

68 FR 68860, December 10, 2003

A-401-806  
Sunset Review  
Public Document

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

FROM: Ronald K. Lorentzen  
Acting Director  
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Sunset Review of the  
Antidumping Duty Order on Stainless Steel Wire Rod from Sweden; Final  
Results of Expedited Review

Summary

We have analyzed the substantive responses of interested parties in the expedited sunset review of the antidumping duty order covering stainless steel wire rod (“SSWR”) from Sweden. 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 expedited sunset review for which we received a substantive response by a domestic interested party:

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 Order

On July 29, 1998, the Department of Commerce (“the Department”) published its final affirmative determination of sales at less than fair value (“LTFV”) in the *Federal Register* with respect to imports of SSWR from Sweden. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Sweden*, 63 FR 40449 (July 29, 1998). In the final determination, the Department found the weighted-average dumping margin of 5.71 percent for Fagersta Stainless AB (“Fagersta”), and 5.71 percent for all other producers, manufacturers, and exporters of SSWR from Sweden not specifically listed below. Consistent with these final determinations, on September 15, 1998, the Department published in the *Federal Register* an antidumping duty order covering SSWR from Sweden. *See Notice of Antidumping Duty Order: Stainless Steel Wire Rod from Sweden*, 63 FR 49329 (September 15, 1998). Since the issuance of the order on SSWR from Sweden, the Department has completed no administrative reviews. The order on SSWR from Sweden remains in effect for all manufacturers, producers, and exporters of the subject merchandise.

## Background

On August 1, 2003, the Department published the notice of initiation of the sunset review of the antidumping duty order on SSWR from Sweden. *See Initiation of Five-Year (Sunset) Reviews*, 68 FR 45219 (August 1, 2003). The Department received Notice of Intent to Participate on behalf of a domestic interested party, Carpenter Technology Corporation (Carpenter Technology), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. Carpenter Technology claimed interested party status under section 771(9)(C) of the Act, as a U.S. producer of SSWR.

We received a complete substantive response, from the Carpenter Technology on September 2, 2003, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). In its substantive response, Carpenter Technology states that it has been involved in this proceeding since its inception and remain committed to full participation in this sunset review.

We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C) of the *Sunset Regulations*, the Department has determined to conduct expedited review of this order.

#### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider 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 Act provides that the Department shall provide to the International Trade Commission (“the Commission”) the magnitude of the margin of dumping likely to prevail if the order is revoked. Below we address the comments of Carpenter Technology.

#### **Likelihood of Continuation or Recurrence of Dumping**

##### Interested Party Comments

Carpenter Technology asserts that revocation of the order of SSWR would likely lead to continuation or recurrence of dumping by Swedish manufacturers and exporters. See September 2,

2003, substantive response of the domestic interested parties at 21.

With respect to weighted-average dumping margins, Carpenter Technology notes that the Department established a 5.71 percent dumping margin rate for Fagersta Stainless AB (principal producer of the subject merchandise in Sweden, and the only respondent reviewed in the investigation), and an “All Others” rate of 5.71 percent.

In addition, Carpenter Technology notes that imports from Sweden declined following the imposition of the order and the level of dumping has remained virtually unchanged. Id. at Attachment 1. Using statistical data from official import statistics of the Department of Commerce, Carpenter Technology content that following the issuance of the order, import volumes of SSWR although fluctuated, declined.

As emphasized in the Department’s Policy Bulletin, continued dumping after the publication of an antidumping duty order provides a strong indication that continued dumping is likely to occur. Carpenter Technology notes that the Department considers the weighted-average dumping margins and volume of imports when determining whether revocation of an antidumping duty order would lead to the continuation or recurrence of dumping. In this review, weighted-average dumping margins continue to exist. Id. at 23. Therefore, the record of this case strongly supports that dumping of the subject SSWR from Sweden would be likely to continue or recur if revocation of the order were to be revoked.

#### 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.R. Rep. No. 103-826, pt. 1 (1994), 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. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2 of the *Sunset Policy Bulletin*). In addition, the Department indicated that it will normally determine that revocation of an 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* section II.A.3).

Section 751(c)(4)(B) of the Act provides that, in addition to considering the guidance on likelihood cited above, the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In this sunset review, the Department did not receive a substantive response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

As indicated above, if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. In this instant, dumping continued at levels above *de minimis* after the issuance of the order, and although import

volumes have fluctuated over the past five years, imports have declined. Based on this analysis, and waiver of respondent responses, the Department finds that the existence of dumping margins above *de minimis* levels are highly probative of the likelihood of continuation or recurrence of dumping. For these reasons, the Department determines that dumping is likely to continue or recur if the order on SSWR from Sweden were revoked.

### **Magnitude of the Margin Likely to Prevail:**

#### Interested Party Comments

Carpenter Technology recommends that, consistent with the *Sunset Policy Bulletin*, the Department provide to the Commission the company-specific and “All Others” rates from the original investigation.

#### Department’s Position

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated 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. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department agrees with Carpenter Technology that the margins from the Department’s original investigations are probative of the behavior of the Swedish manufacturers and exporters of SSWR if the order were revoked because these are only calculated rates which reflect the behavior of

exporters without the discipline of the order in place. Furthermore, there have been no administrative reviews of this order, thus the calculated margins from the investigation remain unchanged. Therefore, the Department will report to the Commission the company-specific and “all others” rates from the original.

Final Results of Review

We determine that revocation of the antidumping duty order on SSWR from Sweden would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Swedish Producers/Manufacturers/Exporters	Weighted Average Margin (Percentage)
Fagersta Stainless AB	5.71
All Others	5.71

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 review in the *Federal Register*.

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

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James J. Jochum  
Assistant Secretary  
for Import Administration

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(Date)