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MEMORANDUM TO: Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

FROM: Gary Taverman  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of  
Expedited Third Sunset Reviews of the Antidumping Duty Orders  
on Certain Cut-to-Length Carbon-Quality Steel Plate from India,  
Indonesia, and the Republic of Korea

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### Summary

We analyzed the responses of the interested parties in the third sunset reviews of the antidumping duty (AD) orders<sup>1</sup> covering certain cut-to-length carbon-quality steel plate (CTL plate) from India, Indonesia, and the Republic of Korea (Korea). We recommend that you approve the positions described 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 substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin of dumping that is likely to prevail

### Background

On December 1, 2016, the Department published the notice of initiation of the third sunset reviews of the AD *Orders* on CTL plate from India, Indonesia, and Korea, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> On December 8, 13, and 16, 2016, ArcelorMittal USA, Inc. (AMUSA), Nucor Corporation (Nucor), and SSAB Enterprises LLC

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<sup>1</sup> See *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan, and the Republic of Korea*, 65 FR 6585 (February 10, 2000) (collectively, *Orders*).

<sup>2</sup> See *Initiation of Five-Year (“Sunset”) Reviews*, 81 FR 86697 (December 1, 2016) (*Notice of Initiation*).



(SSAB), (collectively, the petitioners or the domestic interested parties), notified the Department of their intent to participate within the 15-day period specified in 19 CFR 351.218(d)(1)(i).<sup>3</sup> Each of the domestic parties claimed interested party status under section 771(9)(C) of the Act stating that they are each producers in the United States of a domestic like product.

On January 3, 2017, the Department received complete substantive responses to the *Notice of Initiation* from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>4</sup> We received no substantive responses from respondent interested parties with respect to these sunset reviews of the orders on CTL plate from India, Indonesia, or Korea, nor was a hearing requested. 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 expedited (120-day) sunset reviews of the AD *Orders* on CTL plate from India, Indonesia, and Korea.

### History of the Orders

#### *India*

On December 29, 1999, the Department published its final determination in the less-than-fair-value (LTFV) investigation of CTL plate from India.<sup>5</sup> On February 10, 2000, the Department published its AD order on CTL plate from India.<sup>6</sup> On February 19, 2003, the Department revised the duty rates imposed by the LTFV investigation for the Steel Authority of India, Ltd. (SAIL) and the all others rate, decreasing the margin from 72.49 to 42.39 percent.<sup>7</sup> For India, the Department found the following weighted-average dumping margins:

<u>Exporter or Producer</u>	<u>LTFV Margin</u>	<u>Sec. 129 Revised Margin</u>
Steel Authority of India, Ltd.	72.49 percent	42.39 percent
All Others	72.49 percent	42.39 percent

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<sup>3</sup> See AMUSA's December 13, 2016, submission "Five-Year ("Sunset") Review of the Antidumping and Countervailing Duty Orders on Certain Cut-to-Length Carbon-Quality Steel Plate From India, Indonesia, and South Korea – AMUSA's Notice of Intent to Participate." See also Nucor's December 16, 2016, submissions "*Certain Cut-to-Length Carbon-Quality Steel Plate from India: Notice of Intent to Participate in Sunset Review*," "*Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Notice of Intent to Participate in Sunset Review*," and "*Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Notice of Intent to Participate in Sunset Review*." See also SSAB's December 8, 2016, submissions "Certain Cut-to-Length Carbon-Quality Steel Plate from India, Third Sunset Review," "Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia, Third Sunset Review," and "Certain Cut-to-Length Carbon-Quality Steel Plate from Korea, Third Sunset Review."

<sup>4</sup> See the domestic interested parties' January 3, 2017, submissions "Certain Cut-to-Length Carbon-Quality Steel Plate from India, Third Sunset Review: Substantive Response to Notice of Initiation" (Petitioners' India Substantive Response), "Five-Year ("Sunset") Review of the Antidumping Order on Certain Cut-To-Length Carbon-Quality Steel Plate From Indonesia - Substantive Response to Notice of Initiation" (Petitioners' Indonesia Substantive Response), and "*Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Substantive Response to Notice of Initiation*" (Petitioners' Korea Substantive Response).

<sup>5</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products from India*, 64 FR 73126 (December 29, 1999) (*India Final*).

<sup>6</sup> See *Orders*.

<sup>7</sup> See *Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measure on Certain Cut-to-Length Carbon-Quality Steel Plate Products From India*, 68 FR 7967 (February 19, 2003) (*Section 129 Determination for India*).

Since the January 2012 continuation of the order at the conclusion of the second sunset review,<sup>8</sup> the Department has conducted no reviews of the order on CTL plate from India.

#### *Indonesia*

On December 29, 1999, the Department published its final determination in the LTFV investigation of CTL plate from Indonesia.<sup>9</sup> On February 10, 2000, the Department published its amended final determination and AD order on CTL plate from Indonesia.<sup>10</sup> For Indonesia, the Department found the following weighted-average dumping margins:

<u>Exporter or Producer</u>	<u>LTFV Margin</u>
PT Gunawan Dianjaya/PT Jaya Pari Steel Corp.	50.80 percent
PT Krakatau Steel	52.42 percent
All Others	50.80 percent

Since the January 2012 continuation of the order at the conclusion of the second sunset review,<sup>11</sup> the Department has conducted no reviews of the order on CTL plate from Indonesia.

#### *Korea*

On December 29, 1999, the Department published its final determination in the LTFV investigation of CTL plate from Korea.<sup>12</sup> On February 10, 2000, the Department published AD order on CTL plate from Korea.<sup>13</sup> For Korea, the Department found the following weighted-average dumping margins:

<u>Exporter or Producer</u>	<u>LTFV Margin</u>
Dongkuk Steel Mill Co., Ltd. (DSM)	2.98 percent
All Others	2.98 percent

Since the January 2012 continuation of the order at the conclusion of the second sunset review,<sup>14</sup> the Department has completed five administrative reviews and one new shipper review.<sup>15</sup> The

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<sup>8</sup> See *Certain Cut-To-Length Carbon-Quality Steel Plate From India, Indonesia, and the Republic of Korea: Continuation of Antidumping and Countervailing Duty Orders*, 77 FR 264 (January 4, 2012) (*Second Continuation*).

<sup>9</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products from Indonesia*, 64 FR 73164 (December 29, 1999) (*Indonesia Final*).

<sup>10</sup> See *Orders*.

<sup>11</sup> See *Second Continuation*.

<sup>12</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products from Korea*, 64 FR 73196 (December 29, 1999).

<sup>13</sup> See *Orders*.

<sup>14</sup> See *Second Continuation*.

<sup>15</sup> See *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 77 FR 21527 (April 10, 2012) (finding a margin of 1.64 percent); *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 29113 (May 17, 2013) (finding no margins); *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 54264 (September 11, 2014) (finding margins up to 4.64 percent) (*2012-2013 Final*); *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 22971 (April 24, 2015) (finding margins up to 0.56 percent); and *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea:*

Department is currently conducting an administrative review covering the period February 1, 2015, through January 31, 2016.<sup>16</sup>

### Scope of the Orders

The products covered by the antidumping duty orders are certain hot-rolled carbon-quality steel: (1) universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to length (not in coils) and without patterns in relief), of iron or non-alloy quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products included in the scope of the order are of rectangular, square, circular, or other shape and of rectangular or non-rectangular cross section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been “worked after rolling”) – for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished, or coated with plastic or other non-metallic substances are included within the scope. Also, specifically included in the scope of the orders are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products included in the scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the orders unless otherwise specifically excluded.

The following products are specifically excluded from the orders: (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

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*Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2014-2015*, 81 FR 62712 (September 12, 2016) (finding margins up to 1.11 percent).

<sup>16</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 20324 (April 7, 2016).

Imports of steel plate are currently classified in the HTSUS under subheadings 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, and 7226.99.0000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the orders is dispositive.

### Legal Framework

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 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 orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (ITC) the magnitude of the margin of dumping that is likely to prevail if the orders were revoked.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA),<sup>17</sup> the House Report,<sup>18</sup> and the Senate Report,<sup>19</sup> the Department's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.<sup>20</sup> In addition, 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 the issuance of the orders; (b) imports of the subject merchandise ceased after the issuance of the orders; or (c) dumping was eliminated after the issuance of the orders and import volumes for the subject merchandise declined significantly.<sup>21</sup> 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.<sup>22</sup>

Furthermore, 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 the investigation may dampen import volumes and, thus, skew the comparison.<sup>23</sup> When analyzing import volumes for second and

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<sup>17</sup> See HR. Doc. 103-316, vol. 1 (1994) (SAA), reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

<sup>18</sup> See H. Rep. No. 103-826, pt. 1 (1994) (House Report), reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

<sup>19</sup> See S. Rep. No. 103-412 (1994) (Senate Report).

<sup>20</sup> See SAA at 879; see also House Report at 56.

<sup>21</sup> See SAA at 889-890; House Report at 63-64; Senate Report at 52; and *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

<sup>22</sup> See SAA at 889-890; see also House Report at 63.

<sup>23</sup> See *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.

subsequent sunset reviews, the Department's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.<sup>24</sup>

In addition, section 752(c)(3) of the Act states that the magnitude of the margin of dumping that is likely to prevail if the orders were revoked shall be provided by the Department to the ITC. Generally, the Department selects the weighted-average dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.<sup>25</sup> In certain circumstances, however, a more recently calculated rate may be more appropriate (e.g., "if dumping margins have declined over the life of an order and imports have remained steady or increased, {the Department} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review").<sup>26</sup> Finally, pursuant to section 752(c)(4)(A) of the Act, a margin of dumping like to prevail of "zero or *de minimis* shall not by itself require" the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.<sup>27</sup>

On February 14, 2012, the Department announced it was modifying its practice in sunset reviews, such that it would not rely on weighted-average dumping margins calculated using the "zeroing" methodology found to be inconsistent with World Trade Organization (WTO) obligations.<sup>28</sup> 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.<sup>29</sup> 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 period that were not determined in a manner found to be WTO-inconsistent" and that it "may also rely on past dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available (AFA), and dumping margins where no offsets were denied because all comparison results were positive."<sup>30</sup>

### Discussion of the Issues

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<sup>24</sup> See *Ferrovanadium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying Issues and Decision Memorandum.

<sup>25</sup> See SAA at 890 and *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.

<sup>26</sup> See SAA at 890-91.

<sup>27</sup> See *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.

<sup>28</sup> See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (*Final Modification for Reviews*).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*, at 8109.

Below we address the comments of the interested parties.

## 1. Likelihood of Continuation or Recurrence of Dumping

### Interested Parties' Comments

The domestic interested parties assert that revocation of these antidumping duty orders would likely lead to a continuation or recurrence of dumping by the producers and exporters of the subject merchandise.

#### *India:*

The domestic interested parties argue that, consistent with established practice, because no administrative reviews have been completed since the antidumping duty order was issued, the Department should determine that dumping has continued at the margin of 42.39 percent as calculated by the Department in its Section 129 determination.<sup>31</sup> The domestic interested parties assert that the continued existence of dumping margins, by itself, is sufficient to determine that dumping is likely to continue. Nonetheless, they assert that imports of CTL plate from India declined significantly after the issuance of the order; dropping from levels of approximately 130 to 137 thousand short tons in 1997 and 1998 (prior to the filing of the petition), respectively, to levels ranging from 1.3 to 3.3 short tons annually during the period of 2011 - 2015.<sup>32</sup> For these reasons, the domestic interested parties argue the dumping is likely to continue if the order were revoked.

#### *Indonesia:*

The domestic interested parties note that there have been no administrative reviews of the order since the issuance of the order.<sup>33</sup> Citing to import statistics showing that since 2008 there were no entries of subject merchandise from Indonesia other than in 2013, the domestic interested parties argue that import data demonstrates that under the discipline of the antidumping duty order, Indonesian producers and exporters of CTL plate are unable to ship their merchandise to the United States at significant volumes.<sup>34</sup> Accordingly, if the order were revoked, the domestic interested parties argue it is likely that Indonesian producers and exporters would likely resume selling subject merchandise at dumped prices in order to increase their volumes to pre-order levels.<sup>35</sup>

#### *Korea:*

Citing the weighted-average dumping margins determined in the investigation and the subsequent administrative reviews, the domestic interested parties assert that the subject producers and exporters have continued dumping in the U.S. market at above *de minimis* levels, despite the imposition of the antidumping duty order.<sup>36</sup> The domestic interested parties refer to the *Final Modification for Reviews* and note that in the 2012/2013 administrative review, the

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<sup>31</sup> See the Petitioners' India Substantive Response, at 8 (citing to *Section 129 Determination for India*).

<sup>32</sup> See *id.*, at 9 and Exhibit 1 (citing to U.S. ITC Dataweb statistics).

<sup>33</sup> See the Petitioners' Indonesia Substantive Response, at 8.

<sup>34</sup> See *id.*, at 14-15 (citing to U.S. Department of Commerce Import Statistics).

<sup>35</sup> See *id.*, at 11-15 (citing to the *Policy Bulletin*, *SAA*, and *Final Modification for Reviews*).

<sup>36</sup> See the Petitioners' Korea Substantive Response, at 14-15.

weighted-average dumping margin of 4.64 percent was calculated not using zeroing.<sup>37</sup> The domestic interested parties assert that the continued existence of dumping since the implementation of the order is, by itself, sufficient for the Department to conclude that dumping is likely to continue or recur if the order is revoked.<sup>38</sup>

The domestic interested parties also argue that imports of CTL plate from Korea decreased significantly after the issuance of the order and remain well below pre-order levels. The domestic interested parties note that during this third sunset review period, subject Korean imports have continued to decrease and, during 2015, were 96 percent lower than pre-order levels.<sup>39</sup>

In summary, the domestic interested parties claim that record evidence strongly supports the conclusion that the subject Korean producers and exporters would be likely to continue or resume dumping of the subject merchandise if the order in place were to be revoked.

### Department's Position

As explained in the Legal Framework section above, the Department's determinations of likelihood will be made on an order-wide basis.<sup>40</sup> In addition, the Department normally will determine 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.<sup>41</sup> 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.

#### *India:*

As discussed above and argued by the domestic interested parties, the Department calculated a weighted-average dumping margin of 42.39 percent in its *Section 129 Determination for India*, and that rate has remained in place ever since. Therefore, we determine that dumping has continued. Further, the Department examined the import statistics provided by the domestic interested parties for the relevant periods which show that imports of CTL plate from India decreased significantly since the imposition of the AD order. Given the continued existence of dumping for Indian producers since the issuance of the order and the decrease in import volume, it is unlikely that Indian producers and exporters would be able to sell at pre-order volumes without dumping. Accordingly, the Department determines that dumping is likely to continue if the order were revoked.

#### *Indonesia:*

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<sup>37</sup> *Id.*, at 15 (citing to 2012-2013 *Final* and accompanying Issues and Decisions Memorandum).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*, at 16-17 (citing to U.S. ITC Dataweb statistics).

<sup>40</sup> See SAA at 879 and House Report at 56.

<sup>41</sup> See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.



As discussed above and argued by the domestic interested parties, the Department has conducted no administrative reviews since the issuance of the AD order. Further, the Department examined the import statistics provided by the domestic interested parties for the relevant periods which show that the import volume of CTL plate from Indonesia decreased significantly since the imposition of the order. Given the decrease in import volume, it is unlikely that Indonesia producers and exporters would be able to sell at pre-order volumes without dumping. Accordingly, the Department determines that dumping is likely to continue if the order were revoked.

*Korea:*

As discussed above and argued by the domestic interested parties, the Department has completed five administrative reviews since the *Second Continuation*, finding above *de minimis* weighted-average dumping margins in four of the five reviews. Therefore, we determine that dumping has continued. Further, the Department examined the import statistics provided by the domestic interested parties for the relevant periods which show that the import volume of CTL plate from Korea fluctuated over the life of the order but remain significantly below the pre-order volume of imports. Given the continued existence of dumping for Korean producers after issuance of the order and the decrease in import volume, it is unlikely that Korean producers and exporters would be able to sell at pre-order volumes without dumping. Accordingly, the Department determines that dumping is likely to continue if the order were revoked.

## 2. Magnitude of the Margin of Dumping That Is Likely to Prevail

### Interested Parties' Comments

*India:*

The domestic interested parties argue that consistent with the SAA and the *Policy Bulletin*, the Department should report the rate of 42.39 percent for SAIL and all other Indian producers as the magnitude of the margin of dumping that is likely to prevail, as this weighted-average dumping margin was calculated in a manner that is not inconsistent with the United States' WTO obligations and, therefore, the *Final Modification for Reviews* has no effect on this conclusion.<sup>42</sup>

*Indonesia:*

Citing to the *Sunset Policy Bulletin* and SAA, the domestic interested parties assert that the Department normally reports to the ITC the weighted-average dumping margins calculated in the original investigation to determine the magnitude of the margin of dumping that is likely to prevail.<sup>43</sup> The domestic interested parties also emphasize that the Department's *Final Modification for Reviews* should have no effect on the conclusion of the sunset review as the weighted-average dumping margin of 52.42 percent in the investigation was determined based on an assignment of total AFA, and there is no evidence that this AFA rate was calculated with the denial of offsets for non-dumped sales.<sup>44</sup> In conclusion, the domestic interested parties assert that the weighted-average dumping margins established in the LTFV investigation represent the

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<sup>42</sup> See the Petitioners' India Substantive Response, at 10 (citing to *Section 129 Determination for India*).

<sup>43</sup> See the Petitioners' Indonesia Substantive Response, 16-17

<sup>44</sup> See *id.*, at 17-18.

best evidence of the behavior of Indonesian CTP Plate producers and exporters if the order were revoked.<sup>45</sup>

*Korea:*

Citing to the *Sunset Policy Bulletin* and SAA, the domestic interested parties assert that the Department normally reports to the ITC the weighted-average dumping margins calculated in the original investigation to determine the magnitude of the margin of dumping that is likely to prevail as those are the only calculated rates that reflect the behavior of exporters without the discipline of an order.<sup>46</sup> The domestic interested parties note that in the *Final Modification for Reviews*, the Department modified its sunset practice such that it no longer relies on rates calculated using the zeroing methodology.<sup>47</sup> The domestic interested parties add that the Department stated that it would continue to rely on rates that were not WTO-inconsistent, including weighted-average dumping margins calculated without the use of zeroing or based on the use of total AFA.<sup>48</sup> As such, the domestic interested parties argue that the Department should rely on the 32.70 percent weighted-average dumping margin based on the application of total AFA during the third (for TC Steel) and fifth (for Hyosung Corporation, Hyundai Mipo Dockyard Co., Ltd., and JeongWoo Industrial Machine Co., Ltd.) administrative reviews.<sup>49</sup> They assert that because the Department calculated the 32.70 percent rate by applying, as AFA, the highest product-specific dumping margin of a Korean producer in the third review, there is no indication that this rate was calculated using zeroing.<sup>50</sup> Additionally, the domestic interested parties suggest that the Department should report to the ITC the 4.64 percent rate calculated in the eighth administrative review for DSM as the Department did not use zeroing to calculate this weighted-average dumping margin and, because it is more recent than the rate calculated in the investigation, it more accurately illustrates the current level of dumping.<sup>51</sup> In the alternative, should the Department decline to report a more recent weighted-average dumping margin for DSM, the domestic interested parties argue that as there is no evidence that the weighted-average dumping margin from the underlying investigation was calculated with zeroing, the Department should report a rate of 2.98 percent as that would reflect the behavior of Korean CTL plate producers without the discipline of an order.<sup>52</sup>

Department's Position

Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. The Department's preference is to select a weighted-average dumping margin from the LTFV investigation because it is the only calculated rate that reflects the behavior of the producers and

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<sup>45</sup> See *id.*, at 19.

<sup>46</sup> See the Petitioners' Korea Substantive Response, at 18.

<sup>47</sup> *Id.*, at 18-19.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* (citing *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review in Part*, 73 FR 15132 (March 21, 2008)).

<sup>51</sup> *Id.*, at 20.

<sup>52</sup> *Id.*

exporters without the discipline of an order in place.<sup>53</sup> Under certain circumstances, however, the Department may select a more recent rate.<sup>54</sup>

Finally, as indicated in the “Legal Framework” section above, in accordance with the *Final Modification for Reviews*, the Department’s current practice is not to rely on weighted-average dumping margins calculated using the zeroing methodology found to be WTO inconsistent.<sup>55</sup> Instead, we may rely on other rates available, including rates determined based on a finding of AFA. In certain cases, the Department may recalculate weighted-average dumping margins without the use of zeroing.<sup>56</sup>

*India:*

After considering the weighted-average dumping margins determined in the LTFV investigation of CTL plate from India, as amended by the *Section 129 Determination for India*, we find it appropriate to provide the ITC the rate of 42.39 percent, as the rate up to which dumping is likely to continue or recur. That rate was calculated in a Section 129 proceeding, and there is no other indication that offsets were denied.

*Indonesia:*

After considering the weighted-average dumping margins determined in the LTFV investigation of CTL plate from Indonesia, we find it appropriate to provide the ITC the rate of 52.42 percent from the original investigation which was based on AFA, as the rate up to which dumping is likely to continue or recur. As AFA, the Department applied the highest dumping margin alleged in the petition and thus, no offsets were denied.

*Korea:*

Although the domestic interested parties state that there is no evidence of the denial of offsets in the calculation of the weighted-average dumping margins determined in the original LTFV investigation of CTL plate from Korea, we have been unable to confirm such is the case. However, we agree with the domestic interested parties that the SAA provides that the Department may report a more recently determined weighted-average dumping margin. The Department disagrees that the 32.70 percent rate based on the application of total AFA during the third and fifth administrative reviews is appropriate, because we have a more recently calculated rate for DSM, a mandatory respondent in the underlying investigation. Because the Department did not use zeroing to calculate the 4.64 percent rate calculated in the 2012-2013 administrative review of DSM and, because it is more recent than the weighted-average dumping margin calculated in the investigation for DSM, it more accurately illustrates the level of dumping which may prevail. Therefore, we find it appropriate to provide the ITC the margin of 4.64 percent from the 2012-2013 administrative review as the rate up to which dumping is likely to continue

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<sup>53</sup> See SAA, at 890 and *Sunset Policy Bulletin*, at section II.B.1; see also, e.g., *Prestressed Concrete Steel Wire Strand from the People’s Republic of China: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 80 FR 43063 (July 21, 2015), and accompanying Issues and Decision Memorandum, at Issue 2.

<sup>54</sup> See section 752(c)(3) of the Act and, e.g., *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying Issues and Decision Memorandum, at Comment 3 (citing SAA, at 890-91 and *House Report*, at 64).

<sup>55</sup> See *Final Modification for Reviews*, 77 FR at 8103.

<sup>56</sup> *Id.*

or recur. That rate did not involve the denial of offsets and there is no other indication that it reflects a WTO-inconsistent methodology.

### Final Results of Sunset Reviews

The Department determines that revocation of the antidumping duty orders on CTL plate from India, Indonesia, and Korea would likely lead to continuation or recurrence of dumping, and that the magnitude of the margins of dumping that are likely to prevail would be at a rate up to 42.39 percent for India, up to 52.42 percent for Indonesia, and up to 4.64 percent for Korea.

### Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish these final results of these expedited sunset reviews in the *Federal Register*.



\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

3/31/2017

          X Ronald K. Lorentzen          

Signed by: RONALD LORENTZEN

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance