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Sunset Review
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September 27, 2006

MEMORANDUM TO: James C. Leonard, III
Acting Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for Final Results of Full Sunset Review of the Countervailing Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from France

Summary

We have analyzed the case and rebuttal briefs of the interested parties in this full sunset review of the countervailing duty ("CVD") order on certain corrosion-resistant carbon steel flat products ("CORE") from France and have further examined the Department's regulations and practice with regard to the facts in this case. 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 full sunset review for which we received case and rebuttal briefs from parties.

1. Likelihood of continuation or recurrence of a countervailable subsidy
2. Net countervailable subsidy likely to prevail
3. Nature of the Subsidy

History of the Order

In the original investigation, the Department of Commerce ("the Department") investigated one producer, Usinor Sacilor ("Usinor") and concluded that the Government of France ("GOF") was providing countervailable subsidies to French producers and exporters of subject merchandise.[1] See Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France, 58 FR 37304 (July 9, 1993)("Final"). On August 17, 1993, the Department published an amended final determination and CVD order on CORE from France. See Countervailing Duty Order and Amendment to Final Affirmative Countervailing Duty

[1] During the investigation the Department reviewed only one company, Usinor, and noted that in 1986, Usinor and Sacilor merged into a single entity called Usinor.

Determination: Certain Steel Products From France, 58 FR 43759 (August 17, 1993) ("Amended Final"). Following proceedings before the Court of International Trade and the Court of Appeals for the Federal Circuit, the Department again amended its final determination. See Certain Steel Products from France; Notice of Final Court Decision and Amended Final Determination of Countervailing Duty Investigation, 64 FR 67561 (December 2, 1999) ("Final Amended Determination"). The Department calculated a country-wide rate on CORE from France of 15.13 percent in the Final Amended Determination.

The following programs were found countervailable in the Final Amended Determination:

1. Equity Infusions - PACS/FIS and infusion of capital to Usinor Sacilor in 1978.
2. Grants in the Form of Shareholders' Advances
3. Investment Subsidies
4. Long-term Loans from CFDI
5. Loan Guarantees 1978 through1982
6. Outstanding Loans Discovered at Verification
7. ECSC Article 54 Loans and Loan Guarantees
8. ECSC Redeployment Aid (Article 56(2)(b))
9. Grants in the Form of Cancellation of Debt by Denain Nord-Est Longwy ("DNEL") and Marine-Wendel

In the April 2000 final results of the first five-year sunset review of the order, the Department determined that revocation would be likely to lead to continuation or recurrence of a countervailable subsidy of 15.13 percent ad valorem for Usinor Sacilor and 15.13 percent for "All Other" producers/exporters. See Corrosion-Resistant Carbon Steel Flat Products from France: Final Results of Expedited Sunset Review of Countervailing Duty Order, 65 FR 18063 (April 6, 2000) ("Sunset Final"). On December 15, 2000, after an affirmative finding of likelihood by the International Trade Commission ("ITC"), the Department ordered continuation of the order. See Notice of Continuation of Antidumping and Countervailing Duty Orders on Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, South Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom, 65 FR 78469 (December 15, 2000).

On October 23, 2003, the Department reaffirmed its final likelihood finding from the Sunset Final.[2] This reaffirmation was a result of the Department's analysis of Usinor's privatization in 1995-1997. The analysis resulted from the January 8, 2003, World Trade Organization ("WTO") Dispute Settlement Body's ("DSB") adoption of the report of the WTO

[2] See Issues and Decision Memorandum for the Section 129 Determination: Corrosion-Resistant Carbon Steel Flat Products from France; Final Results of Expedited Sunset Review of Countervailing Duty Order" from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, signed October 24, 2003.

Appellate Body in United States - Countervailing Duty Measures Concerning Certain Products from the European Communities, WT/DS212/AB/R (December 9, 2002) ("Certain Products"). Pursuant to the findings in Certain Products, the Department changed its methodology for analyzing privatizations in the context of the CVD law. Further, in accordance with Section 129 of the Uruguay Round Agreements Act ("Section 129"), on October 23, 2003, the Department issued a memorandum regarding its analysis of the privatization of Usinor. The Department used its modified methodology for analyzing privatizations to examine (a) whether pre-privatization, allocable, non-recurring subsidies to Usinor found countervailable in the Final were, for the purposes of a sunset review, extinguished as a result of the company's privatization in 1995-1997, and (b) whether the findings in the Sunset Final should be amended accordingly. The Department determined that, with the exception of the employee offering, which constituted 5.16 percent of the sale, the privatization of Usinor was at arm's length and for fair market value. The Department also determined that the sale of shares to Usinor's employees were not at arm's length or at fair market value. The Department also found that because the programs that were originally found to be countervailable by the Department continued to exist at the end of the sunset period, revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy. Based on these findings, the Department reaffirmed its likelihood finding from the Sunset Final.

Since the issuance of the order, the Department has not completed an administrative review of the order. The Department declined a request from Duferco Coating SA and Sorral SA ("Duferco Sorral") to conduct a new shipper review.[3] However, on September 28, 2005, in response to a request from United States Steel Corporation ("U.S. Steel") and Duferco Sorral to conduct an administrative review, the Department initiated a review of Duferco Sorral for the period of review covering 2004.[4]

Background

On November 1, 2005, the Department initiated a sunset review of the CVD order on CORE from France pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). See Initiation of Five-Year ("Sunset") Reviews, 70 FR 65884 (November 1, 2005).

On December 21, 2005, the Department placed an adequacy determination memorandum on file. See Memorandum to the Stephen J. Claeys, Deputy Assistant Secretary, from the Sunset Team regarding Adequacy Determination: Sunset Review of the CVD order on Certain Corrosion-Resistant Carbon Steel Flat Products from France, which is a public document on file in the Central Records Unit ("CRU") in room B-099 of the main Commerce building.

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[3] See Memorandum from Brandon Farlander, Office 7 and Kristen Johnson, Office 3 to the File and letter to Duferco Sorral from Richard O. Weible, Director, Office 7, both dated March 31, 2005, declining to initiate antidumping and CVD new shipper reviews.

[4] See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 70 FR 56631 (September 28, 2005).

The Department determined that the sunset review of the CVD order on CORE from France is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (i.e., an order in effect on January 1, 1995). (See section 751(c)(6)(C) of the Act.) Therefore, on February 28, 2006, the Department extended the time limit for the completion of the final results of this review until May 22, 2005, in accordance with section 751(c)(5)(B) of the Act. See Certain Corrosion-Resistant Carbon Steel Flat Products from France: Extension of Final Results of Expedited Sunset Review of the Antidumping and Countervailing Duty Orders, 71 FR 10011 (February 28, 2006).

On May 31, 2006, the Department published the preliminary results of the full sunset review of the instant order. See Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France, 71 FR 30875. In our preliminary results we found that revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy on the subject merchandise in France and that 0.16 percent ad valorem was the level of subsidization likely to prevail if the order were revoked.

Interested parties were invited to comment on our preliminary results. On July 11, 2006, we received a case brief from Duferco Sorral. We also received comments from the European Commission ("EC") and from Sollac Atlantique, Sollac, Lorraine, Arcelor FCS Commercial, and Arcelor International America, LLC (collectively, "Arcelor") (respondents). On July 17, 2006, we received a rebuttal brief from U.S. Steel ("domestic interested party").

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and any subsequent reviews, and whether any changes in the program which gave rise to the net countervailable subsidy have occurred that are likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the ITC the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, the Department shall provide to the ITC information concerning the nature of the subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and countervailing Measures ("SCM").

Below we address the case and rebuttal briefs from interested parties, as well as our findings pursuant to further analysis since the preliminary results.

1. Likelihood of Continuation or Recurrence of Countervailable Subsidy

Interested Parties' Comments

Respondent parties disagree with the Department's preliminary finding that revocation of the CVD order would likely result in the continuation of countervailable subsidization of CORE from France. They state that with respect to the Outstanding Loans Discovered at Verification, ECSC Article 54 Loans and Loan Guarantees, and ECSC Redeployment Aid (Article 56(2)(b)) programs, the Department determined that the combined rate calculated during the original investigation was 0.16 percent ad valorem, which is de minimis. Thus, they argue that because the combined benefit from these programs was de minimis in the investigation and has never been above de minimis, the Department should determine that there is no likelihood of continuation or recurrence of a countervailable subsidy and revoke the order. Duferco Sorral further argues that such a determination is consistent with the Department's recent decision in Brass Sheet and Strip from France,[5] the Statement of Administrative Action ("SAA") at 889, and the Department's Sunset Policy Bulletin, subsection III.A.6.b., 63 FR 18871, 18875. Respondent parties also argue that, even assuming arguendo that any programs have not been terminated, any potential subsidy from the remaining programs would be 0.16 percent which is de minimis and supports revocation, as in Brass Sheet and Strip from France. In support of its contention, Arcelor points to Stainless Steel Wire Rod from Italy,[6] where the Department determined that the level of subsidization likely to prevail, were the order revoked, is below the de minimis threshold, and that revocation of the CVD order would not be likely to lead to continuation or recurrence of a countervailable subsidy.

Respondent parties contend that the Department's finding that it cannot revoke the order, notwithstanding the de minimis subsidy rate, because it has not conducted any administrative reviews of the order, does not have any updated information, and is unable to determine whether any of the programs found countervailable in the original investigation have been terminated, or whether there have been program-wide changes or additional programs have been established, is without merit and inconsistent with its stated practice. They claim that the facts in Brass Sheet and Strip from France are similar to the facts in this case. However, they argue that in Brass Sheet and Strip from France, the Department reached a different conclusion, finding that revocation of the CVD order would not be likely to lead to continuation or recurrence of a countervailable subsidy even though no reviews of that order had been conducted. Furthermore, they argue that the Department has not cited any record evidence that would support a determination that the subsidy rate attributable to the benefits from the three remaining programs that the Department relied on as the basis for the affirmative likelihood determination will continue at a rate that is above the de minimis level beyond the end of the sunset review. Thus,

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[5]See Final Results of Full Sunset Review: Brass Sheet and Strip from France, 71 FR 10651 (March 2, 2006), Issues and Decision Memorandum at 4.

[6]See Stainless Steel Wire Rod from Italy: Final Results of Full Sunset Review of Countervailing Duty Order, 69 FR 40354 (July 2, 2004).

the respondents argue that because the programs have either been terminated with no remaining benefit or been fully amortized, the Department must make a negative likelihood determination, and revoke the order.

U.S. Steel counters that respondents mistakenly believe that a finding of a de minimis rate, coupled with the fact that the combined benefits of the programs reflected in the de minimis rate were never above de minimis, necessarily means that the order must be revoked. Moreover, petitioner contends that respondents' claim that this was the Department's finding in Brass Sheet and Strip from France is incorrect. According to U.S. Steel, in that case, the Department made its determination based upon several factors, including evidence that showed that future subsidies similar to the fully allocated subsidies were not likely. In the instant case, U.S. Steel maintains that there is insufficient evidence to support respondents' statement that the programs have been either terminated or that the benefit stream has been fully allocated, and no longer provide a countervailable subsidy to producers of the subject merchandise in France. Thus, U.S. Steel argues that the Department should affirm its preliminary determination and find that there is likelihood of continuation or recurrence of countervailable subsidization were the order revoked.

Department's Position:

In accordance with section 752(b)(1) of the Act, in determining whether revocation of a CVD order would likely lead to continuation or recurrence of a countervailable subsidy, the Department will consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy determined in the investigation and subsequent reviews has occurred that is likely to affect that net countervailable subsidy.

Our preliminary finding of likelihood was based on our determination that the respondents had not "provided substantial evidence to support a finding that each of these programs has been terminated, without replacement." The Department will normally find likelihood where a subsidy program continues. The Department was not provided with any new facts or arguments that warrant a change from the preliminary results. Therefore, based on the information in the original investigation, and the Sunset Final, as well as the substantive responses and briefs from the interested parties, the record evidence does not establish that all of the programs found countervailable in the investigation have been terminated with no residual benefits or replacement programs. The Department, therefore, continues to find that revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy to the subject merchandise.

Two conditions must be met in order for a subsidy program not to be included in the basis for likelihood: (1) the program be terminated and (2) any benefit stream be fully allocated. As noted below, although a number of programs no longer provided benefits by the end of the sunset period, the evidence provided by the GOF did not establish the conditions necessary to find that these programs were terminated.

In determining whether a program has been terminated, the Department will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program. Programs eliminated through administrative action, for example, may be more likely to be reinstated than those eliminated through legislative action. This is fully consistent with other areas of our CVD practice (e.g., program-wide changes) where we normally expect a program to be terminated by means of the same legal mechanism in which it is instituted. See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India, 66 FR 49635 (September 28, 2001), and accompanying Issues and Decision Memorandum at Comment 7 (where program initiated by a Government Policy Handbook, termination can occur through the same method).

Here, the GOF has not provided supporting documentation in accordance with 19 CFR 351.526(b) and (d), such as "the enactment of a statute, regulation, or decree," which demonstrates a program-wide change and termination for any of these programs. Instead, the GOF relied on general statements without supporting documentation in arguing that many programs have been terminated; that benefits under many of the programs are fully allocated; or that EC rules generally prohibit state aid without any documentation showing that the GOF had implemented these prohibitions. For these reasons, we find that there is a likelihood of continuation or recurrence of a countervailable subsidy were the order to be revoked for these remaining programs.

The facts in this case are different from those in Brass Sheet and Strip from France. In that case, information from the investigation showed that certain subsidies were not provided pursuant to any legal mechanism, such as statute, regulation or decree and the Department explicitly noted that there was no information indicating that the loans were available to more than one company. As such, the evidence on the record showed that these subsidies were one-time, company-specific subsidies to cover a specific event that was not part of a broader government program under which subsidies would continue to be available. Therefore, for these subsidies, the Department found in Brass Sheet and Strip from France that revocation of the order would not be likely to lead to continuation or recurrence of a countervailable subsidy. The facts on the record of this proceeding do not support the same conclusion. Rather, in this case, we determined in the investigation that the GOF provided equity infusions in 1978, 1981, 1986, 1988, and 1991, and other non-recurring grants between 1982 through 1986 to Usinor/Sacilor, in accordance with the "restructuring plan of 1978" and were funded by the GOF's "Steel Intervention Fund," which was instituted by decree. We also determined that the "restructuring plan" was instituted to help the steel industry. See Final at 37305. Information on the record of this proceeding thus does not show that these subsidy programs were one-time, company-specific subsidies to cover a specific event that was not part of a broader government program under which subsidies would continue to be available. Rather, we would expect that any termination of these programs would be by means of the same legal mechanism in which they were instituted. As we explained above, the GOF and Usinor/Sacilor have not provided substantial evidence to support a finding that each of these programs has been terminated, without replacement.

Finally, we disagree with respondents' argument that where the Department has found no evidence to indicate that the subsidies it found to continue will ever rise above the current level, it must make a negative likelihood determination and terminate the order. As we have stated above, in this sunset review, the issue is that the government and the company subject to review have failed to bring to the Department's attention evidence sufficient under the Department's regulatory criteria to indicate that any of the programs in question have been terminated. Consequently, the parties have failed to demonstrate that these programs should not be considered in the Department's likelihood determination.

2. *Net Countervailable Subsidy Likely to Prevail*

Interested Parties' Comments

Duferco Sorral, Arcelor and the EC assert that the Department must find that the level of any subsidization likely to prevail is de minimis and that the Department should revoke the order. Furthermore, respondent parties claim that the Court of International Trade[7] ("CIT") decision in Dillinger stated that where the Department makes a finding of no subsidy or subsidies at a de minimis level in a sunset review and there is no evidence to indicate that the subsidy will recur or continue at above a de minimis rate, the Department must revoke the order. The burden is on the Department to make an affirmative finding that subsidies will continue at above a de minimis level. Thus, they argue that in the instant case, the Department has found no evidence to indicate that the subsidies it found to continue will ever rise above the current level. Therefore, the Department must make a negative likelihood determination, and terminate the order.

U.S. Steel did not comment on the Department's preliminary determination that the country-wide net countervailable subsidy likely to prevail if the order were revoked is 0.16 percent.

Department's Position:

The Department normally will provide to the ITC the net countervailable subsidy that was determined in the original investigation because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place. This rate, however, may not be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.

[7] See AG der Dillinger Huttenwerke vs. United States, 26 CIT. 1091, 1100 (2002) (citing Usinor Industeel, S.A. vs. United States, 26 CIT. 467, 474 (2002) ("Dillinger").

As noted in the preliminary results, the benefits from the government equity infusions and certain other non-recurring were fully allocated prior to the initiation of this sunset review. Thus, we are adjusting the rate from the investigation by removing the countervailable subsidy rates associated with programs for which the benefits have been fully allocated.[8] Therefore, we determine that the rate likely to prevail if the order were revoked is 0.16 percent.

3. *Nature of the Subsidy*

Consistent with section 752(a)(6) of the Act, the Department will provide information to the ITC concerning the nature of the subsidy and whether the subsidy is a subsidy as described in Article 3 or Article 6.1 of the SCM. None of the parties addressed this issue.

The following programs are not subsidies described in Article 3 of the SCM. However, during the period of investigation, they could have been subsidies described in Article 6.1 of the SCM if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the SCM. Such programs could have fallen within the meaning of Article 6.1 if it constitutes debt forgiveness or is a subsidy to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this sunset review for the Department to make such a determination. We, however, are providing the ITC with the following program descriptions.

1. Equity Infusions

PACS/FIS: With respect to the equity infusions found be countervailable, during the investigation, the Department determined that Loans with Special Characteristics ("PACS"), was a plan agreed upon in 1978 to help the principal steel companies and their subsidiaries restructure their massive debt. The Department determined that the PACS were debt rather than equity when issued, and found that Usinor and Sacilor converted debt into PACS. The Department also found that the 1981 Corrected Finance Law granted Usinor and Sacilor the authority to issue convertible bonds and that the Fonds d'Intervention Siderurgique ("FIS") was created by decree of May 18, 1983, to implement that authority. Pursuant to that authority, Usinor and Sacilor issued convertible bonds that were then converted into equity. Because the Department found Usinor Sacilor was unequityworthy in 1986 and 1988, the Department considered the conversion of FIS bonds to common stock during those years to constitute equity infusions on terms inconsistent with commercial consideration. However, because Usinor Sacilor was equityworthy in 1991, the PACS-to-equity conversion was found to be consistent with commercial considerations.

Infusion of Capital: In addition to the debt-to-equity conversions, the GOF provided an infusion of capital to Usinor Sacilor in 1978. Because the Department determined that Usinor Sacilor was unequityworthy at the time of the equity infusion, the Department determined that

[8] See Memorandum to the File re: Calculation of Subsidy Rate Likely to Prevail, dated May 22, 2006.

the equity infusion was provided on terms inconsistent with commercial considerations. As a result, the combined benefit from these equity infusions was found to be 10.91 percent ad valorem during the investigation.

2. Grants in the Form of Shareholders' Advances

The Department also found that the GOF provided grants to Usinor Sacilor through shareholders' advances beginning in 1982 and that the GOF paid out the last of the advances it had agreed to make under this program in 1986. These advances were converted to common stock in 1986. The Department determined that the advances constituted countervailable grants, as no shares were given for them.

3. Investment Subsidies

In the investigation, the Department determined that the investment subsidies (funds received from various agencies) received by Usinor were de facto specific absent documentation as to the actual distribution of funds from these agencies. Because the Department did not have any information concerning receipt of investment subsidies in any year other than 1991 (the period of investigation ("POI")), the Department expensed the amount received in 1991 thereby creating a proxy for the benefit that would have existed if past subsidies had been allocated over time. On this basis, the Department found that there was no benefit from this program during the POI.

4. Long-term Loans from CFDI

In the investigation, the Department also found that long-term loans issued by the Caisse Francaise de Developpement Industriel ("CFDI") provided countervailable subsidies. Specifically, the Department determined that the Law of July 13, 1978, created "participative" loans, which were issued by the CFDI, on which the borrower paid a lower than market interest rate. In the investigation, the Department determined that these loans were countervailable to the extent that they were inconsistent with commercial considerations. The benefit from this program was 0.35 percent ad valorem. However, once the Department corrected the final determination for ministerial errors, the Department determined the subsidy rate to be 0.00 percent for this program.

5. Loan Guarantees from 1978 through 1982

Absent information regarding specificity, the Department determined that the GOF provided countervailable guarantees from 1978 through 1982 on certain loans that were obtained by Usinor Sacilor. However, the Department found no benefit from this program during the POI.

6. Outstanding Loans Discovered at Verification

The Department also determined that certain loans discovered at verification provided countervailable subsidies. Although no information on these loans, other than that Usinor Sacilor had received "other participative" loans, was available, the Department determined to treat the outstanding principals as a zero-rate short-term loan. The calculated benefit from this program was 0.01 percent ad valorem. When the Department amended the final determination after remand, the rate for this program remained 0.01 percent.

7. ECSC Article 54 Loans and Loan Guarantees

The Department also found that countervailable subsidies were being provided through ECSC Article 54 industrial investment loans which were provided for the purpose of purchasing new equipment or financing modernization. In the investigation, the Department determined that these loans were only available to companies in the steel and coal industries. Therefore, these loans were specific and countervailable. The benefit from this program was 0.16 percent ad valorem.

8. ECSC Redepolyment Aid (Article 56(2)(b))

The Department found that countervailable subsidies were also being provided through grants provided under Article 56(2)(b) of the ECSC treaty, known as ECSC Redeployment Aid. Such grants were provided to assist workers affected by the restructuring of the coal and steel industries. In the investigation, the Department determined that the GOF provided extra contributions which relieved Usinor Sacilor of an obligation that it had incurred under the collective bargaining agreement. The Department treated the extra contributions as a countervailable grant. The benefit from this program was 0.01 percent ad valorem.

9. Grants in the Form of Cancellation of Debt by Denain Nord-Est Longwy ("DNEL") and Marine-Wendel

The Department also found countervailable grants in the form of cancellation of debt by DNEL and Marine-Wendel. As part of the GOF's 1978 Rescue Plan for the steel industry, DNEL and Marine-Wendel, the former private majority shareholders of Usinor and Sacilor, respectively, cancelled a portion of the debt owed by Usinor and Sacilor. Part of the loans made by DNEL and Marine-Wendel were written off and another portion was converted to PACS. In the investigation, the Department determined that the debt forgiveness represented by the loan write-off was specific to Usinor and Sacilor, and hence countervailable, and calculated the benefit using the grant methodology. Marine-Wendel redeemed its PACS in 1989 and, because no interest was paid, the Department treated this portion as a zero interest rate loan for which the benefits expired before the POI. DNEL essentially wrote-off its PACS in 1981 at a minimal redemption value. The Department treated the difference between the full value of the loan and the redemption value as a grant and, because the benefit did not exceed 0.50 percent of Usinor's

sales, the Department expensed the benefit in the year of receipt. Therefore, the 0.05 percent benefit from this program was attributable to the loans written off in 1978, which was treated as a grant and originally allocated over a 15-year AUL.

Final Results of Review

As a result of this sunset review, the Department finds that revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy for the reasons set forth in these final results of review. Further, we find the net countervailable subsidy likely to prevail if the order were revoked is 0.16 percent.

Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of review in the Federal Register.

AGREE: _____ DISAGREE: _____

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James C. Leonard, III
Acting Assistant Secretary
for Import Administration

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(Date)