Initiation of the antidumping duty orders on WSSP from Korea and Taiwan. See August 22, 2011 letter to Catherine DeFillippo, Director of Investigations, International Trade Commission, from Barbara E. Tillman, Director, Office 6, AD/CVD Operations.

magnitude of the margin of dumping likely to prevail if the AD order were terminated. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

The domestic interested parties cite to Section 752(c)(1) of the Tariff Act of 1930, as amended, which states that in determining the likelihood of continuation or recurrence of dumping, the Department will consider the following factors: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; (2) the volume of imports of the subject merchandise for the period after the issuance of the antidumping duty order or acceptance of suspension. The domestic interested parties provided a chart with the volume and value of imports of stainless steel pipe from South Korea and Taiwan for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 year-to-date<sup>7</sup>. See Domestic Interested Parties' Submissions of July 29, 2011, at Attachment 1.

The domestic interested parties referred to the Department's Policy Bulletin 98.3<sup>8</sup> "the Department will normally determine that revocation of an antidumping duty order is likely to lead to a continuation or recurrence of dumping where (a) dumping in excess of a de minimis after the issuance of an 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 or suspension agreement, and import volumes for the subject merchandise declined significantly." Thus, the domestic interested parties request that the AD order continue. See Domestic Interested Parties' Submissions of July 29, 2011.

For South Korea, the domestic interested parties rely on the Second Sunset Review,<sup>9</sup> on which the Department stated that it "will normally determine that revocation of an antidumping duty order is likely to lead to a continuation or recurrence of dumping where (a) dumping in excess of a de minimis after the issuance of an 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 or suspension agreement, and import volumes for the subject merchandise declined significantly." Further, according to the domestic interested parties, the Statement of Administrative Action (SAA), as cited by the Department in the Second Sunset Review, states that "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. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue or recur if the discipline were removed."

The domestic interested parties contend that the AD order should continue because this rationale continues to apply in the present reviews. For South Korea, this rationale applies because above

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<sup>7</sup> The domestic interested parties provided import data based on the following HTS numbers: 7306.40.1010, 7306.401015, 7306.40.5005, 7306.405040, 7306.40.5062, 7306.40.5064, 7306.405085, 7305.31.6000.

<sup>8</sup> See Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998).

<sup>9</sup> Welded ASTM A-312 Stainless Steel Pipe from South Korea and Taiwan: Notice of Final Results of Expedited ("Sunset") Reviews of Antidumping Duty Orders, 71 FR 96 (January 3, 2006).

de minimis rates were found in the 2006-2007 and 2007-2008 administrative reviews. See Domestic Interested Parties' Submission on South Korea of July 29, 2011, at 5.

### The Department's Position

Pursuant to 752(c)(1) of the Act, the Department will consider "the weighted average dumping margins determined in the investigation and subsequent reviews," as well as "the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order..."

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), 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 determination of likelihood will be made on an order-wide basis. In addition, the Department indicated that normally it will determine that revocation of an AD 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.

Below is the Department's analysis for each order:

### South Korea

As noted above, the Department found dumping margins in excess of the de minimis level in both of the administrative reviews of SeAH conducted since the Second Sunset Review. See 2006-2007 POR and 2007-2008 POR. Annual import levels since the Second Sunset Review (2005-2010) range from 14,000 to 21,000 metric tons, exceeding the 5,074 short tons imported in 1991 the year before the start of the original investigation. See "Memorandum from Jacqueline Arrowsmith to The File, through Dana Mermelstein, on Import Volumes for Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders on Welded ASTM A-312 Stainless Steel Pipe from South Korea and Taiwan," dated concurrently with this Issues and Decision Memorandum.

If companies continue to dump with the discipline of the order in place, it is reasonable to conclude that dumping would continue or recur if the order were revoked. See SAA at 890; see also Final Results of Expedited Sunset Review: Industrial Nitrocellulose From the United Kingdom 64 FR 57850 (October 27, 1999). See also Petroleum Wax Candles From the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 69 FR 75302 (December 16, 2004) and Accompanying Issues and Decision Memorandum. As noted above, the Department found companies to be dumping at levels above de minimis during the time since the Second Sunset Review. Thus, the Department determines that dumping is likely to continue or recur if the order were revoked

Taiwan

For this order, in the original investigation of WSSP from Taiwan, the Department found dumping of subject merchandise by Taiwanese companies at above the de minimis level<sup>10</sup> and there is no evidence that the pricing behavior of the companies that are currently covered by the antidumping duty order has changed. No administrative review was requested by any Taiwanese respondent since prior to the First Sunset Review in 2000, and Customs has continued to assess and collect antidumping duties on entries of WSSP from Taiwan since that time. Annual import levels since the Second Sunset Review (2005-2010) range from 9,000 to 17,000 short tons, exceeding the 9,197 short tons imported in 1991 the year before the start of the original investigation. See “Memorandum from Jacqueline Arrowsmith to The File, through Dana Mermelstein, on Import Volumes for Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders on Welded ASTM A-312 Stainless Steel Pipe from South Korea and Taiwan,” dated concurrently with this Issues and Decision Memorandum.

If companies continue to dump with the discipline of the order in place, it is reasonable to conclude that dumping would continue or recur if the order were revoked. See SAA at 890. As noted above, the Department found companies to be dumping at levels above de minimis during the time since the Second Sunset Review. Thus, the Department determines that dumping is likely to continue or recur if the order were revoked.

## 2. Magnitude of Margins Likely to Prevail

For both South Korea and Taiwan, the domestic interested parties argue the Department should find the dumping margins likely to prevail were the order to be revoked are the dumping margins determined in the original investigation, because these are the “only calculated rate {s} that reflects the behavior of the exporter. . . without the discipline of an order or suspension agreement in place.” See SAA at 890. Domestic interested parties argue that the Department report to the ITC the dumping margins established in the investigation; these rates were also determined to be the dumping margins likely to prevail in the First Sunset Review and the Second Sunset Review.<sup>11</sup>

### The Department’s Position

Section 752(c)(3) of the Act provides that the Department normally will provide 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 dumping margin that was determined in the final determination in the original investigation because that is the only calculated rate that reflects the behavior of each exporter and/or producer without the discipline of an order. See SAA at 890 and the House Report at 64. For companies not specifically investigated or for companies that did not begin shipping until after the order or suspended investigation was issued, the

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<sup>10</sup> Although Ta Chen Stainless Pipe Co., Ltd. (Ta Chen) was included in the investigation and subsequent administrative reviews of the antidumping duty order on WSSP, including the First Sunset Review, we revoked the order with respect to Ta Chen on June 26, 2000. See Certain Welded Stainless Steel Pipe From Taiwan: Final Results of Antidumping Duty Administrative Review and Determination to Revoke Order In Part, 65 FR 39367 (June 26, 2000).

<sup>11</sup> See Welded ASTM A-312 Stainless Steel Pipe from South Korea and Taiwan: Notice of Final Results of Expedited (“Sunset”) Reviews of the Antidumping Duty Orders, 71 FR 96 (January 3, 2006).

Department normally will provide a dumping margin based on the “All Others” rate from the investigation. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. 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 dumping margins likely to prevail if the AD orders on WSSP from Korea and Taiwan were revoked.

For South Korea, we are reporting to the ITC rates for SeAH, the successor to PSP, and Sammi, and the “All Others” rate for other exporters and/or producers.<sup>12</sup>

For Taiwan, the rates from the investigation are the same rates we reported for the First Sunset Review and the Second Sunset Review with the exception of Ta Chen, for which we are not reporting a rate because the antidumping duty order was revoked with respect to Ta Chen on June 26, 2000.<sup>13</sup>

We determine that the rates from the investigation are probative of the behavior of producers and exporters of WSSP without the discipline of the order because these dumping margins are the only calculated rates that reflect the behavior of exporters without the discipline of the order. Consistent with section 752(c) of the Act, the Department reported to the ITC company-specific and “All Other” rates from the investigations as indicated in the “Final Results of Review” section of this memorandum.

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<sup>12</sup> See Certain Welded Stainless Steel Pipe from Korea: Final Results of Antidumping Duty Changed Circumstances Review, 63 FR 16979 (April 7, 1998).

<sup>13</sup> See Certain Welded Stainless Steel Pipe From Taiwan: Final Results of Antidumping Duty Administrative Review and Determination to Revoke Order In Part, 65 FR 39367 (June 26, 2000).

### Final Results of Review

We determine revocation of the AD orders on WSSP from South Korea and Taiwan would be likely to lead to continuation or recurrence of dumping at the following weighted-average dumping margins:

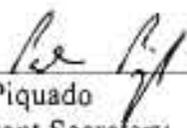
<b>Antidumping Duty Order on Welded ASTM-A312 Stainless Steel Pipe from South Korea</b>	
<b>Manufacturer/Exporter</b>	<b>Weighted Average Dumping Margin</b>
Sammi Metal Products Co., Ltd.	7.92%
SeAH Steel Corp (successor to Pusan Steel Pipe Co., Ltd.) <sup>14</sup>	2.67%
All Others	7.00%

<b>Antidumping Duty Order on Welded ASTM-A312 Stainless Steel Pipe from Taiwan</b>	
<b>Manufacturer/Exporter</b>	<b>Weighted Average Dumping Margin</b>
Jaung Yuann Enterprise Co., Ltd.	31.90%
Yeun Chyang Industrial Co., Ltd.	31.90%
All Others	22.92%

### RECOMMENDATION

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

AGREE  DISAGREE

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Import Administration

10/26/2011  
\_\_\_\_\_  
Date

<sup>14</sup> See Certain Welded Stainless Steel Pipe from Korea: Final Results of Antidumping Duty Changed Circumstances Review, 63 FR 16979 (April 7, 1998).