



A-351-825, A-533-810,  
A-588-833, A-469-805,  
Sunset Reviews  
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October 31, 2017

MEMORANDUM TO: Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder  
Senior Director  
performing the duties of Deputy Assistant Secretary for  
Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset  
Reviews of the Antidumping Duty Orders on Stainless Steel Bar  
from Brazil, India, Japan, and Spain

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## **I. Summary**

We have analyzed the responses of the interested parties in the sunset reviews of the antidumping duty orders covering stainless steel bar (SSB) from Brazil, India, Japan, and Spain. 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 the continuation or recurrence of dumping
2. Magnitude of the margin of dumping likely to prevail

## **II. Background**

On July 3, 2017, the Department of Commerce (Department) published the notice of initiation of the fourth sunset reviews of the antidumping duty orders on SSB from Brazil, India, Japan, and Spain, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>1</sup> The Department received a notice of intent to participate from Carpenter Technology Corporation, Crucible Industries LLC, Electroalloy (a Division of G.O. Carlson, Inc.), North American Stainless, Outokumpu Stainless Bar, LLC, Universal Stainless & Alloy Products, Inc., and

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<sup>1</sup> See *Initiation of Five-Year (Sunset) Reviews*, 82 FR 30844 (July 3, 2017) (*Notice of Initiation*).

Valbruna Slater Stainless, Inc. (collectively, the petitioners) as domestic interested parties, within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>2</sup> The petitioners claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic like product in the United States.

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>3</sup> The Department did not receive comments on the adequacy of responses in these sunset reviews. We received no substantive responses from respondent interested parties with respect to any of the orders covered by these sunset reviews, nor was a hearing requested. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting expedited (120-day) sunset reviews of the antidumping duty orders on SSB from Brazil, India, Japan, and Spain. The orders on SSB from Brazil, India, Japan, and Spain remain in effect for all manufacturers, producers, and exporters of the subject merchandise.

### **III. Scope of the Orders**

#### **Brazil, India, and Spain**

The merchandise subject to the order is SSB. The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.*, cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections. The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00,

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<sup>2</sup> See Letter to the Department regarding “Stainless Steel Bar from Brazil, India, Japan, and Spain – Petitioners’ Notice of Intent to Participate.” (July 18, 2017).

<sup>3</sup> See Letter to the Department regarding “Five-Year (Sunset) Review of Antidumping Duty Order on Stainless Steel Bar from Brazil – Domestic Interested Parties’ Substantive Response.” (August 2, 2017) (Brazil Substantive Responses); Letter to the Department regarding “Five-Year (Sunset) Review of Antidumping Duty Order on Stainless Steel Bar from India – Domestic Interested Parties’ Substantive Response.” (August 2, 2017) (India Substantive Responses); Letter to the Department regarding “Five-Year (Sunset) Review of Antidumping Duty Order on Stainless Steel Bar from Japan – Domestic Interested Parties’ Substantive Response.” (August 2, 2017) (Japan Substantive Responses); Letter to the Department regarding “Five-Year (Sunset) Review of Antidumping Duty Order on Stainless Steel Bar from Spain – Domestic Interested Parties’ Substantive Response.” (August 2, 2017) (Spain Substantive Responses).

7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

### Japan

The merchandise subject to the order is SSB. The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Furthermore, effective for entries entered, or withdrawn for warehouse, for consumption on or after February 1, 2010, the term does not include one SSB product under Grade 304 and two types of SSB products under Grade 440C. (1) The Grade 304 product meets the following descriptions: round cross-section, cold finished, chrome plated (plating thickness 10 microns or greater), hardness of plating a minimum 750 HV on the Vickers Scale, maximum roundness deviation of 0.020 mm (based on circularity tolerance described in JIS B 0021 (1984)), in actual (measured) lengths from 2000 mm to 3005 mm, in nominal outside diameters ranging from 6 mm to 30 mm (diameter tolerance for any size from minus 0.010 mm to minus 0.053 mm). Tolerance can be defined as the specified permissible deviation from a specified nominal dimension; for example if the nominal outside diameter of the product entering is 6 mm, then the actual measured sizes should fall within 5.947 mm to 5.990 mm; (2) The first Grade 440C product meets the following descriptions: round cross-section, cold finished, heat treated through induction hardening, minimum Rockwell hardness of 56 Hardness of 56 HRC, maximum roundness deviation of 0.007 mm (based on circularity tolerance described in JIS B 0021 (1984)), in actual (measured) lengths from 500 mm to 3005 mm, in nominal outside diameters ranging from 3 mm to 38.10 mm (diameter tolerance for any size from 0.00 mm to minus 0.150 mm). Tolerance can be defined as the specified permissible deviation from a specified nominal dimension; for example if the nominal outside diameter of the product entering is 3 mm, then the actual measured sizes should fall within 2.850 mm to 3.000 mm; (3) The second Grade 440C product meets the following descriptions: round cross-section, cold finished, chrome plated (plating thickness 5 microns or greater), heat treated through induction hardening, minimum Rockwell Hardness of 56 HRC, maximum roundness deviation of 0.007 mm (based on circularity tolerance described in JIS B 0021 (1984)), in actual (measured) lengths from 2000 mm to minus 3005 mm, (diameter tolerance for any size from minus 0.004 mm to minus 0.020 mm). Tolerance can be defined as the specified permissible deviation from a specified nominal dimension; for example if the nominal outside diameter of the product entering is 6 mm, then the actual measured sizes should fall within 5.980 mm to 5.996 mm.

Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.*, cut-length rolled products which if less than 4.75 mm in

thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections. The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

#### **IV. History of the Orders**

The Department published its final affirmative determinations of sales at less than fair value (LTFV) in the *Federal Register* with respect to imports of SSB from Brazil, India, Japan, and Spain<sup>4</sup> at the following percentage rates:

##### Brazil

Acos Villares, S.A.	19.43
All Brazilian Manufacturers, Producers and Exporters	19.43

##### India

Grand Foundry Limited	3.87
Mukand, Limited	21.02
All others	12.45

##### Japan

Aichi Steel Works, Ltd	61.47
Daido Steel Co, Ltd	61.47
Sanyo Special Steel Co., Ltd	61.47
All others	61.47

##### Spain

Acensor, S.A. (and all successor companies including Digeco, S.A. and Clorimax, SRL)	62.85
Roldan, S.A.	7.72
All others	25.77

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<sup>4</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Brazil, 59 FR 66914 (December 28, 1994) (*Brazil Final*); Stainless Steel Bar from India, Final Determination of Sales at Less Than Fair Value, 59 FR 66915 (December 28, 1994) (*India Final*); Stainless Steel Bar from Japan, Final Determination of Sales at Less Than Fair Value, 59 FR 66930 (December 28, 1994) (*Japan Final*); Stainless Steel Bar from Spain, Final Determination of Sales at Less Than Fair Value, 59 FR 66931 (December 28, 1994) (*Spain Final*).

The Department later published in the *Federal Register* antidumping duty orders on SSB from Brazil, India, Japan, and Spain.<sup>5</sup>

### Brazil

Since the publication of the antidumping duty orders, the Department has completed eight administrative reviews of the antidumping duty orders on SSB from Brazil and is currently conducting its ninth review.<sup>6</sup> In the completed administrative reviews, the Department found that the producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.

### India

Since the publication of the antidumping duty order, the Department initiated numerous administrative and new shipper reviews of the antidumping duty order on SSB from India and is currently conducting its 22<sup>nd</sup> administrative review.<sup>7</sup> In the completed administrative reviews,

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<sup>5</sup> See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India, and Japan*, 60 FR 9661 (February 21, 1995); *Amended Final Determination and Antidumping Duty Order: Stainless Steel Bar from Spain*, 60 FR 11656 (March 2, 1995).

<sup>6</sup> See *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review*, 74 FR 33995 (July 14, 2009); *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review*, 75 FR 39663 (July 12, 2010); *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review*, 76 FR 1599 (January 11, 2011); *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 22227 (April 15, 2013); *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 47437 (August 13, 2014); *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 12805 (March 11, 2015); *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 40670 (June 22, 2016); *Stainless Steel Bar from Brazil: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 27691 (June 16, 2017); *Initiation of Antidumping and Countervailing Duty and Administrative Reviews*, 82 FR 17188 (April 10, 2017).

<sup>7</sup> See *Stainless Steel Bar from India: Final Results of New Shipper Antidumping Duty Administrative Review*, 62 FR 4029 (January 28, 1997); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review*, 62 FR 37030 (July 10, 1997); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review*, 63 FR 13622 (March 20, 1998); *Stainless Steel Bar from India: Final Results of New Shipper Antidumping Duty Administrative Review*, 63 FR 19712 (April 21, 1998); *Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 64 FR 13771 (March 22, 1999); *Stainless Steel Bar from India; Final Results of Antidumping Duty New Shipper Review*, 65 FR 3662 (January 24, 2000); *Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Partial Rescission of Administrative Review*, 65 FR 48965 (August 10, 2000), as amended by *Stainless Steel Bar from India: Notice of Amended Final Results Pursuant to Final Court Decision*, 68 FR 40250 (July 7, 2003); *Stainless Steel Bar from India: Final Results of Antidumping New Shipper Review*, 65 FR 75923 (December 5, 2000); *Stainless Steel Bar from India: Final Results of Antidumping New Shipper Review*, 66 FR 27629 (May 18, 2001); *Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review*, 66 FR 31208 (June 11, 2001); *Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review*, 67 FR 45956 (July 11, 2002), as amended by *Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 67 FR 53336 (August 15, 2002); *Stainless Steel Bar from India: Final Results of New Shipper Antidumping Duty Administrative Review*, 67 FR 69721 (November 19, 2002); *Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review*, 68 FR 47543 (August 11, 2003); *Stainless Steel Bar from India; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and*

the Department found that the producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.

### Japan

Since the publication of the antidumping duty order, the Department completed three administrative reviews of the antidumping duty order and rescinded one review on SSB from Japan.<sup>8</sup> In the completed administrative reviews, the Department found that the producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.

### Spain

Since the publication of the antidumping duty order, the Department completed four administrative reviews of the antidumping duty order on SSB from Spain, and is currently conducting a fifth administrative review.<sup>9</sup> The Department terminated one administrative review and rescinded one administrative review.<sup>10</sup> In the completed administrative reviews, the

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*Determination To Revoke in Part*, 69 FR 55409 (September 14, 2004); *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023 (September 13, 2005); *Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 71 FR 37905 (July 3, 2006); *Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 51595 (September 10, 2007); *Stainless Steel Bar from India: Notice of Final Results of Antidumping Duty Administrative Review*, 73 FR 52294 (September 9, 2008); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review*, 74 FR 47198 (September 15, 2009); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 54090 (September 3, 2010); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review, and Revocation of the Order, in Part*, 76 FR 56401 (September 13, 2011); *Stainless Steel Bar from India: Final Results of the Antidumping Duty Administrative Review*, 77 FR 39467 (July 3, 2012); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 34337 (June 7, 2013); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review*, 79 FR 43712 (July 28, 2014); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 55332 (September 15, 2015); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review*, 81 FR 62086 (September 8, 2016); *Stainless Steel Bar from India: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 26916 (June 12, 2017); *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 17188 (April 10, 2017).

<sup>8</sup> See *Stainless Steel Bar from Japan: Final Results of Antidumping Administrative Review*, 64 FR 36333 (July 6, 1999); *Stainless Steel Bar from Japan: Final Results of Antidumping Administrative Review*, 65 FR 13717 (March 14, 2000); *Stainless Steel Bar from Japan: Final Results of Antidumping Duty Administrative Review*, 67 FR 62227 (October 4, 2002); *Stainless Steel Bar from Japan: Rescission of Antidumping Duty Administrative Review*, 77 FR 41969 (July 17, 2012).

<sup>9</sup> See *Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review*, 72 FR 42395 (August 2, 2007); *Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 63081 (October 22, 2014); *Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review*, 80 FR 12798 (March 11, 2015); *Stainless Steel Bar from Spain: Final Results of Antidumping Duty Administrative Review*, 82 FR 29826 (June 30, 2017); *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 21513 (May 9, 2017).

<sup>10</sup> See *Stainless Steel Bar from Spain; Termination of Antidumping Duty Administrative Review*, 61 FR 50469 (September 26, 1996); *Stainless Steel Bar from Spain: Rescission of Antidumping Duty Administrative Review*, 80 FR 46541 (August 5 2015).

Department found that the producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.

The Department has continued the four orders three times as a result of prior sunset reviews.<sup>11</sup>

#### *Duty Absorption, Changed Circumstances Reviews, and Scope Inquiries*

There have been no duty-absorption findings in administrative reviews of these orders. Duty-absorption inquiries may not be conducted on pre-Uruguay Round Agreements Act (URAA) orders.<sup>12</sup>

#### Brazil

There have been no changed-circumstances reviews, scope rulings, or anti-circumvention determinations with respect to the order on SSB from Brazil.

#### India

The Department initiated two changed-circumstances reviews concerning the antidumping duty order on India. In the first changed-circumstances review, the Department determined that India Steel Works Limited is the successor-in-interest to Isibars for antidumping duty cash deposit purposes.<sup>13</sup> On December 16, 2016, the Department initiated a second changed circumstances review concerning the antidumping duty order on SSB from India following a request by the petitioners to determine whether to reinstate Viraj Profiles Ltd. (Viraj) and Venus Wire (Venus) and its affiliates Hindustan Inox, Precision Metals and Sieves Manufactures Pvt. Ltd. back under the AD order.<sup>14</sup> This review is currently ongoing at this time.

The Department issued one scope ruling regarding the subject order. On May 23, 2005, following a request by Mukand UAE, the Department issued a scope ruling finding that UAE-manufactured SSB from stainless steel wire rod manufactured in India is outside the scope of the AD order on SSB from India.<sup>15</sup> There have been no anti-circumvention determinations for SSB from India.

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<sup>11</sup> See *Stainless Steel Bar from Brazil, India, Japan, and Spain: Final Results of Antidumping Duty Expedited Sunset Reviews*, 65 FR 25909 (May 4, 2000) (*First Sunset Reviews*); *Stainless Steel Bar from Brazil, India, Japan, and Spain: Final Results of the Expedited Sunset Review of the Antidumping Duty Orders*, 71 FR 38372 (July 6, 2006) (*Second Sunset Reviews*); *Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders* 77 FR 16207 (March 20, 2012) (*Third Sunset Reviews*); see also *Continuation of Antidumping Orders: Stainless Steel Bar from Brazil, India, Japan, and Spain*, 66 FR 19919 (April 18, 2001) (*First Continuation*); *Stainless Steel Bar from Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Orders*, 72 FR 2858 (January 23, 2007) (*Second Continuation*); *Stainless Steel Bar from Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Orders*, 77 FR 47595 (August 9, 2012) (*Third Continuation*).

<sup>12</sup> See *FAG Italia S.p.A. v. United States*, 291 F.3d 806 (Fed. Cir. 2002).

<sup>13</sup> See *Stainless Steel Bar from India: Final Results of Changed-Circumstances Antidumping Duty Review*, 73 FR 66011 (November 6, 2008).

<sup>14</sup> See *Stainless Steel Bar from India: Initiation of Antidumping Duty Changed Circumstances Review*, 81 FR 91118 (December 16, 2016).

<sup>15</sup> See *Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

## Japan

The Department has completed three changed-circumstances reviews with respect to the order on SSB from Japan. In the first CCR, the Department determined to revoke the order, in part, with regard to a product identified as K-M35FL steel bar, a leaded steel product manufactured by Tohoku and exported from Japan.<sup>16</sup> In the second CCR, with the expressed lack of interest in the continuation of the order from the petitioners, the Department determined to revoke the order on SSB from Japan with regard to product referred to as 21-2N modified valve/stem stainless steel round bar at the request of U.S. importer TRW Fuji Valve, Inc.<sup>17</sup> In the third CCR, the Department revoked the order to exclude one product under Grade 304 and two products under Grade 440C from Japan after U.S. importer Suruga USA Corp. requested a changed-circumstances review.<sup>18</sup>

There has been one determination regarding the scope of the subject order for Japan. On October 15, 1997, the Department issued a determination that “Keystone 2000”, a specialty stainless bar product from Keystone Stainless Inc., is within the scope of order on SSB from Japan.<sup>19</sup> There have been no anti-circumvention determinations for SSB from Japan.

## Spain

The Department completed one changed-circumstances review concerning the AD order on Spain. On December 2, 2016, the Department determined that Sidenor Industrial SL is the successor-in-interest to Gerdau Aceros Especiales Europa, S.L. (Gerdau) for the purposes of the AD order and is entitled to Gerdau’s cash deposit rate with respect to entries of the subject merchandise.<sup>20</sup> There have been no anti-circumvention determinations for SSB from Spain.

## **V. 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 investigations 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.

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<sup>16</sup> See *Stainless Steel Bar from Japan: Final Results of Changed-Circumstance Review, and Revocation of Order in Part*, 64 FR 50273 (September 16, 1999).

<sup>17</sup> See *Final Results of Antidumping Duty Changed-Circumstances Review and Revocation of Order in Part: Stainless Steel Bar from Japan*, 71 FR 70959 (December 7, 2006).

<sup>18</sup> See *Stainless Steel Bar from Japan: Final Results of Antidumping Duty Changed-Circumstances Review, and Revocation of Order in Part*, 77 FR 38271 (June 27, 2012).

<sup>19</sup> See *Notice of Scope Rulings*, 63 FR 6722 (February 10, 1998).

<sup>20</sup> See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Stainless Steel Bar from Spain*, 81 FR 87021 (December 2, 2016).



In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action, H.R. Doc. 103-316, vol. 1 (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4178 (SAA), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.<sup>21</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, among other scenarios: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.<sup>22</sup>

In addition, as a base period of import volume comparison, it is the Department's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew the comparison.<sup>23</sup> Also, when analyzing import volumes for second and 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>

Further, section 752(c)(3) of the Act states that the Department shall provide to the International Trade Commission (ITC) the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects the 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> However, in certain circumstances, 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>

In February 2012, the Department announced it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the

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<sup>21</sup> See SAA at 879 and House Report at 56.

<sup>22</sup> See SAA at 889-90, House Report at 63-64, and Senate Report at 52. See also *Policies Regarding the Conduct of Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin 98.3, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

<sup>23</sup> See, *e.g.*, *Stainless Steel Bar from Germany*; *Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

<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; see also *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) (*Persulfates Second Sunset Review*), and accompanying Issues and Decision Memorandum at Comment 2.

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

methodology found to be WTO-inconsistent (*i.e.*, zeroing/the denial of offsets).<sup>27</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>28</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 that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”<sup>29</sup>

Pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.<sup>30</sup>

## VI. Discussion of the Issues

### 1. Likelihood of Continuation or Recurrence of Dumping

#### *Domestic Interested Parties*

- The domestic interested parties believe that revocation of these antidumping duty orders would likely lead to a continuation or recurrence of dumping by the manufacturers/producers and exporters of the subject merchandise, as well as material injury to the U.S. industry.<sup>31</sup>
- With respect to the volume of exports, the domestic interested parties assert that the imposition of the orders has had a dramatic impact on the volume of imports of SSB from producers and exporters. The domestic interested parties point to record history of the orders to demonstrate that the discipline of the orders has forced foreign producers of subject merchandise to significantly reduce their volume of sales to the United States.<sup>32</sup>
- Citing to the Department’s *Sunset Policy Bulletin*, the domestic interested parties conclude that the Department should determine that revocation of an antidumping duty order is inappropriate where dumping continued at any level above *de minimis* after the issuance of

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<sup>27</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>28</sup> *Id.*

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

<sup>30</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>31</sup> See Brazil Substantive Responses, India Substantive Responses, Japan Substantive Responses, Spain Substantive Responses (collectively, SSB Substantive Responses).

<sup>32</sup> *Id.*

the order.<sup>33</sup> In sum, the domestic interested parties argue that record evidence strongly supports the conclusion that dumping of SSB by producers, manufacturers, and exporters from Brazil, India, Japan, and Spain would be likely to continue or recur if the orders were to be revoked.

**Department's Position:** As explained in the Legal Framework section above, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the AD order. According to the SAA, existence of dumping margins after the order "is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping."<sup>34</sup> In addition, "declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes."<sup>35</sup>

Alternatively, the legislative history provides that declining (or no) dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to dump to maintain market share in the United States and that dumping is less likely to continue or recur if the order were revoked.<sup>36</sup>

As noted above, when analyzing import volumes for second and 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. The last continuation notice for these sunset reviews was issued in August 9, 2012.<sup>37</sup> Therefore, for these sunset reviews we examined import volumes prior to the initiation of the antidumping duty investigation as compared to import volumes during the sunset review period (*i.e.*, 2011-2016).<sup>38</sup> Furthermore, the Department examined the weighted-average dumping margins in effect to determine whether dumping continued at above *de minimis* levels during the sunset review period. In accordance with the *Final Modification for Reviews*, the Department did not rely on weighted-average dumping margins that were calculated using a WTO-inconsistent methodology for any country.

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<sup>33</sup> See *Sunset Policy Bulletin*.

<sup>34</sup> See SAA at 890.

<sup>35</sup> *Id.* at 889, the House Report at 63, and the Senate Report at 52.

<sup>36</sup> See SAA at 889-90, House Report at 63, and Senate Report at 52.

<sup>37</sup> See *Stainless Steel Bar from Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Orders*, 77 FR 47595 (August 9, 2012).

<sup>38</sup> See SSB Substantive Responses.

## Brazil

We examined the ITC Dataweb statistics for the relevant period which show that SSB from Brazil remain well below pre-initiation levels.<sup>39</sup> The margins determined in the underlying investigation remains in effect for all companies.<sup>40</sup> Further, this margin is calculated without zeroing, as it was based on “best information available,” the forerunner to facts available, because no companies in the original investigation provided any information to the Department. Accordingly, pursuant to section 752(c)(1) of the Act, the Department determines that dumping is likely to continue or recur if the order were revoked. Additionally, the Department has completed eight and is currently conducting its ninth administrative review of the order for Brazil and found that the producers/exporters continued to dump at levels above *de minimis*. Accordingly, the Department finds that dumping would likely continue or recur if the order were revoked, pursuant to section 752(c)(1) of the Act.

## India

We examined the ITC Dataweb statistics for the relevant period which show that imports of SSB from India increased above the pre-initiation levels after the revocation of Viraj companies from the order.<sup>41</sup> Additionally, the Department has conducted numerous administrative reviews of the order for India and found that the producers/exporters continued to dump at levels above *de minimis*. Therefore, despite revocation of Viraj and, more recently Venus Wire from the order, and the subsequent increase in subject imports from India, Indian SSB producers/exporters continue to dump their merchandise to the U.S. market.<sup>42</sup> Further, certain margins from the investigation are calculated without zeroing, as they were based on “best information available,” the forerunner to facts available, because one of the companies in the original investigation did not provide any information to the Department. Accordingly, the Department finds that dumping would likely continue or recur if the order were revoked, pursuant to section 752(c)(1) of the Act.

## Japan

We examined the ITC Dataweb statistics for the relevant period which show that imports of SSB from Japan remain well below pre-initiation.<sup>43</sup> Subsequent to the imposition of the antidumping duty order, imports from Japan steadily declined and are significantly below pre-initiation volumes.<sup>44</sup> The margins determined in the underlying investigation remain in effect for the all companies. Further, certain margins from the investigation are calculated without zeroing, as they were based on “best information available,” the forerunner to facts available, because no companies in the original investigation provided any information to the Department. Additionally, the Department completed three administrative reviews of the order for Japan and

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<sup>39</sup> See Brazil Substantive Responses at 18-19.

<sup>40</sup> See *Brazil Final*.

<sup>41</sup> See India Substantive Responses at 36-38.

<sup>42</sup> *Id.*

<sup>43</sup> See Japan Substantive Responses at 19-20.

<sup>44</sup> *Id.*

found that the producers/exporters continued to dump at levels above *de minimis*. Accordingly, pursuant to section 752(c)(1) of the Act, the Department determines that dumping is likely to continue or recur if the order were revoked.

## Spain

We examined the ITC Dataweb statistics for the relevant period which show that imports of SSB from Spain remain well below pre-initiation levels but has increased compared to other periods.<sup>45</sup> The record demonstrates that imports from Spain declined significantly in response to the order's issuance, and the decline and low import volume levels during the most recent review period again demonstrates that subject producers in Spain are not able to sell subject SSB at the significant pre-initiation volumes.<sup>46</sup> Further, the order remains in effect for all Spanish producers/exporters at the weighted-average dumping margins determined in the underlying investigation. Additionally, margins for several companies from the investigation are calculated without zeroing, as they were based on "best information available," the forerunner to facts available. The Department has completed four and is currently conducting its fifth administrative review of the order for Spain and found that the producers/exporters continued to dump at levels above *de minimis*. Given that dumping margins continued to exist at levels above *de minimis* since the last sunset review, and imports are below pre-initiation levels, the Department finds that dumping would likely continue or recur if the order were revoked, pursuant to section 752(c)(1) of the Act.

## 2. Magnitude of the Margins of Dumping Likely to Prevail

### *Domestic Interested Parties*

- The domestic interested parties request that the Department report to the ITC the dumping margins that were determined in the investigations, as amended and in accordance with the *Sunset Policy Bulletin*, as the magnitude of the margins of dumping likely to prevail if the findings were revoked. These rates are set forth in the "History of the Orders" section, above.

**Department's Position:** Pursuant to section 752(c)(3) of the Act, 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. Normally, the Department will select a weighted-average dumping margin from the investigation to report to the ITC.<sup>47</sup> 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 exporters without the discipline of an order or suspension agreement in place.<sup>48</sup> Under certain circumstances, however, the Department may select a more recent rate to report to the ITC. Finally, as explained above, in accordance with the

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<sup>45</sup> See Spain Substantive Responses at 18-19.

<sup>46</sup> *Id.*

<sup>47</sup> See SAA at 890; see also, e.g., *Persulfates Second Sunset Review* 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>48</sup> See *Eveready Battery Company v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999); see also SAA at 890.

*Final Modification for Reviews*, the Department will not rely on weighted average dumping margins that were calculated using the methodology found to be WTO-inconsistent.<sup>49</sup>

Given that dumping continued following the issuance of the orders and given the absence of argument and evidence to the contrary, the Department finds that the margins calculated in the original investigations are probative of the behavior of producers and exporters of subject merchandise from Brazil, India, Japan, and Spain if these orders were revoked. Consistent with section 752(c) of the Act, the Department will report to the ITC the margins up to the highest rate from the investigations concerning subject merchandise from Brazil, India, Japan, and Spain as indicated in the “Final Results of Reviews” section of this memorandum. As described above, these margins did not involve zeroing.

## **VII. Final Results of Sunset Reviews**

We determine that revocation of the antidumping duty orders on SSB from Brazil, India, Japan, and Spain would likely lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to the following percentages:

<u>Country</u>	<u>Weighted-Average Margin (Percent)</u>
Brazil	19.43
India	21.02
Japan	61.47
Spain	62.85

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<sup>49</sup> See *Final Modification for Reviews*, 77 FR at 8103.

## VIII. 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 reviews in the *Federal Register*.



Agree

Disagree

10/31/2017

X



Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance