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Sunset Reviews
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DATE: June 29, 2011

MEMORANDUM TO: Paul Piquado
Acting Deputy Assistant Secretary
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Five-Year Reviews of the Antidumping Duty Orders on Brass Sheet and Strip from France, Italy, and Japan

SUMMARY

We have analyzed the responses of the domestic interested parties in the third five-year ("Sunset") reviews of the antidumping duty orders covering brass sheet and strip from France, Italy, and Japan. We recommend that you approve the positions we developed in the Discussion of the Issues section of this memorandum.

Below is a complete list of the issues in these Sunset reviews for which we received substantive responses:

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

HISTORY OF THE ORDERS[1]

The Department of Commerce ("Department") published its final affirmative determinations of sales at less than fair value ("LTFV") in the Federal Register with respect to imports of brass sheet and strip from France, Italy, and Japan at the following rates:[2]

[1] See generally Attachment 1.
[2] Final Determination of Sales of Less Than Fair Value: Brass Sheet and Strip From France, 52 FR 812 (January 9, 1987); Final Determination of Sales at Less Than Fair Value Brass Sheet and Strip From Italy, 52 FR 816 (January 9, 1987), amended at Amendment to Final Determination of Sales at Less Than Fair Value and Amendment of Antidumping Duty Order in Accordance with Decision Upon Remand: Brass Sheet and Strip from Italy, 56 FR 23272 (May 21, 1991); and Final Determination of Sales at Less Than Fair Value; Brass Sheet and Strip from Japan, 53 FR 23296 (June 21, 1988).

France

Trefimetaux S.A.	42.24
All Others	42.24

Italy

LMI - La Metalli Industriale SpA	5.44
All Others	5.44

Japan

Nippon Mining Co., Ltd.	57.98
Sambo Copper Alloy Co., Ltd.	13.30
Mitsubishi Shindoh Co., Ltd.	57.98
Kobe Steel, Ltd.	57.98
All Others	45.72

The Department later published in the Federal Register antidumping duty orders on brass sheet and strip from France, Italy, and Japan.[3]

Since the issuance of the antidumping duty orders, the Department has conducted three administrative reviews with respect to brass sheet and strip from Italy.[4] The Department has conducted no administrative reviews with respect to imports of brass sheet and strip from France or Japan. See Attachment 1.

There have been no changed circumstances determinations concerning these three brass sheet and strip antidumping orders. The orders remain in effect for all manufacturers, producers, and exporters of the subject merchandise from France, Italy, and Japan.

The Department conducted the first Sunset reviews on imports of brass sheet and strip from France, Italy and Japan, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), and found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the same rates as found in the original investigations.[5] The International Trade Commission ("ITC") determined, pursuant to section 751(c) of the Act, that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable

[3] See Antidumping Duty Order: Brass Sheet and Strip From France, 52 FR 6995 (March 6, 1987); Antidumping Duty Order: Brass Sheet and Strip from Italy, 52 FR 6997 (March 6, 1987), amended at Amendment to Final Determination of Sales at Less Than Fair Value and Amendment of Antidumping Duty Order in Accordance with Decision Upon Remand: Brass Sheet and Strip from Italy, 56 FR 23272 (May 21, 1991); and Antidumping Duty Order of Sales at Less Than Fair Value: Brass Sheet and Strip From Japan, 53 FR 30454 (August 12, 1988).

[4] See Certain Brass Sheet and Strip From Italy; Final Results of Antidumping Duty Administrative Reviews, 57 FR 9235 (March 17, 1992) (first and third reviews); and Brass Sheet and Strip from Italy; Final Results of Antidumping Duty Administrative Review, 57 FR 54969 (November 23, 1992) (fifth review).

[5] See Final Results of Expedited Sunset Reviews: Brass Sheet and Strip From Brazil, France and Korea, 64 FR 48351 (September 3, 1999); Final Results of Expedited Sunset Review: Brass Sheet and Strip From Italy, 64 FR 48348 (September 3, 1999); and Final Results of Expedited Sunset Review: Brass Sheet and Strip From Japan, 64 FR 49765 (September 14, 1999).

time.[6] Thus, the Department published the notice of continuation of these antidumping duty orders.[7]

The Department conducted the second Sunset reviews on imports of brass sheet and strip from France, Italy, and Japan, pursuant to section 751(c) of the Act, and found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the same rates as found in the original investigations.[8] After the ITC determined that revocation of the order would lead to a continuation or recurrence of injury to the domestic industry, the Department published a notice of continuation with respect to imports of brass sheet and strip from France, Germany, Italy and Japan.[9]

BACKGROUND

On March 1, 2011, the Department initiated the third Sunset reviews of the antidumping duty orders on brass sheet and strip from France, Italy and Japan pursuant to section 751(c) of the Act.[10] The Department invited parties to comment and received a notice of intent to participate from GBC Metals, LLC of Global Brass and Copper, Inc., doing business as Olin Brass; Heyco Metals, Inc.; Luvata North America, Inc. (previously Outokumpu American Brass); PMX Industries, Inc.; Revere Copper Products, Inc.; International Association of Machinists and Aerospace Workers; United Auto Workers (Local 2367 and Local 1024); and United Steelworkers AFL-CIO CLC (collectively, "domestic interested parties"), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as a manufacturer, producer, or wholesaler in the United States of a domestic like product or under 771(9)(D) of the Act as a certified union or recognized union or group of workers representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product.

On March 31, 2011, the Department received a substantive response from the domestic interested parties ("Substantive Response"). In addition to meeting the other requirements of 19 CFR 351.218(d)(3), the domestic interested parties provided information on the volume and value of exports of brass sheet and strip from France, Italy, and Japan. The Department received no responses from respondent interested parties to these proceedings. 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 has determined to conduct expedited (120-day) Sunset reviews of the antidumping duty orders with respect to brass sheet and strip imports from France, Italy, and Japan.

[6] See Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, 65 FR 20832 (April 18, 2000).
[7] See Continuation of Antidumping Duty Orders and Countervailing Duty Orders: Brass Sheet and Strip From Brazil, Canada, France, Italy, Germany, and Japan, 65 FR 25304 (May 1, 2000).
[8] See Brass Sheet and Strip from Brazil, Canada, France, Italy and Japan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders, 70 FR 45650 (August 8, 2005).
[9] See Brass Sheet and Strip from France, Italy, Germany, and Japan: Continuation of Antidumping Duty Orders, 71 FR 16552 (April 3, 2006).
[10] See Initiation of Five-Year ("Sunset") Reviews, 76 FR 11202 (March 1, 2011).

DISCUSSION OF THE ISSUES

In accordance with section 751(c)(1) of the Act, the Department is conducting these Sunset reviews to determine whether revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider both the weighted-average dumping margins determined in the investigations 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 orders. In addition, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margins of dumping likely to prevail if the antidumping duty orders were revoked. Below we address the comments made by the domestic interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

The domestic interested parties argue that revocation of these antidumping duty orders would likely lead to continued or recurring dumping. According to the domestic interested parties, the records of these proceedings demonstrate that respondents have persisted in dumping in the U.S. market, while also dramatically reducing their sales of subject merchandise. <u>See</u> Substantive Response, at 24-25.

- *France*: The domestic interested parties state that the volume of imports subject to this order declined significantly after the imposition of the order and has not recovered. They also state that, since there has never been an administrative review of this antidumping duty order, the dumping margin remains at 42.24 percent. Thus, conclude the domestic interested parties, the substantial dumping margins and significant decline of import volumes following the issuance of the antidumping duty order demonstrate that revocation of the order will lead to continuation of dumping.

- *Italy*: The domestic interested parties state that the volume of imports subject to this order declined significantly after the imposition of the order and has not recovered. They also state that the antidumping margins have fluctuated between 4.70 and 9.49 percent, but have remained unchanged since the fourth administrative review. Thus, conclude the domestic interested parties, the substantial dumping margins and significant decline of import volumes following the issuance of the antidumping duty order demonstrate that revocation of the order will lead to continuation of dumping.

- *Japan*: The domestic interested parties state that the volume of imports subject to this order declined significantly after the imposition of the order and has not recovered. They also state that, since there has never been an administrative review of this antidumping duty order, the dumping margins calculated in the investigation remain in effect and range from 13.30 to 57.98 percent. Thus, conclude the domestic interested parties, the substantial dumping margins and significant decline of import volumes following the issuance of the antidumping duty order demonstrate that revocation of the order will lead to continuation of dumping.

Department's Position:

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action ("SAA"), H. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), 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 the order and import volumes for the subject merchandise declined significantly. In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

France: Using statistics provided by the domestic interested parties, the Department finds that imports of brass sheet and strip from France averaged 12.76 million pounds annually in the four-year period (1983-1986) before the antidumping order was issued. See Substantive Response, at 27. The Department finds that imports of French brass sheet and strip from 2006 through 2010 have fluctuated between zero and 61,612 pounds and remain significantly below pre-order volumes. Given that there have been no reviews since the investigation, dumping continues at above de minimis levels, and imports are below pre-order levels, the Department, therefore, determines that dumping is likely to continue or recur if the order were revoked.

Italy: Using statistics provided by the domestic interested parties, the Department finds that imports of brass sheet and strip from Italy averaged 7.43 million pounds annually in the four-year period (1983-1986) before the antidumping order was issued. See Substantive Response, at 32. The Department finds that imports of Italian brass sheet and strip from 2006 through 2010 have fluctuated between 20,930 pounds and 150,931 pounds and remain significantly below pre-order volumes. Given that dumping continues at above de minimis levels and imports are below pre-order levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

Japan: Using statistics provided by the domestic interested parties, the Department finds that imports of brass sheet and strip from Japan averaged 20.25 million pounds annually in the five-year period (1983-1987) before the antidumping order was published. See Substantive Response, at 34. The Department finds that imports of Japanese brass sheet and strip from 2006 through 2010 have fluctuated between 397,882 pounds and 2,485,007 pounds and remain below pre-order levels. Given that there have been no reviews since the investigation, dumping has continued at levels above de minimis, and imports are below pre-order levels, the Department, therefore, determines that dumping is likely to continue or recur if the order were revoked.

2. Magnitude of the Margins Likely to Prevail

The domestic interested parties request that the Department report to the ITC the margins that were determined in the final LTFV determinations in the original investigations, in accordance with the SAA. The domestic interested parties recommend the following dumping margins:

France:

Trefimetaux S.A.	42.24
All Others	42.24

Italy:

LMI - La Metalli Industriale, SpA	5.44
All Others	5.44

Japan:

Nippon Mining Co., Ltd.	57.98
Sambo Copper Alloy Co., Ltd.	13.30
Mitsubishi Shindoh Co., Ltd.	57.98
Kobe Steel, Ltd.	57.98
All Others	45.72

Department's Position:

Normally the Department will provide to the ITC the company-specific margin from the investigation for each company. 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 recent margin to report to the ITC.[11]

Since the second Sunset reviews, the Department conducted no administrative reviews for brass sheet and strip from France, Italy, and Japan. Therefore, the Department must determine the appropriate rates to report to the ITC regarding brass sheet and strip from France, Italy, and Japan. The Department finds that it is appropriate to provide the ITC with the rates from the investigations because these are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Thus, the Department will report to the ITC these margins listed in the Final Results section.

FINAL RESULTS OF REVIEW

The Department determines that revocation of the antidumping duty orders on brass sheet and strip from France, Italy, and Japan would be likely to lead to continuation or recurrence of dumping. The Department also determines that the dumping margins likely to prevail if the antidumping duty orders were revoked are as follows:

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[11] See, e.g., Potassium Permanganate from The People's Republic of China; Five-Year ("Sunset") Review of Antidumping Duty Order; Final Results, 70 FR 24520 (May 10, 2005).

Manufacturers/producers/exporters	Margin
France	
Trefimetaux S.A.	42.24%
All Others	42.24%
Italy	
LMI-La Metalli Industriale, S.p.A.	5.44%
All Others	5.44%
Japan	
Nippon Mining Co., Ltd.	57.98%
Sambo Copper Alloy Co., Ltd.	13.30%
Mitsubishi Shindoh Co., Ltd.	57.98%
Kobe Steel, Ltd.	57.98%
All Others	45.72%

RECOMMENDATION

Based on our analysis of the substantive response received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this Sunset review in the Federal Register and notify the ITC of our determination.

AGREE _________ DISAGREE_________

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Paul Piquado
Acting Deputy Assistant Secretary
for Import Administration

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Date

Attachment

Attachment 1

History of the Order

Investigation		
Country	*Citation*	*Margins*
France	Final Determination of Sales at Less than Fair Value: Brass Sheet and Strip From France, 52 FR 812 (January 9, 1987), and Antidumping Duty Order: Brass Sheet and Strip From France, 52 FR 6995 (March 6, 1987)	• Trefimetaux S.A. – 42.24% • All Others – 42.24%
Italy	Final Determination of Sales at Less than Fair Value: Brass Sheet and Strip From Italy, 52 FR 816 (January 9, 1987); and Antidumping Duty Order: Brass Sheet and Strip From Italy, 52 FR 6997 (March 6, 1987); Amendment to Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From Italy and Amendment to Antidumping Duty Order, 52 FR 11299 (April 8, 1987) and Amendment to Final Determination of Sales at Less than Fair Value and Amendment of Antidumping Duty Order in Accordance with Decision Upon Remand: Brass Sheet and Strip from Italy, 56 FR 23272 (May 21, 1991)	• LMI-La Metalli Industriale, S.p.A.= 5.44% • All Others – 5.44%
Japan	Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip from Japan, 53 FR 23296 (June 21, 1988); and Antidumping Duty Order of Sales at Less Than Fair Value: Brass Sheet and Strip from Japan, 53 FR 30454 (August 12, 1988)	• Nippon Mining Co., Ltd. = 57.98% • Sambo Cooper Alloy Co., Ltd. = 13.30% • Mitsubishi Shindoh Co., Ltd. = 57.98% • Kobe Steel Ltd. = 57.98% • All Others = 45.72%

Administrative and Sunset Reviews			
Country	*Segment*	*Citation*	*Margins*
France	1st Sunset Review	Final Results of Expedited Sunset Reviews: Brass Sheet and Strip From Brazil, France, and Korea, 64 FR 48351 (September 3, 1999)	• Trefimetaux S.A. – 42.24% • All Others – 42.24%

France	2nd Sunset Review	Brass Sheet and Strip from Brazil, Canada, France, Italy and Japan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders, 70 FR 45650 (August 8, 2005)	• Trefimetaux S.A.– 42.24% • All Others – 42.24%
Italy	1st Administrative Review POR: August 22, 1986 – February 29, 1988	Brass Sheet and Strip From Italy; Final Results of the Antidumping Duty Administrative Reviews, 57 FR 9235 (March 17, 1992)	• LMI-La Metalli Industriale, S.p.A.= 9.49%
Italy	3rd Administrative Review POR: March 1, 1989 – February 28, 1990	Brass Sheet and Strip From Italy; Final Results of the Antidumping Duty Administrative Reviews, 57 FR 9235 (March 17, 1992)	• LMI-La Metalli Industriale, S.p.A = 4.70%
Italy	5th Administrative Review POR: March 1, 1991 – February 29, 1992	Brass Sheet and Strip From Italy; Final Results of Antidumping Duty Administrative Review, 57 FR 54969 (November 23, 1992)	• LMI-La Metalli Industriale, S.p.A = 9.49%
Italy	1st Sunset Review	Final Results of Expedited Sunset Review: Brass Sheet and Strip From Italy, 64 FR 48348 (September 3, 1999)	• LMI-La Metalli Industriale, S.p.A = 5.44% • All Others – 5.44%
Italy	2nd Sunset Review	Brass Sheet and Strip from Brazil, Canada,	• LMI-La Metalli Industriale, S.p.A = 5.44%

		France, Italy and Japan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders, 70 FR 45650 (August 8, 2005)	• All Others – 5.44%
Japan	1st Sunset Review	Final Results of Expedited Sunset Review: Brass Sheet and Strip From Japan, 64 FR 49765 (September 14, 1999)	• Nippon Mining Co., Ltd. = 57.98% • Sambo Cooper Alloy Co., Ltd. = 13.30% • Mitsubishi Shindoh Co., Ltd. = 57.98% • Kobe Steel Ltd. = 57.98% • All Others = 45.72%
Japan	2nd Sunset Review	Brass Sheet and Strip from Brazil, Canada, France, Italy and Japan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders, 70 FR 45650 (August 8, 2005)	• Nippon Mining Co., Ltd. = 57.98% • Sambo Cooper Alloy Co., Ltd. = 13.30% • Mitsubishi Shindoh Co., Ltd. = 57.98% • Kobe Steel Ltd. = 57.98% • All Others = 45.72%