August 30, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation; Final Results

Summary

In the sunset review of the antidumping duty order covering certain hot-rolled flat-rolled carbon-quality steel products (hot-rolled steel) from the Russian Federation (Russia),1 AK Steel Corporation, ArcelorMittal USA, LLC, Nucor Corporation, SSAB Enterprises LLC, and United States Steel Corporation (collectively, domestic interested parties) submitted an adequate substantive response. No respondent interested party submitted a substantive response. In accordance with our analysis of the domestic interested parties’ substantive responses, we recommend you approve the positions described in the Discussion of the Issues section of this memorandum. The following is a complete list of issues in the sunset review:

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

Background

On May 2, 2016, the Department of Commerce (the Department) published the notice of initiation of the sunset review of the antidumping duty order on hot-rolled steel from Russia, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).2 On May 16, 2016

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2 See Initiation of Five-Year ("Sunset") Review, 81 FR 26209 (May 2, 2016) (Sunset Initiation).
and May 17, 2016, the Department received timely and complete notices of intent to participate in the sunset review from, United States Steel Corporation, SSAB Enterprises LLC, Steel Dynamics, Inc., ArcelorMittal USA, LLC, AK Steel Corporation, and Nucor Corporation (collectively, domestic interested parties). On June 1, 2016, pursuant to 19 CFR 351.218(d)(3), domestic interested parties filed timely and adequate substantive responses within 30 days after the date of publication of the Sunset Initiation. The Department did not receive timely substantive responses from any respondent interested party with respect to the order on hot-rolled steel from Russia. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on hot-rolled steel from Russia.

**Scope of the Order**

For the scope of the order, see the accompanying Federal Register notice.

**History of the Order on Hot-Rolled Steel from Russia**

Since the publication of the previous sunset review, the Department conducted an administrative review of the Russian hot-rolled steel suspension agreement, which covered the period July 1, 2010, through June 30, 2011.

On July 10, 2014, domestic interested parties filed a submission alleging that the revised agreement did not prevent price suppression or undercutting of price levels of domestic producers by import of hot-rolled steel from Russia, and requested the Department to terminate the Agreement and impose antidumping duties on imports of hot-rolled steel from Russia. On August 29, 2014, the Department initiated an administrative review of the Agreement, covering the period of July 1, 2013, through June 30, 2014, and on October 20, 2014, the Department notified the Economy Ministry of the Russian Federation of its decision to terminate the Agreement effective December 19, 2014. As a result of the termination of the Agreement, the Department rescinded the 2013-2014 administrative review of the Agreement and issued the Russia Order.

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4 See Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation; Final Results of the Expedited Review of Antidumping Duty Suspended Investigation, 75 FR 47263 (August 5, 2010).


6 See Russia Order.
In December 2015, the Department published a notice of opportunity to request an administrative review of the Russia Order. On February 9, 2016, the Department initiated an administrative review of JSC Severstal for the period December 19, 2014, through November 30, 2015.\footnote{See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 81 FR 6832 (February 9, 2016).}

To date, the Department has not made any duty absorption findings, scope clarifications, circumvention determinations or changed circumstances determinations regarding hot-rolled steel from Russia.\footnote{On November 15, 2010, domestic interested parties requested that the Department conduct a changed circumstances review on hot-rolled steel from Russia to investigate whether the Agreement should be revised to reflect Russia’s change from a non-market economy to a market economy country. The Department determined not to conduct a changed circumstances review because it concluded that a changed circumstances review was not the appropriate vehicle for considering domestic interested parties’ request to consider whether to modify the terms of the suspension agreement.}

**Discussion of the Issues**

**Legal Framework**

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the antidumping duty order 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 order.

As explained in the *Statement of Administrative Action (SAA)* accompanying the Uruguay Round Agreements Act, 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 issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.\footnote{See SAA, H.R. Rep. No. 103-316, Vol. 1 (1994), at 889-90; see also, 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.}

Alternatively, the Department normally will determine that revocation of an antidumping duty 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.\footnote{See Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin, 63 FR 18871 (April 16, 1998) (Sunset Policy Bulletin).} In addition, 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 an investigation may dampen import volumes and, thus, skew comparison.\footnote{See, e.g., 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.}

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7 See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 81 FR 6832 (February 9, 2016).
8 On November 15, 2010, domestic interested parties requested that the Department conduct a changed circumstances review on hot-rolled steel from Russia to investigate whether the Agreement should be revised to reflect Russia’s change from a non-market economy to a market economy country. The Department determined not to conduct a changed circumstances review because it concluded that a changed circumstances review was not the appropriate vehicle for considering domestic interested parties’ request to consider whether to modify the terms of the suspension agreement.
11 See, e.g., 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.
Further, section 752(c)(3) of the Act states that the Department shall provide to the International Trade Commission (ITC) the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects the margin(s) from the final determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place. However, the Department may use a rate from a more recent review, if this rate may be more representative of a company’s behavior in the absence of an order (e.g., where a company increases dumping to maintain or increase market share with an order in place).

In February 2012, the Department announced that it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization (WTO)-inconsistent. 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. 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 that were not determined in a manner found to be WTO-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”

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 antidumping duty order would not be likely to lead to a continuation or recurrence of sales at less-than-fair-value (LTFV). Our analysis of the comments submitted by the domestic interested parties follows.

Analysis

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Party Comments

Domestic interested parties argue that revocation of the antidumping duty order on hot-rolled steel from Russia would be likely to lead to the continuation or recurrence of sales at LTFV by margins that are at least equivalent to those found in the original investigation—up to 184.56

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12 See SAA at 890 and Sunset Policy Bulletin at section II.B.1. See, e.g., 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.
13 See SAA at 890-91; Sunset Policy Bulletin at section II.B.2.
14 See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Anti-dumping Duty Proceedings; Final Modification, 77 FR 8101, 8103 (February 14, 2012) (Final Modification for Reviews).
15 Id.
16 Id.
According to domestic interested parties, the Department has completed only one administrative review, where no new margins were calculated, but where the Department reviewed whether respondents were in compliance with the terms of the Agreement. Therefore, domestic parties argue, the dumping margins established in the Investigation Determination continue to exist for all shipments of the subject merchandise.

According to domestic interested parties, the Final Modification for Reviews states that the Department can continue to rely on the original dumping margins because they were based on either partial or total adverse facts available. Domestic interested parties argue that the 184.56 percent margin in the Investigation Determination was based on the highest alleged margin in the petition, and there is no evidence that the margin calculated for JSC Severstal, which was described as a partial facts available rate in the Investigation Determination, is inconsistent with the Final Modification for Reviews. Citing the Policy Bulletin, domestic interested parties conclude that the continued existence of significant dumping rates since the implementation of the Agreement and the Russia Order is indicative that dumping is likely to continue or recur if the Russia Order were revoked.

Regarding import volumes, domestic interested parties argue that after the LTFV investigation was completed and the Agreement was adopted, imports of hot-rolled steel from Russia decreased immediately and significantly. Domestic interested parties state that after the Agreement was signed, imports of Russian hot-rolled steel plummeted by 99.6 percent from 3.8 million short tons in 1998 to 14,612 short tons in 1999. Domestic interested parties add that import volumes remained low, with imports for 2010 through 2016 averaging 264,671 short tons, which is a small fraction (seven percent) of the 3.8 million tons reached in 1998. Further, according to domestic interested parties, after the Agreement was terminated in December 2014 and the Russia Order was issued, subject imports dropped from 939,490 short tons to 18,079 short tons. Domestic interested parties argue that if the Russia Order were revoked, the volume of subject imports would increase dramatically because Russian producers and exporters who are currently subject to large margins would resume shipping significant volumes of hot-rolled steel to the United States at dumped prices.

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18 See Final Modification for Reviews at 8103.
19 See Investigation Determination.
20 See Policy Bulletin at 18872.
21 See Domestic Interested Parties’ Substantive Response at 17. We note that domestic interested parties relied on the Official Import Statistics of the U.S. Department of Commerce for their data analysis rather than ITC’s Trade Dataweb.
22 Id. at 18.
23 Id. at 17.
Department’s Position

As explained in the Legal Framework section above, the Department’s determination concerning whether revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping is based, in part, upon guidance provided by the legislative history accompanying the Uruguay Round Agreements Act (i.e., the SAA; House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report); and Senate Report, S. Rep. No. 103-412 (1994) (Senate Report). Consistent with the SAA, the Department will make its likelihood determination on an order-wide basis. Further, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

As part of its determination of whether revocation of an antidumping order is likely to lead to the continuation or recurrence of dumping, the Department will examine whether: (a) dumping continued at any level above de minimis after the issuance of the order or suspension agreement; (b) imports of the subject merchandise ceased after the issuance of the order or the suspension agreement; and (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined.

In the instant review, for the reasons stated below, we find that revocation of the Russia Order would likely result in the continuation or recurrence of dumping in the United States.

Pursuant to 752(c)(1)(B) of the Act, the Department considers the volume of imports in determining whether revocation of the Russia Order would likely lead to continuation or recurrence of dumping. The Department’s practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the last continuation notice.

We examined import volumes from the ITC’s Trade Dataweb for 2011 through 2015, which is the five year period that follows the five year period examined in the prior sunset review, and we compared this to the import volumes in pre-investigation period. The import volumes from Russia for the period of this sunset review were as follows: 166,809,000 kilograms (2011); 265,796,089 kilograms (2012); 32,995,418 kilograms (2013); 853,535,959 kilograms (2014); and 21,245,722 kilograms (2015). The average import volume, of 268,076,437 kilograms, for the sunset review period contrasts significantly with the high import volumes prior to the Investigation Determination, which were 1,814,501,117 kilograms (1997) and 3,483,382,960 kilograms (1998). Additionally, import volumes of hot-rolled steel into the United States from Russia have declined significantly and remained below pre-order volumes, as evidenced by the import volume of only 21,245,722 kilograms of Russian hot-rolled steel in 2015.

See SAA at 879.
See, e.g., Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Argentina, Brazil, and Germany: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders, 71 FR 59079 (October 6, 2006) and accompanying Issues and Decision Memorandum at 1.
See Attachment 1.
The SAA and the House Report state that “under new section 752(c)(4), the existence of zero or de minimis dumping margins at any time while the order was in effect shall not in itself require Commerce to determine that there is no likelihood of continuation or recurrence of dumping. Exporters may have ceased dumping because of the existence of an order or suspension agreement. Therefore, the present absence of dumping is not necessarily indicative of how exporters would behave in the absence of the order or an agreement.”

Because the import volume has declined from the pre-order levels since the publication of the Russia Order and no party has submitted any evidence to the contrary, pursuant to section 752(c)(1) of the Act, we find that dumping is likely to continue or recur if the Russia Order is revoked.

2. Magnitude of the Dumping Margin Likely to Prevail

Interested Party Comments

To provide the ITC with the margin that is likely to prevail should the order be revoked, the SAA instructs the Department normally to select the rate from the original investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign government without the discipline of an order or suspension agreement in place. Domestic interested parties state that consistent with the SAA, Policy Bulletin, Final Modification for Reviews, and prior reviews of the Russia Order, the Department should determine that the margins likely to prevail are the margins calculated for Russian producers of hot-rolled steel in the original investigation. Domestic interested parties add that there are currently no other rates on the record of this proceeding.

Domestic interested parties state that the Final Modification for Reviews, and the preceding WTO dispute settlement reports, do not apply in the margin determination in this sunset review. However, according to domestic interested parties, even if the Final Modification for Reviews applied, the Department should still report the dumping margins calculated in the investigation as the margins likely to prevail if the Russia Order were revoked because there is no indication that the Department applied zeroing in the Investigation Determination. Therefore, according to domestic interested parties, the Department should continue to report to the ITC the dumping margins established in the original investigation—73.59 percent for JSC Severstal and 184.56 percent for the Russia-wide rate (i.e., the “all-others” rate)—as those that would likely prevail in the event of revocation because they represent the best evidence of the Russian producers’ and exporters’ behavior in the absence of an antidumping duty order.

27 See SAA at 890.
28 See SAA at 889-90.
Department’s Position

Normally, the Department will provide to the ITC the company-specific, weighted-average dumping margin from the LTFV for each company.\textsuperscript{29} The Department selects a rate from the LTFV because it is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.\textsuperscript{30} For companies not investigated individually, or for companies that did not begin shipping until after the order was issued, the Department will normally provide a rate based on the “all-others” rate from the investigation.\textsuperscript{31}

The Department has determined that the weighted-average dumping margins established in the \textit{Investigation Determination} represent the magnitude of the margin of dumping most likely to prevail if the \textit{Russia Order} were revoked. We have further determined that the margins were not affected by the denial of offsets in accordance with the \textit{Final Modification for Reviews}.\textsuperscript{32} Specifically, the Department calculated the dumping margins on the basis of best available information and were determined without employing the “zeroing” methodology.

\textbf{Final Results of Review}

We determine that revocation of the \textit{Russia Order} would be likely to lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be weighted average margins up to the following:

<table>
<thead>
<tr>
<th>Exporter/Producer</th>
<th>Weighted-Average Margin (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>JSC Severstal</td>
<td>73.59</td>
</tr>
<tr>
<td>All-Others Rate</td>
<td>184.56</td>
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</table>

\textsuperscript{29} See Eveready Battery Co., Inc. v. United States, 77 F. Supp. 2d 1327, 1333 (CIT 1999); see also APG Substantive Response at 10.
\textsuperscript{30} Id.; see also SAA at 890.
\textsuperscript{31} See Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People’s Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders, 71 FR 70506 (December 5, 2006) and accompanying Issues and Decision Memorandum at Comment 2.
\textsuperscript{32} As stated in the \textit{Final Modification for Reviews}, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.” See Final Modification for Reviews, 77 FR at 8103. The Department announced it would cease zeroing in investigations on December 26, 2006. See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification, 71 FR 77722 (December 27, 2006).
**Recommendation**

Based on our analysis of the substantive response received, we recommend adopting each of above positions. If these recommendations are accepted, we will publish the final results of the sunset review in the *Federal Register*, and notify the ITC of our findings.

**AGREE**

DISAGREE

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Paul Piquada
Assistant Secretary
for Enforcement and Compliance

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30 August 2016

Date
ATTACHMENT I

Hot-Rolled Steel: Russia

U.S. Imports for Consumption

Annual Data

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<thead>
<tr>
<th>Year</th>
<th>Quantity (in kilograms)</th>
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