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Sunset Reviews
AD/CVD Operations O7/BJ
Public Document

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset
Reviews of the Antidumping Duty Orders on Structural Steel
Beams from Japan and South Korea; Final Results

SUMMARY:

We have analyzed the substantive responses of the interested parties in the sunset reviews of the antidumping duty orders on structural steel beams (steel beams) from Japan and South Korea. We recommend that you approve the positions we developed 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

History of the Orders

Japan

The Department of Commerce (the Department) published its final affirmative determinations of sales at less than fair value (LTFV) in the Federal Register with respect to imports of steel beams from Japan on April 25, 2000. See Notice of Final Determination of Sales Less Than Fair Value: Structural Steel Beams from Japan, 65 FR 24182 (April 25, 2000). The antidumping duty order on steel beams from Japan was published on June 19, 2000. The Department established weighted-average margins of 65.21 percent for the following companies: Kawasaki Steel Corporation (Kawasaki), Nippon Steel Corporation (Nippon), NKK Corporation/TOA Steel Co., Ltd. (NKK), Sumitomo Metals Industries, Ltd. (Sumitomo), Tokyo Steel Manufacturing Co., Ltd. (Tokyo), and Topy Industries, Limited (Topy). The “all others” weighted-average margin for steel beams from Japan was 31.98 percent. See Structural Steel Beams from Japan: Notice of Antidumping Duty Order, 65 FR 37960 (June 19, 2000).

Since the issuance of the antidumping order on steel beams from Japan, the Department has not completed an administrative review. The Department has completed a new shipper

review for a single Japanese new shipper, Yamoto Kogyo Ltd. (Yamoto Kogyo), and found a zero percent weighted average dumping margin. See Notice of Final Results of Antidumping Duty New Shipper Review: Structural Steel Beams from Japan, 67 FR 9440 (March 1, 2002). The Department has also conducted a changed circumstances review and found that Yamoto Steel Co., Ltd (Yamoto) is the successor in interest to Yamoto Kogyo. See Structural Steel Beams from Japan: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, 69 FR 56039 (September 17, 2004).

South Korea

The Department published its final affirmative determinations of sales LTFV in the Federal Register with respect to imports of steel beams from South Korea on July 5, 2000. See Notice of Final Determination of Sales Less Than Fair Value: Structural Steel Beams from South Korea, 65 FR 41437 (July 5, 2000) and Notice of Amended Final Determination of Sales Less Than Fair Value: Structural Steel Beams from South Korea, 65 FR 50501 (August 18, 2000). The antidumping duty order on steel beams from South Korea was also published on August 18, 2000. As a result of the amended final decision, the Department established weighted-average margins of 25.31 percent for Inchon Iron & Steel Co., Ltd. (Inchon), 49.01 percent for Kangwon Industries, Ltd. (Kangwon), and 37.25 percent for “all others”. See Structural Steel Beams from South Korea: Notice of Antidumping Duty Order, 65 FR 50502 (August 18, 2000)

Because of a merger of Inchon and Kangwon, upon request of Inchon the Department conducted a changed circumstances and found Inchon to be the successor-in-interest to Inchon and Kangwon. See Structural Steel Beams from Korea: Final Results of Changed Circumstances Review, 66 FR 34615 (June 29, 2001). The Department conducted a second changed circumstances review and found, as a result of a change in corporate name, INI Steel Company (INI) to be the successor-in-interest to Inchon. See Structural Steel Beams from the Republic of Korea: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, 67 FR 11980 (March 18, 2002).

In subsequent administrative reviews, the Department found that the South Korean producers/exporters continued dumping with the order in place. See Structural Steel Beams from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 68 FR 2499 (January 17, 2003)¹; Structural Steel Beams from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 69 FR 7200 (February 14, 2004)²; and Structural Steel Beams from Korea: Notice of Final Results of Antidumping Duty Administrative Review, 70 FR 6837 (February 9, 2005)³.

¹For this review, INI had a weighted average dumping margin of 1.87 percent.

²For this review, Dongkuk Steel Mill Co., Ltd. (DSM) was found to have a 0.04 percent weighted-average dumping margin, while INI had a margin of 4.15 percent.

³For this review, DSM had a weighted-average dumping margin of 4.39 percent and INI had a 16.62 percent weighted-average dumping margin.

Initiation of Sunset Reviews

On May 2, 2005, the Department initiated this sunset review of the antidumping duty orders on steel beams from Japan and South Korea pursuant to section 751(c) of the Tariff Act of 1930, as amended, (the Act). See Initiation of Five-Year (“Sunset”) Reviews, 70 FR 22632 (May 2, 2005) (Sunset Review). The Department invited parties to comment. The Department received notices of intent to participate from domestic interested parties, Committee for Fair Beam Imports (Fair Beam), Nucor Corp. (Nucor), Nucor-Yamato Steel Co. (Nucor-Yamato), Steel Dynamics, Inc. (SDI), and TXI-Chaparral Steel, Inc. (TXI) (collectively, domestic interested parties), within the deadline specified in section 351.218(d)(1)(i) of the Department’s regulations. Domestic interested parties claimed interested party status under section 771(9)(C) of the Tariff Act as a U.S. producer of a domestic like product. The Department received a substantive response from domestic interested parties within the deadline specified in 19 CFR 351.218(d)(3)(i). Nucor-Yamato and TXI were the domestic interested parties in the original investigation and have actively monitored and participated in these proceedings since that time. The Department did not receive responses to the notice of initiation from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Tariff Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these orders.

Discussion of the Issues

In accordance with section 751(c)(1) of the Tariff Act, the Department conducted these sunset reviews to determine whether revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Tariff 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 period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Tariff Act provides that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested party.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Japan

_____ Domestic interested parties state that since the issuance of the order, there have been no full administrative reviews. However, domestic interested parties argue that revocation of the order on steel beams from Japan is likely to lead to continued dumping because import volumes dramatically declined after the issuance of the order. See Substantive Response of domestic interested parties, June 1, 2005, at 4 (Substantive Response). Domestic interested parties claim that between the period immediately preceding the filing of the antidumping duty petition and the most recently completed six-month period, imports of subject merchandise have dropped by over 99 percent. See id. at 5.

South Korea

Petioners argue that revocation of the order on steel beams from South Korea is likely to lead to continued dumping because dumping has continued at levels significantly above de minimis and import volumes declined significantly after the issuance of the order, and have remained below pre-order levels. See Substantive Response at 4. Domestic interested parties claim that between the period immediately preceding the filing of the antidumping duty petition and the most recently completed six-month period, imports of subject merchandise have dropped by over 99 percent. See id. at 6.

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) (Senate Report), the Department normally determines 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 an order and import volumes for the subject merchandise declined significantly.

The record of the order on steel beams from South Korea shows that dumping has persisted since the issuance of the order. Deposit rates above de minimis remain in effect for all exports of steel beams from South Korea. In the case of the antidumping duty order of steel beams from Japan, the Department has not conducted an administrative review. The Department has, however, completed a single new shipper review and found a zero percent weighted-average dumping margin.⁴ The original investigation of steel beams from Japan involved six respondents and a total of 991,517 MT imported into the United States from Japan in the year prior to the investigation initiation. In the review period considered for the single new shipper review respondent, only 20,518 MT were imported into the United States from Japan for the entire year. See Memorandum to File, August 30, 2005, regarding import volumes of steel beams from Japan and South Korea (Import Volume Memo). Because of the limited volume and the review of only a single new shipper respondent, the Department therefore cannot conclude that the zero margin found in the new shipper review is indicative of the behavior of the other manufacturers, producers, and exporters without the discipline of an order in place.

The Department also analyzed and considered the volume of imports of the subject merchandise for the period before issuance of the order and for the period after the issuance of these orders, and import volumes over the past five years. We note that with respect to steel beams from Japan and South Korea, import volumes continue to be well below pre-order levels.

⁴See Notice of Final Results of Antidumping Duty New Shipper Review: Structural Steel Beams from Japan, 67 FR 9440 (March 1, 2002).

See Import Volume Memo. In regard to South Korea, because of the continuation of dumping at above de minimis levels and the significant decrease in import volumes since the time preceding the investigation initiation, we find that it is likely that if the antidumping duty order were revoked, dumping would continue. In regard to Japan, because of the significant decrease in import volumes since the time preceding the investigation initiation, we find that it is likely that if the antidumping duty order were revoked, dumping would continue or recur.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

Japan

Domestic interested parties assert that in accordance with the legislative history and the Department's policy, the Department should provide the ITC the rates from the original investigation, 65.21 percent for the named respondents and 31.98 percent for "all other" Japanese exporters of steel beams. See Substantive Response at 6.

South Korea

_____ Domestic interested parties suggest that the Department should follow its standard practice and report the rate from the original investigation See Substantive Response at 7.

Department's Position

Section 752(c)(3) of the Tariff Act provides that the Department will report 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 margin from the final determination of the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. See SAA at 890, and the House Report at 64.

In the final determination of the investigation from Japan, the Department found dumping margins of 65.21 percent for the six named respondents and 31.98 percent for "all others". In the final determination of the investigation from South Korea, the Department found dumping margins of 25.31 percent for Inchon, 49.01 percent for Kangwon, and 37.25 percent for "all others". As noted in the case history discussion above, the Department found in two changed circumstances reviews that Inchon was the successor-in-interest to a merger of Inchon and Kangwon and that INI is the successor-in-interest to Inchon.

The Department has not conducted an administrative review of steel beams from Japan of the respondents from the original investigation. The Department has conducted a single new shipper review and found a zero percent margin. The original investigation of steel beams from Japan involved six respondents and a total of 991,517 MT imported into the United States from Japan in the year prior to the investigation initiation. In the review period considered for the single new shipper review respondent, only 20,518 MT were imported into the United States from Japan for the entire year. See Import Volume Memo. Because of the limited volume and the review of only a single new shipper respondent, the Department therefore cannot conclude

that the zero margin found in the new shipper review is indicative of the behavior of the other manufacturers, producers, and exporters without the discipline of an order in place.

In the case of steel beams from South Korea, the Department does not find any indication that the margins calculated in subsequent reviews are more probative of behaviors without the discipline of the order. The Department finds that the margins from the original investigation are the appropriate margins to report to the ITC with respect to the orders on steel beams from Japan and South Korea. Therefore, the Department continues to find that the margins calculated in the original investigations are probative of the behavior of Japanese and South Korean producers and exporters if these orders were revoked. In the case of South Korea, INI is the successor-in-interest to Inchon as the result of the above-referenced changed circumstances reviews for South Korea. The only evidence we have of how INI would behave without the discipline of the order is the investigation rate. Accordingly, the Department will report for INI the investigation weighted average margin of Inchon. Consistent with section 752(c) of the Tariff Act, the Department will report to the ITC company-specific and “All Others” rates from the investigations as indicated in the “Final Results of Reviews” section of this memorandum.

Final Results of Reviews

As a result of these reviews, the Department determines that revocation of the antidumping duty orders 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)
Japan	
Kawasaki Steel Corporation	65.21
Nippon Steel Corporation	65.21
NKK Corporation/TOA Steel Co., Ltd.	65.21
Sumitomo Metals Industries, Ltd.	65.21
Tokyo Steel Manufacturing Co., Ltd.	65.21
Topy Industries, Limited	65.21
All Others	31.98
South Korea	
INI Steel Company	25.31
All Others	37.25

Recommendation

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

AGREE _____

DISAGREE _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date