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Sunset Reviews
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MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen Claeys
Deputy Assistant Secretary
for AD/CVD Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Five-Year (“Sunset”) Reviews of the Antidumping Duty Orders on Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines

Summary

We have analyzed the substantive response of the domestic interested parties in the first sunset reviews of the antidumping duty orders covering stainless steel butt-weld pipe fittings (butt-weld pipe fittings) from Italy, Malaysia, and the Philippines. 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 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 Orders

Italy

On December 27, 2000, the Department of Commerce (the Department) published in the Federal Register its final affirmative determination of sales at less than fair value (LTFV) with respect to butt-weld pipe fittings from Italy. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from Italy, 65 FR 81830 (December 27, 2000). The antidumping duty order on butt-weld pipe fittings from Italy was published on February 23, 2001. See Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines, 66 FR 11257 (February 23, 2001). The Department established a weighted-average dumping margin of 26.59 percent for Coprosider S.p.A. and “all other” Italian exporters and manufacturers of the subject merchandise.

Since the issuance of the antidumping duty order, the Department has initiated one administrative review of the order on butt-weld pipe fittings from Italy. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 67 FR 14696 (March 27, 2002). However, the Department later rescinded that review because the requesters¹ withdrew their request in a timely manner. See Stainless Steel Butt-Weld Pipe Fittings from Italy; Rescission of Antidumping Duty Administrative Review, 67 FR 35960 (May 22, 2002).

Malaysia

The Department published its final affirmative determination of sales at LTFV with respect to butt-weld pipe fittings from Malaysia on December 27, 2000. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from Malaysia, 65 FR 81825 (December 27, 2000). On February 23, 2001, the Department published the antidumping duty order on butt-weld pipe fittings from Malaysia. See Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines, 66 FR 11257 (February 23, 2001). The Department established a weighted-average dumping margin of 7.51 percent for Kanzen Tetsu Sdn. Bhd. and “all other” Malaysian exporters and manufacturers of butt-weld pipe fittings.

Since issuing the order, the Department has initiated four administrative reviews of butt-weld pipe fittings from Malaysia.² However, in each instance the Department rescinded these reviews because the requester, Schulz (Mfg.) Sdn. Bhd., withdrew its request in a timely manner.³

The Philippines

On December 27, 2000, the Department published its final affirmative determination of sales at LTFV with respect to butt-weld pipe fittings from the Philippines. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from the Philippines, 65 FR 81823 (December 27, 2000). The Department published the antidumping duty order on February 23, 2001. See Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines, 66 FR 11257 (February 23, 2001). The

¹ The requesters were two merged producers/exporters of the subject merchandise, Union Piping S.p.A. and Coprosider S.p.A.

² See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 67 FR 14696 (March 27, 2002); Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 68 FR 14394 (March 25, 2003); Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 69 FR 15788 (March 26, 2004); and Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 70 FR 14643 (March 23, 2005).

³ See Stainless Steel Butt-Weld Pipe Fittings from Malaysia: Rescission of Antidumping Duty Administrative Review, 67 FR 37391 (May 29, 2002); Stainless Steel Butt-Weld Pipe Fittings from Malaysia: Rescission of Antidumping Duty Administrative Review, 68 FR 19513 (April 21, 2003); Stainless Steel Butt-Weld Pipe Fittings from Malaysia: Rescission of Antidumping Duty Administrative Review, 69 FR 29518 (May 24, 2004); and Stainless Steel Butt-Weld Pipe Fittings from Malaysia: Rescission of Antidumping Duty Administrative Review, 70 FR 42039 (July 21, 2005).

Department established a weighted-average dumping margin of 33.81 percent for Enlin Steel Corporation (Enlin), Tung Fong Industrial Co., Inc. (Tung Fong), and “all other” Philippine exporters and manufacturers of butt-weld pipe fittings. Tung Fong challenged parts of the Department’s margin calculation before the Court of International Trade (the Court). As a result of a remand by the Court, the Department found a weighted-average dumping margin of 7.59 percent for Tung Fong and “all others.” Enlin’s margin remained at 33.81 percent. See *Stainless Steel Butt-Weld Pipe Fittings from the Philippines: Amended Final Determination of Sales at Less Than Fair Value Pursuant to Court Remand (Philippine Amended Final Determination)*, 70 FR 30086 (May 25, 2005).

Since the issuance of the antidumping duty order, the Department has not initiated any administrative reviews of butt-weld pipe fittings from the Philippines.

Initiation of Sunset Reviews

On January 3, 2006, the Department initiated sunset reviews of the antidumping duty orders on butt-weld pipe fittings from Italy, Malaysia, and the Philippines pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See *Initiation of Five-Year (“Sunset”) Reviews*, 71 FR 91 (January 3, 2006). On January 18, 2006, the Department received a notice of intent to participate in these sunset reviews from four domestic interested parties, Flowline Division of Markovitz Enterprises, Inc., Gerlin, Inc., Shaw Alloy Piping Products, Inc. (formerly Alloy Piping Products, Inc.), and Taylor Forge Stainless, Inc. (collectively, 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 section 771(9)(C) of the Act as U.S. producers of a domestic like product. On February 2, 2006, the Department received a substantive response from domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department’s regulations. The Department did not receive any responses to the notice of initiation from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department’s regulations, the Department conducted expedited sunset reviews of these orders.

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 these antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making 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 after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (the ITC) the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of domestic interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments:

_____ Domestic interested parties contend that since the issuance of the antidumping duty orders on butt-weld pipe fittings from Italy, Malaysia, and the Philippines, respondents have continued to dump the subject merchandise despite having decreased the volume of their imports to the United States in almost all cases. See Domestic Interested Parties' Substantive Response, February 2, 2006 (Substantive Response), at 9. Domestic interested parties argue the lack of administrative reviews coupled with the sharp decrease in import volumes by the foreign manufacturers/exporters suggests that dumping would be likely to continue or recur upon revocation of these orders. Id. at 10. Domestic interested parties' comments specific to the individual countries are summarized below.

Italy

Domestic interested parties assert U.S. imports of butt-weld pipe fittings from Italy fell sharply after the imposition of the order in February 2001, and continued to decline through 2004, though rising slightly in the first eleven months of 2005. Id. at 10-11. Domestic interested parties argue this steady and precipitous decline in imports from Italy contrasts dramatically with the volume of imports in the years immediately following the imposition of the antidumping order. Id. at 11. They state the volume of imports from Italy during the three-year period prior to the imposition of the order (1998-2000) averaged 1.2 million pounds per year, whereas imports averaged just 174,960 pounds per year in the most recent three-year period (2003-2005), a reduction of 86 percent. Id. Based on this decline and the continued restraint of dumping margins, domestic interested parties claim it is evident that Italian manufacturers cannot ship even decreased quantities of subject merchandise to the United States without dumping. Id.

Malaysia

Domestic interested parties argue that imports of subject merchandise from Malaysia also declined dramatically following imposition of the antidumping duty order in February 2001. Id. They state the volume of imports in 2000, the year prior to the imposition of the order, was 1.5 million pounds, and that this volume declined progressively in 2001, 2002 and 2003. Id. Domestic interested parties note, however, that import volumes from Malaysia increased to 1.0 million pounds in 2004 and to 1.5 million pounds in 2005. Id. at 11-12.

Domestic interested parties assert the Malaysian manufacturers/exporters have continued to dump the subject merchandise in the United States and perhaps are doing so at higher levels than in the original investigation, but given the lack of administrative reviews they do not know to what extent. Id. at 12. Based on continued dumping and the sharp decline in subject imports immediately following the imposition of the order, domestic interested parties contend the Department should find that Malaysian manufacturers/exporters cannot sell in the United States without dumping and that revocation of the order would result in increased dumping. Id.

The Philippines

Domestic interested parties claim the imposition of the antidumping duty order had a highly significant impact on subject import volumes from the Philippines. Id. Domestic interested parties contend that in the two years prior to the imposition of the order (1999-2000), imports of subject merchandise from the Philippines averaged 1.0 million pounds annually. Id. However, domestic interested parties assert, after the issuance of the order the average import volume of subject merchandise from the Philippines fell by more than 80 percent in the subsequent two years. Id. In fact, domestic interested parties argue, during the period 2001 through 2005 import volumes averaged approximately 158,000 pounds per year, or just 16 percent of pre-order levels. Id.

Domestic interested parties argue that based on the substantial decline in import volumes and the ongoing restraint of the antidumping duty order, revocation of the antidumping duty order on butt-weld pipe fittings from the Philippines would likely result in continued or renewed dumping. Id. at 13.

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 at 883 (1994), the Department's determination of likelihood of continuation or recurrence is made on an order-wide basis. In addition, 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 Department has not completed any administrative reviews of the antidumping duty orders on butt-weld pipe fittings from Italy, Malaysia, or the Philippines since the issuance of these orders. Thus, deposit rates above de minimis remain in effect for U.S. imports of butt-weld pipe fittings from Italy, Malaysia, and the Philippines. The Department also analyzed and considered the volume of imports of the subject merchandise for the period prior to the issuance of the order and import volumes over the past five years. See Memorandum to the File from Deborah Scott, Case Analyst, through Robert James, Program Manager, "Import Volumes for the Final Results of the Expedited Five-Year ("Sunset") Reviews of the Antidumping Duty Orders on Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines," dated May 3, 2006 (Import Volumes Memorandum).

Using import trade statistics from the ITC Interactive Tariff and Trade DataWeb (USITC DataWeb), the Department finds imports of butt-weld pipe fittings from Italy fluctuated between 138,092 pounds and 822,375 pounds per year during the period 2001-2005. This is in contrast to pre-order volumes of 1,018,962 pounds and 1,961,902 pounds in 1999 and 2000, respectively. See Import Volumes Memorandum. Thus, imports during 2001-2005 remained significantly below pre-order volumes.

The USITC DataWeb also indicates imports of butt-weld pipe fittings from Malaysia ranged from 657,039 pounds to 1,460,144 pounds per year during the period 2001-2005. In 1999

and 2000, imports of butt-weld pipe fittings from Malaysia totaled 1,703,658 pounds and 1,519,977 pounds, respectively. See Import Volumes Memorandum. While imports during 2001-2003 were well below pre-order levels, import volumes rose in 2004 and 2005, with 2005 imports approaching the level of imports in 2000.

Finally, the USITC DataWeb reveals that imports of butt-weld pipe fittings from the Philippines fluctuated between 24,782 pounds and 357,383 pounds per year during the period 2001-2005, in contrast to import volumes of 917,682 pounds and 1,082,560 pounds in 1999 and 2000, respectively. See Import Volumes Memorandum. Thus, imports during 2001-2005 remained substantially below pre-order volumes.

The SAA provides that declining import volumes accompanied by the continued existence of dumping margins after the issuance of an order may provide a strong indication that, absent an order, dumping would be likely to continue because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes. See SAA at 889-890. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the order were removed. See SAA at 890. With respect to butt-weld pipe fittings from Italy and the Philippines, because cash deposit rates remain at above de minimis levels and import volumes have decreased significantly since the time preceding the investigation, we find that dumping would be likely to continue or recur if the order were revoked.

In the case of butt-weld pipe fittings from Malaysia, although import volumes rose considerably in 2004 and approximated pre-order levels in 2005, import volumes during the years 2001 through 2003 were well below pre-order volumes. The SAA provides that the existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. Thus, on the basis of above de minimis cash deposit rates, the Department finds dumping is likely to continue or recur if the order on butt-weld pipe fittings from Malaysia is revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

According to domestic interested parties, the SAA and Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (the Department’s Policy Bulletin) specify that the Department normally is to select a dumping margin from the original investigation, as that margin is most reflective of respondents’ behavior in the absence of an antidumping duty order. Substantive Response at 13-14. Thus, domestic interested parties urge the Department to select the margins from the original investigations of butt-weld pipe fittings from Italy, Malaysia, and the Philippines as the margins likely to prevail.⁴ Id. at 14.

⁴ Domestic interested parties note the margins for Tung Fong and “all other” Philippine manufacturers and exporters should reflect those published in the Department’s amended final determination pursuant to court remand. See Philippine Amended Final Determination.

Department's Position

Section 752(c)(3) of the 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. 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. The Department’s preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC. See SAA at 890-891.

In the final determination of the investigation regarding butt-weld pipe fittings from Italy, the Department found a dumping margin of 26.59 percent for Coprosider S.p.A. and “all others.” In the final determination of the investigation regarding butt-weld pipe fittings from Malaysia, the Department calculated a dumping margin of 7.51 percent for Kanzen Tetsu Sdn. Bhd. and “all others.” In the final determination of the investigation regarding butt-weld pipe fittings from the Philippines, the Department found a dumping margin of 33.81 percent for Enlin, Tung Fong, and “all others.” However, pursuant to court remand, the Department subsequently revised the margin for Tung Fong and “all other” Philippine exporters and producers to 7.59 percent. See Philippine Amended Final Determination. The Department finds that the margins calculated in the original investigations of these orders are probative of the behavior of foreign producers and exporters, because these are the only calculated rates that reflect the behavior of manufacturers and exporters without the discipline of the order. Furthermore, the Department has not completed any administrative reviews of antidumping duty orders on butt-weld pipe fittings from Italy, Malaysia, and the Philippines since the issuance of the orders. Thus, there are no more recently calculated margins for the Department to consider. Therefore, the Department finds that the margins from the original investigation are the appropriate margins to report to the ITC. Consistent with section 752(c) of the Act, the Department will report to the ITC company-specific and “all others” rates from the investigations as indicated below.

Final Results of Sunset 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	Weighted-Average Margin (percent)
<u>Italy</u>	
Coprosider S.p.A.	26.59
All Others	26.59

Malaysia

Kanzen Tetsu Sdn. Bhd.	7.51
All Others	7.51

The Philippines

Enlin	33.81
Tung Fong	7.59
All Others	7.59

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 _____

David M. Spooner
Assistant Secretary
for Import Administration

Date