



A-588-845
A-580-834
A-583-831
Sunset Reviews
Public Document
E&C/Office II: MGS

DATE: October 31, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Final Results of Expedited
Third Sunset Reviews of the Antidumping Duty Orders on Certain
Stainless Steel Sheet and Strip in Coils from Japan, the Republic of
Korea, and Taiwan

Summary

We analyzed the responses of the interested parties in the third sunset reviews of the antidumping duty (AD) orders¹ covering certain stainless steel sheet and strip (SSSS) in coils from Japan, the Republic of Korea (Korea), and Taiwan. 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 these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

Background

On July 1, 2016, the Department initiated the third sunset reviews of the AD *Orders* on SSSS in coils from Japan, Korea, and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On July 15, 2016, the Department received notices of intent to participate from AK Steel Corporation, Allegheny Ludlum, LLC d/b/a ATI Flat Rolled Products, North

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From Japan*; 64 FR 40565 (July 27, 1999); and *Notice of Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils From United Kingdom, Taiwan and South Korea*; 64 FR 40555 (July 27, 1999) (collectively, *Orders*).

² See *Initiation of Five-Year (“Sunset”) Review*, 81 FR 43185 (July 1, 2016).



American Stainless, and Outokumpu Stainless USA LLC (collectively, the Petitioners or domestic interested parties) within the deadline specified in section 351.218(d)(1)(i) of the Department’s regulations.³ Each of the domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as producers in the United States of a domestic like product.

On July 29, 2016, the Department received complete, substantive responses from the Petitioners within the 30-day deadline specified in section 351.218(d)(3)(i) of the Department’s regulations.⁴ We received no substantive responses from respondent interested parties nor was a hearing requested. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120-day) sunset reviews of the AD *Orders* on SSSS in coils from Japan, Korea, and Taiwan.

History of the Orders

Japan

On June 8, 1999, the Department published its final affirmative determination of sales at LTFV in the *Federal Register* with respect to imports of SSSS in coils from Japan.⁵ On July 27, 1999, the Department published the amended final determination and antidumping duty order on SSSS in coils from Japan.⁶ The amended final antidumping duty margins were as follows:⁷

Kawasaki Steel Corporation	40.18
Nippon Steel Corporation	57.87
Nisshin Steel Co., Ltd.	57.87
Nippon Yakin Kogyo	57.87

³ See Petitioners’ July 15, 2016, submissions “Five-Year (“Sunset”) Review of the Antidumping Duty Order on Stainless Steel Sheet and Strip in Coils from Japan – Petitioners’ Notice of Intent to Participate;” “Five-Year (“Sunset”) Review of the Antidumping Duty Order on Stainless Steel Sheet and Strip in Coils from Korea – Petitioners’ Notice of Intent to Participate;” and “Five-Year (“Sunset”) Review of the Antidumping Duty Order on Stainless Steel Sheet and Strip in Coils from Taiwan – Petitioners’ Notice of Intent to Participate.”

⁴ See Petitioners’ July 29, 2016, submissions “Stainless Steel Sheet and Strip in Coils from Japan – Five-Year (“Sunset”) Review of Antidumping Duty Order – Domestic Interested Parties’ Substantive Response to Notice of Initiation” (Petitioners’ Japan substantive); “Stainless Steel Sheet and Strip in Coils from Korea – Five-Year (“Sunset”) Review of Antidumping Duty Order – Domestic Interested Parties’ Substantive Response to Notice of Initiation” (Petitioners’ Korea substantive); and “Stainless Steel Sheet and Strip in Coils from Taiwan – Five-Year (“Sunset”) Review of Antidumping Duty Order – Domestic Interested Parties’ Substantive Response to Notice of Initiation” (Petitioners’ Taiwan substantive).

⁵ See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan*, 64 FR 30574 (June 8, 1999). The AD margin of 57.87 percent applied to all of the mandatory respondents with the exception of Kawasaki Steel Corporation was based on adverse facts available (AFA).

⁶ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Sheet and Strip in Coils from Japan*, 64 FR 40565 (July 27, 1999) (*Japan Order*).

⁷ *Id.*

Nippon Metal Industries	57.87
All-Others Rate	40.18

Since the August 2011 continuation of the order as a result of final affirmative determinations in the second sunset review of the order,⁸ the Department implemented a determination under section 129 of the Uruguay Round Agreements Act with respect to the 2007-2008 administrative review regarding the recalculation of cash deposit rates for estimated antidumping duties in effect for certain companies, in a manner which rendered them not inconsistent with the World Trade Organization (WTO) dispute settlement findings.⁹

Korea

On June 8, 1999, the Department published its final determination in the LTFV investigation of SSSS in coils from Korea.¹⁰ On July 27, 1999, the Department issued an antidumping duty order on SSSS in coils from Korea.¹¹ On August 28, 2001, the Department amended its final LTFV determination in order to implement the report of the WTO dispute settlement panel addressing various aspects of the Department's final determination.¹² The amended final margins were as follows:

Pohang Iron & Steel Co., Ltd. (POSCO)	2.49
Inchon Iron & Steel Co., Ltd. (Inchon)	0.00
Taihan Electric Wire Co., Ltd. (Taihan)	58.79
All-Others Rate	2.49

Since the August 2011 continuation of the order as a result of final affirmative determinations in the second sunset review of the order,¹³ the Department amended its final LTFV determination a second time in order to implement another report of the WTO dispute settlement panel addressing aspects of the Department's calculation methodology used in

⁸ See *Continuation of Antidumping and Countervailing Duty Orders: Stainless Steel Sheet and Strip in Coils From Japan, Korea, and Taiwan*, 76 FR 49726 (August 11, 2011) (*Second Continuation*).

⁹ See *Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act: Stainless Steel Plate in Coils From Belgium, Steel Concrete Reinforcing Bars From Latvia, Purified Carboxymethylcellulose From Finland, Certain Pasta From Italy, Purified Carboxymethylcellulose From the Netherlands, Stainless Steel Wire Rod From Spain, Granular Polytetrafluoroethylene Resin From Italy, Stainless Steel Sheet and Strip in Coils From Japan*, 77 FR 36257 (June 18, 2012) (finding the recalculated margin from the 2007-2008 administrative review to be 0.00 percent for Nippon Kinzoku Company, Ltd. The AFA rates from the investigation were unchanged).

¹⁰ See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From the Republic of Korea*, 64 FR 30664 (June 8, 1999).

¹¹ See *Notice of Antidumping Duty Order: Stainless Steel Sheet and Strip in Coils From United Kingdom, Taiwan and South Korea*, 64 FR 40555 (July 27, 1999) (*Taiwan and Korea Orders*).

¹² See *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From the Republic of Korea; and Stainless Steel Sheet and Strip in Coils From the Republic of Korea*, 66 FR 45279 (August 28, 2001).

¹³ See *Second Continuation*.

antidumping measures involving products from Korea.¹⁴ Applicable 2011 Section 129 results are as follows:

Pohang Iron & Steel Co., Ltd	0.00 (excluded)
Inchon Iron & Steel Co., Ltd change)	0.00 (excluded--no
Taihan Electric Wire Co., Ltd	58.79 (no change)
All Others	19.60 percent

Taiwan

On June 8, 1999, the Department published its final determination in the LTFV investigation of SSSS in coils from Taiwan.¹⁵ On July 27, 1999, the Department issued the antidumping duty order covering SSSS in coils from Taiwan, excluding Chang Mien Industries Co., Ltd. from the order based on a *de minimis* margin.¹⁶ On November 17, 2004, at the conclusion of litigation, the Department issued a notice amending its final determination in accordance with the Court's decision, revising the final margins, and excluded Tung Mung Development Co., Ltd. (Tung Mung) from the order from coverage under the AD order.¹⁷ Applicable final antidumping duty margins were as follows:

Tung Mung/Ta Chen Stainless Pipe Co., Ltd. (Ta Chen)	15.40
YUSCO/Ta Chen	36.44
Yieh United Steel Corporation (YUSCO)	21.10
All-Others Rate	12.61

Although the Department completed numerous administrative reviews of the order prior to the second sunset review, since the August 2011 continuation of the order as a result of final affirmative determinations in the second sunset review of the order,¹⁸ the Department has not conducted any reviews of the order.

¹⁴ See *Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Revocation of the Antidumping Duty Order on Stainless Steel Plate in Coils From the Republic of Korea; and Partial Revocation of the Antidumping Duty Order on Stainless Steel Sheet and Strip in Coils From the Republic of Korea*, 76 FR 74771 (December 1, 2011) (excluding Pohang Iron & Steel Co., Ltd. and Inchon Iron & Steel Co., Ltd. from the order; leaving unchanged the total AFA rate applied to Taihan Electric Wire Co., Ltd.; and revising the rate applicable to all others to 19.60 percent).

¹⁵ See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Taiwan*, 64 FR 30592 (June 8, 1999).

¹⁶ See *Taiwan and Korea Orders*.

¹⁷ See *Final Results of Redetermination Pursuant to Court Remand: Tung Mung Dev. Co., Ltd. v. United States*, Consol. Ct. No. 99-07-00457 (November 28, 2001), *Notice of Amended Final Determination in Accordance With Court Decision of the Antidumping Duty Investigation of Stainless Steel Sheet and Strip in Coils From Taiwan*, 69 FR 67311 (November 17, 2004) and *Notice of Correction to the Amended Final Determination in Accordance With Court Decision in the Antidumping Duty Investigation of Stainless Steel Sheet and Strip in Coils From Taiwan*, 70 FR 17658 (April 7, 2005).

¹⁸ See *Second Continuation*.

Scope of the Orders

The merchandise covered by these *Orders* is stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*i.e.*, cold-rolled, polished, aluminized, coated, *etc.*), provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to these *Orders* is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.13.00.31; 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.1 0.1 0, 7220.20.1 0.15, 7220.20.1 0.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.1 0, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. (Prior to 2001, U.S. imports under HTSUS statistical reporting numbers 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81 were entered under HTSUS statistical reporting numbers 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80.) Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise subject to these orders is dispositive.

Excluded from the scope of these *Orders* are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel, (6) flapper valve steel, (7) suspension foil, (8) certain stainless steel foil for automotive catalytic converters, (9) permanent magnet iron-chromium-cobalt alloy stainless strip, (10) certain electrical resistance alloy steel, (11) certain martensitic precipitation-hardenable stainless steel, and (12) three specialty stainless steels typically used in certain industrial blades and surgical and medication instruments. Items 5 through 12 are further described below. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

Flapper valve steel is also excluded from the scope: This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and

1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc re-melting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (CRv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Suspension foil excluded from the scope is a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as “Arnokrome III.”¹⁹

Certain electrical resistance alloy steel is also excluded from the scope. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as “Gilphy 36.”²⁰

¹⁹ “Arnokrome III” is a trademark of the Arnold Engineering Company.

²⁰ “Gilphy 36” is a trademark of Imphy, SA.

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as “Durphynox 17.”²¹

Three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).²² This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as “GIN4 Mo.” The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is “GIN5” steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Bv 500 guaranteed after customer processing, and is supplied as, for example, “GIN6.”²³

In addition, as a result of changed circumstances reviews,²⁴ the Department revoked, in part, the Japanese AD order with respect to imports of the following products:

²¹ “Durphynox 17” is a trademark of Imphy, S.A.

²² This list of uses is illustrative and provided for descriptive purposes only.

²³ “GIN4 Mo”, “GIN5”, and “GIN6” are the proprietary grades of Hitachi Metals America, Ltd.

²⁴ See *Stainless Steel Sheet and Strip in Coils From Japan: Final Results of Changed Circumstance Antidumping Duty Review, and Determination To Revoke Order in Part*, 65 FR 17856 (April 5, 2000) (SSSS in Coils from Japan I); *Stainless Steel Sheet and Strip in Coils From Japan: Final Results of Changed Circumstance Antidumping Duty Review, and Determination To Revoke Order in Part*, 65 FR 54841 (September 11, 2000) (SSSS in Coils from Japan II); *Stainless Steel Sheet and Strip in Coils From Japan: Final Results of Changed Circumstance Antidumping Duty Review and Determination To Revoke Order in Part*, 65 FR 64423 (October 27, 2000) (SSSS in Coils from Japan III); *Stainless Steel Sheet and Strip in Coils From Japan: Final Results of Changed Circumstance Antidumping Duty Review, and Determination To Revoke Order in Part*, 65 FR 77578 (December 12, 2000) (SSSS in Coils from Japan IV).

- Stainless steel welding electrode strips that are manufactured in accordance with American Welding Society (“AWS”) specifications ANSIIAWS A5.9-93.²⁵
- Certain stainless steel used for razor blades, medical surgical blades, and industrial blades that are sold under proprietary names such as DSRIK7, DSRIKA, and DSRIK9.²⁶
- Certain stainless steel lithographic sheet that is made of 304-grade stainless steel.²⁷
- Certain nickel clad stainless steel sheet.²⁸

Legal Framework

In accordance with section 751(c)(1) of the Act, the Department is conducting these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to a 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 periods before and the periods after the issuance of the antidumping duty orders. 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.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA),²⁹ the House Report,³⁰ and the Senate Report,³¹ the Department’s determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.³² In addition, the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after the issuance of the orders; (b) imports of the subject merchandise ceased after the issuance of the orders; (c) dumping was eliminated after the issuance of the orders and import volumes for the subject merchandise declined significantly.³³ Alternatively, the Department normally will determine that revocation of an AD order is not likely to lead to continuation or recurrence of dumping where dumping was eliminated after issuance of the order and import volumes remained steady or increased.³⁴

²⁵ See *SSSS in Coils from Japan I*, 65 FR 17856.

²⁶ See *SSSS in Coils from Japan II*, 65 FR 54841.

²⁷ See *SSSS in Coils from Japan III*, 65 FR 64423.

²⁸ See *SSSS in Coils from Japan IV*, 65 FR 77578.

²⁹ See HR. Doc. 103-316, vol. 1 (1994) (SAA), reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

³⁰ See H. Rep. No. 103-826, pt. 1 (1994) (House Report), reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

³¹ See S. Rep. No. 103-412 (1994) (Senate Report).

³² See SAA at 879; see also House Report at 56.

³³ See SAA at 889-890; House Report at 63-64; Senate Report at 52; and *Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

³⁴ See SAA at 889-890; see also House Report at 63.

Furthermore, as a base period of import volume comparison, it is the Department's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of the investigation may dampen import volumes and, thus, skew the comparison.³⁵ When analyzing import volumes for second and subsequent sunset reviews, the Department's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.³⁶

In addition, section 752(c)(3) of the Act states that the magnitude of the dumping margin likely to prevail if the orders were revoked shall be provided by the Department to the ITC. Generally, the Department selects the dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.³⁷ In certain circumstances, however, a more recently calculated rate may be more appropriate (*e.g.*, "if dumping margins have declined over the life of an order and imports have remained steady or increased, {the Department} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review").³⁸ Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of "zero or *de minimis* shall not by itself require" the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.³⁹

On February 14, 2012, the Department announced it was modifying its practice in sunset reviews, such that it would not rely on weighted-average dumping margins calculated using the "zeroing" methodology found to be inconsistent with World Trade Organization (WTO) obligations.⁴⁰ In the *Final Modification for Reviews*, the Department stated that "only in the most extraordinary circumstances" would it rely on margins other than those calculated and published in prior determinations.⁴¹ The Department further stated that, apart from the "most extraordinary circumstances," it would "limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-

³⁵ See *Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

³⁶ See *Ferrovandium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying Issues and Decision Memorandum.

³⁷ See SAA at 890 and *Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

³⁸ See SAA at 890-91.

³⁹ See *Folding Gift Boxes from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁰ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (Final Modification for Reviews).

⁴¹ *Id.*

inconsistent” and that it “may also rely on past dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available (AFA), and dumping margins where no offsets were denied because all comparison results were positive.”⁴²

Discussion of the Issues

Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Parties’ Comments

The domestic interested parties assert that revocation of these antidumping duty orders would likely lead to a continuation or recurrence of dumping by the manufactures/producers and exporters of the subject merchandise.⁴³

Japan

The domestic interested parties point to the history of the order to demonstrate that Japanese producers/exporters are likely to continue dumping the subject merchandise in the U.S. market. Noting the antidumping margins assigned to the Japanese producers/exporters in the investigation, the domestic interested parties assert that the administrative reviews indicate the subject producers/exporters have continued to dump the subject merchandise at above *de minimis* levels, despite the Department assigning a dumping margin of up to 57.87 percent. In addition, the domestic interested parties show that imports of the subject merchandise decreased significantly after the antidumping duty order was imposed, a decline they impute to the discipline of the order.⁴⁴ Furthermore, the domestic interested parties argue that the substantial dumping margins found in the investigation and in subsequent reviews offer an indication that Japanese producers/exporters must rely on dumping to obtain viable volumes of sales in the U.S. market.

Citing to the Department’s *Sunset Policy Bulletin* and *SAA*, the domestic interested parties conclude that the Department should determine that revocation of an antidumping duty order is inappropriate where dumping has continued at any level above *de minimis* after the issuance of the order. In summary, the domestic interested parties argue that record evidence strongly supports the conclusion that the subject Japanese producers/exporters would be likely to continue or resume dumping of the subject merchandise if the order were to be revoked.

⁴² *Id.* at 8109.

⁴³ See Petitioners’ Japan substantive, Petitioners’ Korea substantive, and Petitioners’ Taiwan substantive.

⁴⁴ See Petitioners’ Japan substantive, at 21.

Korea

Referring to the order's history, the domestic interested parties assert that Korean producers/exporters are likely to continue dumping the subject merchandise in the U.S. market if the order was removed. Citing evidence from the investigation and the subsequent administrative reviews, the domestic interested parties assert that the subject producers/exporters have continued dumping in the U.S. market at above *de minimis* levels, despite the imposition of weighted average dumping margins of up to 58.79 percent from the duty order. The domestic interested parties also posit that a significant decline in import volume of the subject merchandise after the antidumping duty order took effect provides evidence that the order had a dampening impact on the ability of the subject Korean producers/exporters to export to the U.S. market.⁴⁵ In addition, the domestic interested parties argue that the substantial dumping margins assigned in the investigation and affirmed in subsequent reviews show that the subject producers/exporters rely on dumping to sell in the U.S. market.

Citing to the Department's *Sunset Policy Bulletin* and *SAA*, the domestic interested parties conclude that the Department should determine that revocation of an antidumping duty order is inappropriate where dumping continued at any level above *de minimis* after the issuance of the order. In summary, the domestic interested parties claim that record evidence strongly supports the conclusion that the subject Korean producers/exporters would be likely to continue or resume dumping of the subject merchandise if the order in place were to be revoked.

Taiwan

Citing to the history of the order, the domestic interested parties state that the Department's calculation of above *de minimis* levels of dumping margins in each of the ten administrative reviews since the investigation indicates that the subject producers/exporters have continued dumping in the U.S. market, despite the amended duty order imposing weighted average dumping margins of up to 36.44 percent. The domestic interested parties also assert that the sharp reduction in the import of the subject merchandise following the imposition of the amended duty order offers strong evidence that the subject Taiwanese producers/exporters have been unable to export to the U.S. market at pre-order volume levels.⁴⁶ Also, the domestic interested parties assert that the substantial dumping margins assigned in the amended investigation and upheld in the reviews provide evidence the subject producers/exporters need to use dumping to sell in the U.S. market.

Citing to the Department's *Sunset Policy Bulletin* and *SAA*, the domestic interested parties conclude that the Department should determine that revocation of an antidumping duty order is inappropriate where dumping continued at any level above *de minimis* after the issuance of the order. In conclusion, the domestic interested parties assert that record history strongly

⁴⁵ See Petitioners' Korea substantive, at 21-22.

⁴⁶ See Petitioners' Taiwan substantive, at 25-26.

indicates that the Taiwanese producers/exporters would be likely to continue or resume dumping of the subject merchandise if the order were to be revoked.

Department's Position

As explained in the Legal Framework section above, the Department's determinations of likelihood will be made on an order-wide basis.⁴⁷ 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.⁴⁸ 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 duty order.

Japan: The Department examined the import statistics provided by the domestic interested parties for the relevant periods which show that imports of SSSS in coils from Japan decreased significantly after the imposition of the order.⁴⁹ In the LTFV final determination, the Department assigned to certain respondents a WTO-consistent dumping margin based on AFA of 57.87 percent based on the highest margin alleged in the petition. In a subsequent administrative review prior to the 2011 continuation of the order, the Department assigned to a respondent a WTO-consistent dumping margin based on AFA of 57.87 percent, which is indicative of the continued existence of dumping after issuance of the order.⁵⁰ The Department has not completed any further administrative reviews of the order since the 2011 continuation of the order. Given the continued existence of dumping margins for Japanese producers after issuance of the order and the decrease in imports, it is unlikely that respondents would be able to sell at pre-order volumes without dumping. Accordingly, the Department determines that dumping is likely to continue if the order was revoked.

Korea: The Department examined the import statistics provided by the domestic interested parties for the relevant periods which show that imports of SSSS in coils from Korea decreased significantly after the imposition of the order.⁵¹ In the LTFV final determination, the Department assigned to a respondent a WTO-consistent dumping margin based on AFA of 58.79 percent based on the highest margin alleged in the petition. In a subsequent administrative review prior to the 2011 continuation of the order, the Department assigned to multiple respondents a WTO-consistent dumping margin based on AFA of 58.79 percent,

⁴⁷ See SAA at 879 and House Report at 56.

⁴⁸ See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

⁴⁹ See Petitioners' Japan substantive, at pages 20 - 23.

⁵⁰ See *Stainless Steel Sheet and Strip in Coils from Japan: Final Results of Antidumping Duty Administrative Review*, 70 FR 37759 (June 30, 2005).

⁵¹ See Petitioners' Korea substantive, at pages 21-23.

which is indicative of the continued existence of dumping after issuance of the order.⁵² The Department has not completed any further administrative reviews of the order since the 2011 continuation of the order. Given the continued existence of dumping margins for Korean producers after issuance of the order and the significant decrease in imports, it is unlikely that respondents would be able to sell at pre-order volumes without dumping. Accordingly, the Department determines that dumping is likely to continue if the order was revoked.

Taiwan

The Department examined the data provided by the petitioners for the relevant periods, which show that imports of SSSS in coils from Taiwan declined after the imposition of the investigation's order.⁵³ In the investigation's amended final determination, the Department assigned to a respondent a WTO-consistent dumping margin based on AFA of 21.10 percent based on the highest margin alleged in the petition. In subsequent administrative reviews prior to the 2011 continuation of the order, the Department assigned to various respondent companies a WTO-consistent dumping margin based on AFA of 21.10 percent, which is indicative of the continued existence of dumping after issuance of the order.⁵⁴ The Department has not completed any administrative reviews of the order since the 2011 continuation of the order. Given the continued existence of dumping margins for Korean producers after issuance of the order and the significant decrease in imports, it is unlikely that respondents would be able to sell at pre-order volumes without dumping. Accordingly, the Department determines that dumping is likely to continue if the order was revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Parties' Comments

The domestic interested parties note that the *Sunset Policy Bulletin* stipulates the Department is normally to rely on the antidumping duty margins established in the original investigations when determining the magnitude of the margin likely to prevail, as these margins represent the best evidence of the behavior of foreign producers and exporters without the discipline of the orders. Therefore, domestic interested parties advocate the Department use the dumping margins that were determined in the original investigations, as amended and in accordance with the *Sunset Policy Bulletin* and SAA, as the magnitude of the margins of dumping likely to prevail.

⁵² See *Stainless Steel Sheet and Strip in Coils From the Republic of Korea; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 72 FR 4486 (January 31, 2007).

⁵³ See Petitioners' Taiwan substantive, at pages 24-27.

⁵⁴ See, e.g., *Stainless Steel Sheet and Strip in Coils From Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 5960 (February 9, 2004).

Japan

Citing to the *Sunset Policy Bulletin* and *SAA*, the domestic interested parties assert that the Department normally reports to the Commission the dumping margins calculated in the original investigation to determine the magnitude of the margin of dumping likely to prevail. The domestic interested parties also emphasize that the Department's *Final Modification for Reviews* should have no effect on the conclusion of the sunset review as the dumping margins in the investigation were determined based on an assignment of AFA and did not involve the use of "zeroing" methodology that is WTO-inconsistent. In summary, the domestic interested parties believe the Department should report to the ITC the dumping margins established in the LTFV investigation as the margins likely to prevail if the order were revoked.

Korea

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Taiwan

Citing to the *Sunset Policy Bulletin* and *SAA*, the domestic interested parties assert that the Department normally reports to the Commission the dumping margins calculated in the original investigation to determine the magnitude of the margin of dumping likely to prevail. The domestic interested parties also emphasize that the Department's *Final Modification for Reviews* should have no effect on the conclusion of the sunset review as the dumping margins in the investigation were determined based on an assignment of AFA and did not involve the use of "zeroing" methodology that is WTO-inconsistent. In summary, the domestic interested parties believe the Department should report to the ITC the dumping margins established in the LTFV investigation as the margins likely to prevail if the order were revoked.

Department's Position

Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. The Department's preference is to select a weighted-average dumping margin from the LTFV investigation because it is the only calculated rate that reflects the behavior of the producers/exporters without the discipline of an order in place.⁵⁵ Under certain circumstances, however, the Department may select a more recent rate.⁵⁶

⁵⁵ See *SAA* at 890 and *Sunset Policy Bulletin*, at section II.B.1; see also, e.g., *Pre stressed Concrete Steel Wire Strand*

Finally, as indicated in the “Legal Framework” section above, in accordance with the *Final Modification for Reviews*, the Department’s current practice is not to rely on weighted-average dumping margins calculated using the zeroing methodology found to be WTO inconsistent.⁵⁷ Instead, we may rely on other rates available, including rates determined based on a finding of AFA. In certain cases, the Department may recalculate weighted-average dumping margins using our current offsetting methodology.⁵⁸

Japan

After considering the dumping margins determined in the LTFV investigation of SSSS in coils from Japan, we find it appropriate to provide the ITC the margin of 57.87 percent from the original investigation which was based on AFA, as the rate up to which dumping is likely to continue or recur. That rate is based on AFA, and there is no other indication that it reflects a WTO-inconsistent methodology.

Korea

After considering the dumping margins determined in the original LTFV investigation of SSSS in coils from Korea, we find it appropriate to provide the ITC the margin of 58.79 percent from the original investigation which was based on AFA, as the rate up to which dumping is likely to continue or recur. That rate is based on AFA, and there is no other indication that it reflects a WTO-inconsistent methodology.

Taiwan

After considering the dumping margins determined in the original LTFV investigation of SSSS in coils from Taiwan, we find it appropriate to provide the ITC the margin of 21.10 percent from the original investigation which was based on AFA, as the rate up to which dumping is likely to continue or recur. That rate is based on AFA, and there is no other indication that it reflects a WTO-inconsistent methodology.

Final Results of Sunset Reviews

The Department determines that revocation of the antidumping duty orders on SSSS in coils from Japan, Korea, and Taiwan would likely lead to continuation or recurrence of dumping, and

from the People’s Republic of China: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order, 80 FR 43063 (July 21, 2015), and accompanying Issues and Decision Memorandum at Issue 2.

⁵⁶ See section 752(c)(3) of the Act and, e.g., *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthlamide From the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying Issues and Decision Memorandum at Comment 3 (citing SAA at 890-91 and House Report at 64).

⁵⁷ See *Final Modification for Reviews*, 77 FR at 8103.

⁵⁸ *Id.*

that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to 57.87 percent for Japan, up to 58.79 percent for Korea, and up to 21.10 percent for Taiwan.

Recommendation

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

Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

1 NOVEMBER 2016
Date