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Sunset Reviews

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February 20, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited First Sunset
Reviews of the Antidumping Duty Orders on Non-Oriented
Electrical Steel from People's Republic of China, Germany, Japan,
Republic of Korea, Sweden, and Taiwan

I. SUMMARY

We analyzed the substantive responses of the domestic interested party¹ in these first sunset reviews of the antidumping duty (AD) orders² covering Non-Oriented Electrical Steel from People's Republic of China (China), Germany, Japan, Republic of Korea (Korea), Sweden, and Taiwan³ and recommend that you approve the positions described in the "Discussion of the

¹ The domestic interested party is AK Steel Corporation.

² See *Non-Oriented Electrical Steel from the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders*, 79 FR 71741 (December 3, 2014) (*Orders*).

³ See Domestic Interested Party's Letters, "Five-Year ("Sunset") Review of Antidumping Duty Order On Non-Oriented Electrical Steel From The People's Republic Of China: Domestic Interested Party Notice of Intent to Participate," dated November 15, 2019 (AK Steel's Intent to Participate for China); "Five Year ("Sunset") Review of Antidumping Duty Order On Non-Oriented Electrical Steel From Germany: Domestic Interested Party Notice Of Intent To Participate," dated November 15, 2019 (AK Steel's Intent to Participate for Germany); "Five-Year ("Sunset") Review of Antidumping Duty Order On Non-Oriented Electrical Steel From Japan: Notice of Intent to Participate," dated November 15, 2019 (AK Steel's Intent to Participate for Japan); "Five-Year ("Sunset") Review of Antidumping Duty Order On Non-Oriented Electrical Steel From The Republic of Korea: Notice of Intent to Participate," dated November 15, 2019 (AK Steel's Intent to Participate for Korea); "Five-Year ("Sunset") Review of Antidumping Duty Order On Non-Oriented Electrical Steel From Sweden: Domestic Interested Party Notice of Intent To Participate," dated November 15, 2019 (AK Steel's Intent to Participate for Sweden); and "Five-Year ("Sunset") Review of Antidumping Duty Order On Non-Oriented Electrical Steel From Taiwan: Domestic



Issues” section of this memorandum. No respondent interested party submitted a substantive response. Accordingly, we conducted expedited (120-day) sunset reviews of the *Orders*.⁴ The following is a complete list of the issues that we address in this expedited sunset review:

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

II. BACKGROUND

On December 3, 2014, the Department of Commerce (Commerce) published the *Orders* in the *Federal Register*.⁵ On November 1, 2019, Commerce published the initiation of the first sunset reviews of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).⁶ On November 15, 2019, Commerce received timely and complete notices of intent to participate in these sunset reviews from AK Steel Corporation (AK Steel) (domestic interested party), within the deadline specified in 19 CFR 351.218(d)(1)(i).⁷ The domestic interested party claimed interested party status under section 771(9)(C) as a manufacturer in the United States of the domestic like product.⁸

On November 27, 2019, the domestic interested party filed timely and adequate substantive responses, within the deadline specified in 19 CFR 351.218(d)(3)(i).⁹ Commerce did not receive substantive responses from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), we deem that the respondent interested parties did not provide an adequate response to the notice of initiation and, therefore, Commerce conducted expedited (120-day) sunset reviews of the *Orders*.

Interested Party Notice of Intent to Participate,” dated November 15, 2019 (AK Steel’s Intent to Participate for Taiwan).

⁴ See *Procedures for Conducting Five-year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*, 70 FR 62061 (October 28, 2005) (Commerce normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response).

⁵ See *Orders*.

⁶ See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 58687 (November 1, 2019).

⁷ See AK Steel’s Intent to Participate for China; see also AK Steel’s Intent to Participate for Germany; AK Steel’s Intent to Participate for Japan; AK Steel’s Intent to Participate for Korea; AK Steel’s Intent to Participate for Sweden; and AK Steel’s Intent to Participate for Taiwan.

⁸ See AK Steel’s Intent to Participate for China; see also AK Steel’s Intent to Participate for Germany; AK Steel’s Intent to Participate for Japan; AK Steel’s Intent to Participate for Korea; AK Steel’s Intent to Participate for Sweden; and AK Steel’s Intent to Participate for Taiwan.

⁹ See Domestic Interested Party’s Letters, “Five Year (“Sunset”) Review of Antidumping Duty Order on Non-Oriented Electrical Steel From the People’s Republic of China: Domestic Interested Party Substantive Response,” dated November 27, 2019 (China Substantive Response); “Five Year (“Sunset”) Review Of Antidumping Duty Order On Non-Oriented Electrical Steel From Germany: Domestic Interested Party Substantive Response,” dated November 27, 2019 (Germany Substantive Response); “Five-Year (“Sunset”) Review Of Antidumping Duty Order On Non-Oriented Electrical Steel From The Republic of Korea: Domestic Interested Party Substantive Response,” dated November 27, 2019 (Korea Substantive Response); “Five-Year (“Sunset”) Review Of Antidumping Duty Order On Non-Oriented Electrical Steel From Japan: Domestic Interested Party Substantive Response,” dated November 27, 2019 (Japan Substantive Response); “Five Year (“Sunset”) Review Of Antidumping Duty Order On Non-Oriented Electrical Steel From Sweden: Domestic Interested Party Substantive Response,” dated November 27, 2019 (Sweden Substantive Response); and “Five Year (“Sunset”) Review of Antidumping Duty Order on Non-Oriented Electrical Steel From Taiwan: Domestic Interested Party Substantive Response,” dated November 27, 2019 (Taiwan Substantive Response).

III. SCOPE OF THE *ORDERS*

The merchandise subject to these orders consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term “substantially equal” means that the cross-grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.

NOES is subject to these orders whether it is fully processed (*i.e.*, fully annealed to develop final magnetic properties) or semi-processed (*i.e.*, finished to final thickness and physical form but not fully annealed to develop final magnetic properties). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of these orders is not limited to merchandise meeting the ASTM, JIS, and IEC specifications noted immediately above.

NOES is sometimes referred to as cold-rolled non-oriented (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO) electrical steel. These terms are interchangeable.

Excluded from the scope of these orders are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the Harmonized Tariff Schedule of the United States (HTSUS) as a part (*i.e.*, lamination) for use in a device such as a motor, generator, or transformer.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the HTSUS. Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

IV. HISTORY OF THE *ORDERS*

On October 14, 2014, Commerce published its affirmative final determinations of sales at less than fair value (LTFV) and final affirmative determinations of critical circumstances in the AD investigations of NOES from China, Germany, Japan, Korea, Sweden, and Taiwan.¹⁰ On

¹⁰ See *Non-Oriented Electrical Steel from Germany, Japan, the People’s Republic of China, and Sweden: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical*

December 3, 2014, following an affirmative injury determination by the U.S. International Trade Commission (ITC), Commerce published in the *Federal Register* the *Orders*.¹¹ The following is Commerce's finding for each country:

China: Commerce found all exporters were found to be part of the China-wide entity, to which a dumping margin of 407.52 percent was assigned.

Germany: Commerce found a weighted-average dumping margin of 98.84 percent for exporters/producers CD Walzholz and Thyssenkrupp Electrical Steel EBG GMBH, and 86.29 percent for the all-others rate.

Japan: Commerce found a weighted-average dumping margin of 204.79 percent for exporters/producers JFE Steel Corporation and Sumitomo Corporation, and 135.59 percent for the all-others rate.

Korea: Commerce found a weighted-average dumping margin of 6.88 percent for exporters/producers POSCO/Daewoo International Corporation, and 6.88 percent for the all-others rate.

Sweden: Commerce found a weighted-average dumping margin of 126.72 percent for exporters/producers Surahammars Bruks AB and 98.46 percent for the all-others rate.

Taiwan: Commerce found a weighted-average dumping margin of 27.54 percent for exporters/producers China Steel Corporation, 52.23 percent for Leicong Industrial Company, and 27.54 percent for the all-others rate.

Since the issuance of the aforementioned *Orders*, there have been no administrative reviews, scope clarifications, new shipper reviews, or duty absorption findings in connection with the *Orders*.

Accordingly, the *Orders* remain in effect for all manufacturers, producers, and exporters of NOES from China, Germany, Japan, Korea, Sweden, and Taiwan.

V. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce is conducting these sunset reviews to determine whether revocation of the *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 this determination, Commerce shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and after the issuance of the AD orders.

Circumstances, in Part, 79 FR 61609 (October 14, 2014); *Non-Oriented Electrical Steel from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 61612 (October 14, 2014); and *Non-Oriented Electrical Steel from Taiwan: Final Determination of Sales at Less Than Fair Value*, 79 FR 61614 (October 14, 2014), respectively.

¹¹ See *Orders*.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA),¹² the House Report,¹³ and the Senate Report,¹⁴ Commerce's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.¹⁵ In addition, Commerce 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 issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly; or (d) there are declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order.¹⁶ Alternatively, Commerce 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.¹⁷

In addition, as a base period of import volume comparison, it is Commerce'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 comparison.¹⁸ Also, when analyzing import volumes for second and subsequent sunset reviews, Commerce'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.¹⁹

Further, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, Commerce selects the dumping margin from the final determination in the investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.²⁰ 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, Commerce may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review.").²¹

¹² See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) (SAA).

¹³ See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

¹⁴ See S. Rep. No. 103-412 (1994) (Senate Report).

¹⁵ See SAA at 879; *see also* House Report at 56.

¹⁶ 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*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

¹⁷ See SAA at 889-90; *see also Sunset Policy Bulletin*.

¹⁸ 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 (IDM) at Comment 1.

¹⁹ See *Ferrovaniadium 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 IDM.

²⁰ See SAA at 890; and *Sunset Policy Bulletin* at section II.B.1; *see also, e.g., 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 from China*) and accompanying IDM at Comment 2.

²¹ See SAA at 890-91; *see also Sunset Policy Bulletin* at section II.B.2.

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.²²

Regarding the margin of dumping likely to prevail, in the *Final Modification for Reviews*, Commerce announced that in five-year (*i.e.*, sunset) reviews, it will not rely on weighted-average dumping margins that were calculated using the zeroing methodology that was found to be World Trade Organization (WTO)-inconsistent and was the subject of that *Final Modification for Reviews*.²³ However, Commerce explained in the *Final Modification for Reviews* that it “retain{s} the discretion, on a case-by-case basis, to apply an alternative methodology, when appropriate” in both investigations and administrative reviews pursuant to section 777A(d)(1)(B) of the Act.²⁴ In the *Final Modification for Reviews*, Commerce stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.²⁵ Commerce 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.”²⁶

Below we address the comments submitted by the domestic interested parties.

VI. DISCUSSION OF THE ISSUES

A. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Party’s Comment(s):

- Revocation of the *Orders* would lead to the continuation or recurrence of sales at LTFV by margins equivalent to, or greater than, those found in the investigations. The record demonstrates that, since the issuance of the *Orders*, imports of the subject merchandise have decreased significantly.²⁷
- In determining whether revocation of an AD order would be likely to lead to continuation or recurrence of dumping, Commerce considers: (1) dumping continued at any level

²² 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 IDM at Comment 1.

²³ 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*).

²⁴ *Id.*, 77 FR at 8105-6.

²⁵ *Id.*, 77 FR at 8103.

²⁶ *Id.*, 77 FR at 8109.

²⁷ See Domestic Interested Party’s Substantive Responses for China at 4; *see also* Domestic Interested Party’s Substantive Responses for Germany at 4; Domestic Interested Party’s Substantive Responses for Japan at 4; Domestic Interested Party’s Substantive Responses for Korea at 4; Domestic Interested Party’s Substantive Responses for Sweden at 4; and Domestic Interested Party’s Substantive Responses for Taiwan at 4.

above *de minimis* after the issuance of the order or the suspension agreement, as applicable; (2) imports of the subject merchandise ceased after issuance of the order or the suspension agreement, as applicable; or (3) dumping was eliminated after the issuance of the order or the suspension agreement, as applicable, and import volumes for the subject merchandise declined significantly.²⁸

- Given that import volumes have declined, coupled with the continued existence of dumping margins for all exporters, since issuance of the *Orders*, Commerce must find that if the *Orders* were revoked, dumping by China, Germany, Japan, Korea, Sweden, and Taiwan producers and exporters would likely continue or recur.²⁹

Commerce's Position:

Consistent with the legal framework laid out above and in section 752(c)(1)(A) of the Act, we first considered the weighted-average dumping margins determined in the investigations in these proceedings. As stated above, in the investigations, Commerce found dumping margins of 407.52 for China-Wide Entity; from 86.29 percent to 98.84 percent for Germany; from 135.59 percent to 204.79 percent for Japan; 6.88 percent for Korea; from 98.46 percent to 126.72 percent for Sweden; and from 27.54 percent to 52.23 percent for Taiwan.³⁰ These margins were not calculated using the zeroing methodology that was found to be WTO-inconsistent and was the subject of that *Final Modification for Reviews*. There have been no administrative or new shipper reviews conducted in any of these proceedings. Accordingly, based on the dumping margins in the investigations, any entries of subject merchandise after issuance of the *Orders* were assessed at above *de minimis* rates.

Pursuant to section 752(c)(1)(B) of the Act, we also considered the volume of imports of subject merchandise in determining whether revocation of the *Orders* is likely to lead to continuation or recurrence of dumping. As noted above, when analyzing import levels for the first sunset review, Commerce's practice is to compare the volume of U.S. imports during the one-year period immediately preceding the initiation of the investigation (*i.e.*, the underlying investigation was initiated in November 2013)³¹ to the volume of U.S. imports since the issuance of the *Orders* (*i.e.*, the *Orders* were issued in December 2014). Specifically, Commerce compared import volumes from the ITC's Trade Dataweb for the period 2015 through 2018 to the import volume in the year immediately preceding the initiation period, *i.e.* 2012. Our analysis and findings for each of the *Orders* follows below.

²⁸ See Domestic Interested Party's Substantive Responses for China at 3; *see also* Domestic Interested Party's Substantive Responses for Germany at 3; Domestic Interested Party's Substantive Responses for Japan at 3; Domestic Interested Party's Substantive Responses for Korea at 3; Domestic Interested Party's Substantive Responses for Sweden at 3; and Domestic Interested Party's Substantive Responses for Taiwan at 3.

²⁹ See Domestic Interested Party's Substantive Responses for China at 4-5; *see also* Domestic Interested Party's Substantive Responses for Germany at 4-5; Domestic Interested Party's Substantive Responses for Japan at 4-5; Domestic Interested Party's Substantive Responses for Korea at 4-5; Domestic Interested Party's Substantive Responses for Sweden at 4-5; and Domestic Interested Party's Substantive Responses for Taiwan at 4-5.

³⁰ *See Orders*.

³¹ *See Non-Oriented Electrical Steel from the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan Initiation of Antidumping Duty Investigations*, 78 FR 69041 (November 18, 2013).

China: In this case, the volume of imports declined precipitously following issuance of the *Orders*. The imports of NOES from China for the years 2011, 2012, and 2013 reached 16,401 short tons, 14,042 short tons, and 12,724 short tons, respectively.³² By contrast, the import volume for 2015, the year immediately following the *Orders* was 12 short tons.³³ Although import volumes between 2016 and 2018 did not decrease consistently, import volumes remained below pre-*Order* import levels each year.³⁴ Overall, imports of NOES from China declined by 99.8% during this time period, from the three years leading up to the initiation of the investigation, prior to issuance of the order (*i.e.*, 2011-2013).³⁵ Given the continued existence of above *de minimis* margins, coupled with the decrease in import volumes, it is unlikely that Chinese producers and exporters of NOES would be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines that dumping is likely to continue if the *Orders* were revoked as to China.

Germany: In this case, the volume of imports declined precipitously following issuance of the *Orders*. The imports of NOES from Germany for the years 2011, 2012, and 2013 reached 14,385 short tons, 9,568 short tons, and 7,493 short tons, respectively.³⁶ By contrast, the import volume for 2015, the year immediately following the *Orders* was 181 short tons.³⁷ Although import volumes between 2016 and 2018 did not decrease consistently, import volumes remained below pre-*Order* import levels each year.³⁸ Overall, imports of NOES from Germany declined by 99.3% during this time period, from the three years leading up to the initiation of the investigation, prior to issuance of the order (*i.e.*, 2011-2013).³⁹ Given the continued existence of above *de minimis* margins, coupled with the decrease in import volumes, it is unlikely that German producers and exporters of NOES would be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines the dumping is likely to continue if the *Orders* were revoked as to Germany.

Japan: In this case, the volume of imports declined precipitously following issuance of the *Orders*. The imports of NOES from Japan for the years 2011, 2012, and 2013 reached 22,747 short tons, 18,540 short tons, and 15,916 short tons, respectively.⁴⁰ By contrast, the import volume for 2015, year immediately following the *Orders* was 5,166 short tons.⁴¹ Volumes between 2016 and 2018 decreased consistently, and import volumes remained below pre-*Order*

³² See Domestic Interested Party's Substantive Responses for China at 4, citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTSUS numbers: 7225.19.0000, 7226.19.1000, and 7226.19.9000.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ See Domestic Interested Party's Substantive Responses for Germany at 4, citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTSUS numbers: 7225.19.0000, 7226.19.1000, and 7226.19.9000.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See Domestic Interested Party's Substantive Responses for Japan at 4, citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTSUS numbers: 7225.19.0000, 7226.19.1000, and 7226.19.9000.

⁴¹ *Id.*

import levels each year.⁴² Overall, imports of NOES from Japan declined by 97.8% during this time period, from the three years leading up to the initiation of the investigation, prior to issuance of the order (*i.e.*, 2011-2013).⁴³ Given the continued existence of above *de minimis* margins, coupled with the decrease in import volumes, it is unlikely that Japanese producers and exporters of NOES would be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines the dumping is likely to continue if the *Orders* were revoked as to Japan.

Korea: In this case, the volume of imports declined precipitously following issuance of the *Orders*. The imports of NOES from Korea for the years 2011, 2012, and 2013 reached 6,880 short tons, 7,331 short tons, and 4,622 short tons, respectively.⁴⁴ By contrast, the import volume for 2015, the year immediately following the *Orders* was 3,162 short tons.⁴⁵ Import volumes between 2016 and 2018 decreased consistently, and import volumes remained below pre-*Order* import levels each year.⁴⁶ Overall, imports of NOES from Korea declined by 93.9% during this time period, from the three years leading up to the initiation of the investigation, prior to issuance of the order (*i.e.*, 2011-2013).⁴⁷ Given the continued existence of above *de minimis* margins, coupled with the decrease in import volumes, it is unlikely that Korean producers and exporters of NOES would be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines the dumping is likely to continue if the *Orders* were revoked as to Korea.

Sweden: In this case, the volume of imports declined precipitously following issuance of the *Orders*. The imports of NOES from Sweden for the years 2011, 2012, and 2013 reached 8,599 short tons, 9,359 short tons, and 7,068 short tons, respectively.⁴⁸ By contrast, the import volume for 2015, the year immediately preceding the initiation of the investigation was 228 short tons.⁴⁹ Although import volumes between 2016 and 2018 did not decrease consistently, import volumes remained below pre-*Order* import levels each year.⁵⁰ Overall, imports of NOES from Sweden declined by 93.7% during this time period, from the three years leading up to the initiation of the investigation, prior to issuance of the order (*i.e.*, 2011-2013).⁵¹ Given the continued existence of above *de minimis* margins, coupled with the decrease in import volumes, it is unlikely that Swedish producers and exporters of NOES would be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines the dumping is likely to continue if the *Orders* were revoked as to Sweden.

Taiwan: In this case, the volume of imports declined precipitously following issuance of the *Orders*. The imports of NOES from Taiwan for the years 2011, 2012 and 2013 reached 5,203

⁴² *Id.*

⁴³ *Id.*

⁴⁴ See Domestic Interested Party's Substantive Responses for Korea at 4, citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTSUS numbers: 7225.19.0000, 7226.19.1000, and 7226.19.9000.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ See Domestic Interested Party's Substantive Responses for Sweden at 4, citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTSUS numbers: 7225.19.0000, 7226.19.1000, and 7226.19.9000.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

short tons, 17,136 short tons, and 9,768 short tons, respectively.⁵² By contrast, the import volume for 2015, the year immediately following the *Orders* was 2,118 short tons.⁵³ Although import volumes between 2016 and 2018 did not decreased consistently, import volumes remained below pre-*Order* import levels each year.⁵⁴ Overall, imports of NOES from Taiwan declined by 79.8% during this time period, from the three years leading up to the initiation of the investigation, prior to issuance of the order (*i.e.*, 2011-2013).⁵⁵ Given the continued existence of above *de minimis* margins, coupled with the decrease in import volumes, it is unlikely that Taiwanese producers and exporters of NOES would be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines the dumping is likely to continue if the *Orders* were revoked as to Taiwan.

B. Magnitude of the Dumping Margins Likely to Prevail

Domestic Interested Parties' Comments:

- In determining the magnitude of the dumping margin likely to prevail in the event of revocation and that should be reported to the ITC, the SAA and Commerce's *Sunset Policy Bulletin* state that the agency will normally select the dumping margins established in the investigation, because they are the only calculated rates that reflect the behavior of exporters without the discipline of an order or suspension agreement in place.⁵⁶
- Accordingly, the dumping margins that should be reported to the ITC are the margins from the investigations, specifically: (1) for China, 407.52 percent for China-Wide Entity;⁵⁷ (2) for Germany, 98.84% for CD Walzholz, 98.84% for Thyssenkrupp Electrical Steel EBG GMBH, and 86.29% for all others;⁵⁸ (3) for Japan, 204.79% for JFE Steel Corporation, 204.79% for Sumitomo Corporation, and 135.59% for all others;⁵⁹ (4) for Korea, 6.88% for POSCO/Daewoo International Corporation and all others;⁶⁰ (5) for Sweden, 126.72% for Surahammars Bruks AB and 98.46% for all others;⁶¹ and (6) for Taiwan, 27.54 percent for China Steel Corporation, 52.23 percent for Leicong Industrial Company and 27.54 percent for all others.⁶²

⁵² See Taiwan Substantive Response at 4, citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTSUS numbers: 7225.19.0000, 7226.19.1000, and 7226.19.9000.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ See Domestic Interested Party's Substantive Responses for China at 5; *see also* Domestic Interested Party's Substantive Responses for Germany at 5 (citing the SAA at 890); Domestic Interested Party's Substantive Responses for Japan at 5 (citing the SAA at 890); Domestic Interested Party's Substantive Responses for Korea at 5 (citing the SAA at 890); Domestic Interested Party's Substantive Responses for Sweden at 5 (citing the SAA at 890); Domestic Interested Party's Substantive Responses for Taiwan at 5 (citing the SAA at 890).

⁵⁷ See Domestic Interested Party's Substantive Responses for China at 6.

⁵⁸ See Domestic Interested Party's Substantive Responses for Germany at 6.

⁵⁹ See Domestic Interested Party's Substantive Responses for Japan at 6.

⁶⁰ See Domestic Interested Party's Substantive Responses for Korea at 6.

⁶¹ See Domestic Interested Party's Substantive Responses for Sweden at 6.

⁶² See Domestic Interested Party's Substantive Responses for Taiwan at 6.

- This conclusion is consistent with the SAA, Commerce's *Sunset Policy Bulletin*, and the *Final Modification for Reviews*.⁶³

Commerce's Position:

Pursuant to section 752(c)(3) of the Act, Commerce shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if an AD order were revoked. Normally, Commerce will select a weighted-average dumping margin from the investigation to report to the ITC.⁶⁴ Commerce'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.⁶⁵ Under certain circumstances, however, Commerce may select a more recent rate to report to the ITC. As indicated in the Legal Framework section above, Commerce's current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology found to be WTO-inconsistent, in accordance with the *Final Modification for Reviews*.⁶⁶

No administrative reviews of the *Orders* have been conducted. Consistent with Commerce's practice, we considered the dumping margins from the LTFV investigations to be the best evidence of the exporters' behavior in the absence of an order. These rates did not involve the practice of zeroing found to be WTO-inconsistent and that was subject to the *Final Modification for Reviews*.

VII. FINAL RESULTS OF SUNSET REVIEWS

For the reasons stated above, we determine that revocation of the *Orders* on NOES from China, Germany, Japan, Korea, Sweden, and Taiwan would likely lead to continuation or recurrence of dumping. We also determine that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 407.52 percent for China, 98.84 percent for Germany, 204.79 percent for Japan, 6.88 percent for Korea, 126.72 percent for Sweden, and 52.23 percent for Taiwan.

⁶³ See Domestic Interested Party's Substantive Responses for China at 6-7; *see also* Domestic Interested Party's Substantive Responses for Germany at 5-6; Domestic Interested Party's Substantive Responses for Japan at 6-7; Domestic Interested Party's Substantive Responses for Korea at 6-7; Domestic Interested Party's Substantive Responses for Sweden at 5-6; and Domestic Interested Party's Substantive Responses for Taiwan at 6-7.

⁶⁴ See SAA at 890.

⁶⁵ *Id.*

⁶⁶ See *Final Modification for Reviews*, 77 FR at 8103.

VIII. RECOMMENDATION

Based on our analysis of the substantive response received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final result of these sunset reviews in the *Federal Register* and notify the ITC of our determination.



Agree



Disagree

2/20/2020

X



Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance