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Sunset Reviews
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October 8, 2004

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

FROM: Ronald K. Lorentzen
Acting Director, Office of Policy

SUBJECT: Issues and Decision Memorandum for the Notice of Expedited Sunset
Reviews of the Antidumping Duty Orders on Certain Stainless Steel
Plate in Coils from Belgium, Italy, and the Republic of Korea; Final
Results

Summary

We have analyzed the substantive responses of the interested parties in the sunset reviews of the antidumping duty investigations covering certain stainless steel plate in coils ("SSPC") from Belgium, Italy, and the Republic of Korea ("Korea"). 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 sunset review for which we received a substantive response:

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 Orders

On March 31, 1999, the Department of Commerce ("Department") published its final affirmative determinations of sales at less than fair value ("LTFV") in the *Federal Register* with respect to imports of SSPC from Belgium, Canada, Italy, Korea, South Africa, and Taiwan. See *Stainless Steel Plate in Coils; Final Determination of Sales at Less Than Fair Value*, 64 FR 15443 through 15509 (March 31, 1999). On May 21, 1999, the Department published in the *Federal Register* the original antidumping duty orders on SSPC from Belgium, Canada, Italy, Korea, South

Africa, and Taiwan. *See Antidumping Duty Orders; Certain Stainless Steel Plate in Coils from Belgium, Canada, Italy, Korea, South Africa, and Taiwan*, 64 FR 27756 (May 21, 1999). The Department amended the orders to include cold-rolled SSPC, convert certain old Harmonized Tariff Schedule numbers, and correct errant cash deposit rates.¹ Since the issuance of the antidumping duty orders, the Department has conducted several administrative reviews with respect to imports of SSPC from Belgium and South Korea.² In addition, the Department has conducted an administrative review with respect to imports of SSPC from Italy.³

In addition, as a result of a World Trade Organization dispute settlement, on August 28, 2001, the Department published its notice of implementation of the amended final determinations in which it calculated a new rate for Pohang Iron & Steel Co., Ltd. ("POSCO") and all other Korean manufacturers of 6.08 percent.⁴

Background:

On April 1, 2004, the Department published the notice of initiation of the sunset reviews of the antidumping duty orders on SSPC from Belgium, Italy, and Korea pursuant to section 751(c) of the Act.⁵ On April 16, 2004, the Department received the Notice of Intent to Participate from the domestic interested parties of Allegheny Ludlum Corp.; North American Stainless; and United Steelworkers of America, AFL-CIO/CLC (collectively "the domestic interested parties") within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act, as domestic

¹*See Notice of Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils from Belgium, Canada, Italy, Korea, South Africa, and Taiwan*, 68 FR 11520 (March 11, 2003); *Notice of Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils from Belgium, Canada, Italy, Korea, South Africa, and Taiwan*, 68 FR 16117 (April 2, 2003); and *Notice of Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils from Belgium, Canada, Italy, Korea, South Africa, and Taiwan*, 68 FR 20114 (April 24, 2003).

²**Belgium:** *Stainless Steel Plate in Coils from Belgium; Final Results of Antidumping Duty Administrative Review*, 66 FR 56272 (November 7, 2001); *Stainless Steel Plate in Coils from Belgium; Final Results of Antidumping Duty Administrative Review*, 67 FR 64352 (October 18, 2002); **Korea:** *Final Results of Antidumping Duty Administrative Review: Stainless Steel Plate in Coils from the Republic of Korea* 66 FR 64017 (December 11, 2001); *Amended Final Results of Antidumping Administrative Review: Stainless Steel Plate in Coils from the Republic of Korea*, 67 FR 42755 (June 25, 2002).

³*Final Results of Antidumping Duty Administrative Review: Stainless Steel Plate in Coils from Italy*, 67 FR 63618 (October 15, 2002); *Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Plate in Coils from Italy*, 67 FR 76381 (December 12, 2002)

⁴*Notice of Amended Final Determinations of 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).

⁵*Initiation of Five-Year (Sunset) Reviews*, 69 FR 17129 (April 1, 2004).

producers or a certified union whose workers are engaged in the production of SSPC. Armco, Inc., J&L Specialty Steels, Inc., Lukens Inc., were also petitioners in the original investigation but are either no longer producers of subject merchandise or are scheduled to cease production of SSPC in July 2004. *Id.* According to the domestic interested parties of this review, two unions, Butler Armco Independent Union and Zanesville Armco Independent Organization, that were original petitioners are not participating in this sunset review because very few workers at these unions are engaged in the production of SSPC in the United States. *Id.* at 7. The domestic interested parties have collectively participated during various segments of this order. *Id.* On May 3, 2004, we received a complete substantive response from the domestic interested parties within the 30-day deadline specified in the Department's regulations under section 351.218(d)(3)(i). *See* Domestic Interested Parties' Response ("Domestic Response") (May 3, 2004). Pursuant to section 751(c)(4) of the Act, the Department received a waiver of participation in the sunset review of the antidumping order on Belgium from Ugine and ALZ Belgium ("U & A Belgium") (formerly ALZ N.V.), a respondent interested party, and received no other responses in these sunset reviews from respondent interested parties. *See* Response of ALZ N.V., "SSPC from Belgium - Sunset Participation Waiver" (April 30, 2004). No rebuttal comments were received from any interested parties. The domestic interested parties submitted comments on the adequacy determinations, stating that it was appropriate to conduct expedited reviews of the antidumping duty orders based on the reasoning in their substantive response. *See* Domestic Response, "SSPC from Belgium, Canada, Italy, South Africa, Korea and Taiwan: Five Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders (June 10, 2004 and June 14, 2004).⁶ Pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120-day) sunset reviews of these antidumping duty orders on Belgium, Italy, and Korea.

Discussion of the Issues:

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of the antidumping duty orders 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 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 orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitudes of the margins of dumping likely to prevail if the orders were revoked. 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 these antidumping duty orders would likely

⁶Because of confusion over the number of copies required for its single combined submission of adequacy comments, the Department accepted the resubmission of the domestic industry's response on June 14, 2004.

lead to a continuation or recurrence of dumping by the Belgian, Italian, and Korean producers of the subject merchandise because these producers continue to dump. *See* Domestic Response at 27. The domestic interested parties state that since the issuance of these orders, the respondent interest parties have reduced their sales to the United States dramatically. *Id.* at 27-28. Thus, the domestic interested parties contend that the discipline of the orders has forced the foreign producers either to increase their prices or to reduce significantly their volumes to the United States. *Id.* at 30. The specific comments concerning each country are discussed separately:

Belgium

The domestic interested parties state that U.S. imports of SSPC from Belgium dropped significantly, but not immediately, in response to the antidumping and countervailing duty orders. *Id.* at 30. The domestic interested parties argue that U & A Belgium failed in its strategy to reduce the 9.86 percent antidumping rate found in the investigation through the administrative review process and its exportation of large quantities of SSPC to the United States. *Id.* The domestic interested parties contend that the annual import volume of SSPC from Belgium averaged 4,883 short tons in the 2001-2003 period which is a contraction in relation to the average annual imports of 12,779 tons in 1997-1998, the last years before the imposition of the order. *Id.* at 31. The domestic interested parties claim that Belgian producers are incapable of shipping the product to the U.S. in significant quantities without dumping. *Id.*

Italy

The domestic interested parties contend that the volume of U.S. imports of SSPC in 1998 was 20,783 short tons but fell to inconsequential levels, averaging 425 short tons per year, in subsequent years after the imposition of the antidumping duty orders. *Id.* at 32. The domestic interested parties argue that while ThyssenKrupp Acciai Speciali Terni, S.p.A. (“TKAST”) reduced its dumping margin to *de minimis* levels in the second administrative review, this did not result in a dramatic return of imports in 2003. *Id.* at 33. The domestic interested parties further argue that this dramatic decline in Italian imports is likely due to continued dumping and an inability to complete further reviews. *Id.* The domestic interested parties conclude that dumping would continue and imports from Italy would return to their substantial pre-order levels at dumped prices if the antidumping duty order were revoked. *Id.*

Korea

The domestic interested parties claim that U.S. imports peaked in the year before the imposition of the antidumping duty order at 3,411 short tons in 1998 but then declined to 747 short tons in 1999, increased to 2,127 short tons in 2000, and fell to a level of zero in 2002 and 2003. *Id.* at 34. Even though POSCO had its rate reduced to 1.19 percent in its first administrative review, its level of exports did not increase in 2002. *Id.* Thus, the domestic interested parties contend that it appears that POSCO remains unable to ship SSPC in any commercially significant quantities without dumping. *Id.* Therefore, the Department is urged to conclude that Korean producers would return to dumping and export substantial volumes of SSPC if the order were revoked. *Id.*

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. Rep. No. 103-826, pt. 1 (1994) ("House Report"), 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 *Policy Bulletin 98-3*, 63 FR 18871, 18875 (April 16, 1998) ("*Policy Bulletin*"). The Department clarified that determinations of likelihood will be made on an order-wide basis. See *Policy Bulletin* at section II.A.2.

Generally, when determining whether revocation of an order would likely lead to continuation or recurrence of dumping, the Department considers (a) the weighted-average dumping margins determined in the investigation and subsequent reviews, and (b) the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order. See *Policy Bulletin* at section II.A.1. More specifically, the Department indicated that normally it 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. See *Policy Bulletin* at section II.A.3.

Consistent with the *Policy Bulletin*, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where, *inter alia*, dumping continued at any level above *de minimis* after the issuance of the order. See *Policy Bulletin* at section II.A.3. With respect to Belgium and Korea, the Department has conducted a number of reviews since the issuance of the orders in which it found that dumping continued at levels above *de minimis*. See Footnote 2 of this Memorandum and the attached ITC Dataweb statistics. With respect to the orders on Belgium and Korea, import volumes have fluctuated. The Department finds, therefore, that dumping is likely to continue or recur if the antidumping duty orders on Belgium and the Republic of Korea were revoked.

With respect to the order on Italy, we find that dumping would likely continue or recur if the order were revoked. The Department completed one review of the Italian order in which TKAST received a *de minimis* margin. Section 752(c)(4)(A) of the Act provides that a weighted-average dumping margin of zero or *de minimis* determined in the investigation or subsequent reviews shall not, by itself, require the Department to determine that revocation of an antidumping duty order would likely lead to continuation or recurrence of dumping. Furthermore, the Department normally will determine that dumping is likely to continue or recur when, despite the elimination of dumping margins, imports declined significantly following issuance of an order. Absent evidence to the contrary, the decline in import volumes indicates that a company is unable to maintain market share without selling at dumped prices. In the case of Italy, import volumes fluctuated, but significantly declined from pre-order levels. See attached ITC Dataweb statistics; see also *Memorandum for James J. Jochum, Assistant Secretary for Import Administration re: Adequacy Determination in Sunset Review of Stainless Steel Plate in Coils*

from Italy (C-475-823) (July 13, 2004). Thus, the Department finds that the absence of dumping margins accompanied by a significant decline in SSPC imports indicate that the Italian companies would not be able to sell in the United States without dumping. Accordingly, we conclude that it is likely that dumping of stainless steel plate in coils from Italy will continue or recur if the order were revoked.

2. Magnitude of the Margin Likely to Prevail:

Interested Party Comments

The domestic interested parties argue that the highest calculated margins in any segment of the proceeding are the margins that will likely prevail if the orders were revoked because current market conditions dictate the level of dumping. See Domestic Response at 36. The domestic interested parties argue that the Department should report the highest calculated margin in any segment of this proceeding for a particular company where that company's dumping margins increased after the issuance of the order. *Id.* at 37-38 citing the SAA. The Department calculated a higher rate of 24.43 percent in an administrative review for U & A Belgium than in the original investigation. *Id.* at 38 and *Stainless Steel Plate in Coils from Belgium; Final Results of Antidumping Duty Administrative Review*, 66 FR 56272 (November 7, 2001). The domestic interested parties claim that a higher margin provides a reasonable reflection of the individual company's actual dumping. *Id.* Accordingly, the domestic interested parties argue that the Department should report to the ITC the highest margin calculated in any segment of these proceedings for any given respondent that remains under the order as the rate most indicative of the dumping margin that is likely to prevail if revocation of the order occurs. *Id.* Thus, the domestic interested parties urge the Department to report to the ITC the following dumping margins:

Belgium:	U & A Belgium - 24.43 percent	All Others - 9.86 percent
Italy:	TKAST - 45.09 percent	All Others - 39.69 percent
Korea:	POSCO - 6.08 percent	All Others - 6.08 percent

Id.

Department's Position

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 policy include the use of a more recently calculated margin, where appropriate. See *Sunset Policy Bulletin* Sections II.B.2 and 3. The preference for selecting a margin from the investigation is because it is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place. As discussed below, the Department believes it is appropriate to report those figures to the ITC as the magnitude of the margin likely to prevail if the orders were revoked because they are the only calculated rates that reflect the behavior of exporters without the discipline of the orders in place.

In its substantive response regarding the order on imports of SSPC from Belgium, the domestic interested parties recommend that the Department deviate from its stated policy of selecting rates from the original investigation. The Department, in response to an argument from an interested party, may provide the ITC with a more recently calculated margin for a particular company

where, for that particular company, dumping margins increased after the issuance of the order. *See Policy Bulletin II.B.2.* The Department found a dumping margin of 24.43 percent in the first administrative review which was based on adverse facts available because U & A Belgium withdrew from the review and requested that its questionnaire responses be removed from the record. *See Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Review*, 66 FR 56272 (November 7, 2001). However, in the most recent administrative review, the Department determined a dumping margin of 3.84 percent. *See Stainless Steel Plate in Coils from Belgium; Final Results of Antidumping Duty Administrative Review*, 67 FR 64352 (October 18, 2002). Because imports from Belgium and the rates from the administrative reviews for U & A Belgium have fluctuated, the Department finds that the margin for U & A Belgium from the investigation is the appropriate rate to report to the ITC as it is the only calculated rate that reflects the behavior of U & A Belgium without the discipline of the order.

With respect to Italy, the Department has determined that we should report to the ITC TKAST's margin of 45.09 percent, as determined in the investigation. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Italy*, 64 FR 15458 (March 31, 1999). The original margin is the only calculated rate that reflects the behavior of Italian exporters without the discipline of the order.

Regarding the antidumping order on SSPC imports from Korea, the Department has determined that we should report to the ITC the margin of 6.08 percent for POSCO and all other Korean manufacturers, as determined in its implementation of the amended final determinations. *See Footnote 4.* The margins from the amended final determination are the only calculated rates that reflect the behavior of Korean exporters without the discipline of the order.

We shall provide to the ITC the rates as published in the investigations for Belgium, Italy, and Korea, as amended, as found in the "Final Results of Results" below.

Final Results of Review

We determine that revocation of the antidumping duty orders on SSPC from Belgium, Italy, and Korea 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)

Belgium

U & A Belgium	9.86
All Others	9.86

Italy

TKAST	45.09
All Others	39.69

Korea

POSCO	6.08
All Others	6.08

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 X

DISAGREE _____

ORIGINAL SIGNED

James J. Jochum
Assistant Secretary
for Import Administration

10/12/04

(Date)

**Import Statistics for Stainless Steel Plate in Coils for
Belgium (A-423-808), Italy (A-475-822) and Korea (A-580-831)**

Source: US International Trade Administration Dataweb

Weight: in kilograms

Country	1998	1999	2000	2001	2002
Belgium	10,478,595	21,296,538	21,669,701	1,484,179	1,37
Italy	18,899,223	525,686	1,037,352	18,923	103,
Korea	4,597,867	3,834,703	6,461,591	4,062,591	2,78

Duty Margins from the Periods of Review

Country	1999 (Investigation)	2000	2001	2002
Belgium*	U & A Belgium 9.86 All Others 9.86	U & A Belgium 24.43	U & A Belgium 3.84	Rescinded
Italy*	TKAST 45.09 All Others 39.69	No review	TKAST 0.00 All Others 39.69	No review
Korea*	POSCO 1.19 All Others 6.08	POSCO 1.19	No review	No review

*Amended orders on April 24, 2003, 68 FR 20114