

68 FR 68865, December 10, 2003

A-583-828
Sunset Review
Public Document

MEMORANDUM TO: James J. Jochum
Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Review Sunset
Review of the Antidumping Duty Order on Stainless Steel Wire Rod from
Taiwan; Final Results

Summary

We have analyzed the substantive response of interested party in the expedited sunset review of the antidumping duty order covering stainless steel wire rod (“SSWR”) from Taiwan. We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in this expedited sunset review for which we received substantive response by a domestic interested party:

1. Likelihood of continuation or recurrence of dumping
 - A. Weighted-average dumping margin
 - B. Volume of imports
2. Magnitude of the margin likely to prevail

Margins from investigation

History of the Order

On July 29, 1998, the Department of Commerce (“the Department”) published its final affirmative determination of sales at less than fair value (“LTFV”) in the *Federal Register* with respect to imports of SSWR from Taiwan. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Taiwan*; 63 FR 40461 (July 29, 1998). On September 15, 1998, the Department published the antidumping duty order. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod from Taiwan*; 63 FR 49332 (September 15, 1998). In the amended final determination, the Department found the following margins:

Walsin Cartech Specialty Steel Corp. 8.29 percent ad valorem

Yieh Hsing Enterprise Corp, Ltd.. Excluded

All Others 8.29 percent ad valorem

Since the issuance of the antidumping duty order on SSWR from Taiwan, the Department provided four separate opportunities for administrative reviews; however only one was completed. *See Stainless Steel Wire Rod from Taiwan; Final Results of the Antidumping Duty Administrative Review*, 66 FR 52587 (October 16, 2001).

The antidumping duty order on SSWR from Taiwan remains in effect for all manufacturers, producers, and exporters of the subject merchandise, except for Yieh Hsing Enterprise Corp., Ltd. who received a *de minimis* rate in the investigation.

Background

On August 1, 2003, the Department published the notice of initiation of the sunset review of the

antidumping duty order on SSWR from Taiwan. *See Initiation of Five-Year (Sunset) Reviews*, 68 FR 45219 (August 1, 2003). On August 15, 2003, the Department received a Notice of Intent to Participate on behalf of Carpenter Technology Corporation (“Carpenter Technology”), within the deadline specified in section 351.218 (d)(1)(I) of the *Sunset Regulations*. Carpenter Technology claimed interested party status under section 771(9)(c) of the Act, as a U.S. producers of SSWR. Carpenter Technology states that it has been involved in this proceeding since its inception and remain committed to full participation in this sunset review.

We received a complete substantive response, from Carpenter Technology on September 2, 2003, within a 30-day deadline specified in the *Sunset Regulations* under section 315.218(d)(3)(I). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C) of the *Sunset Regulations*, the Department determined to conduct an expedited, 120-day review of this order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department 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 period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the

Department shall provide to the International Trade Commission (“the Commission”) the magnitude of the margin of dumping likely to prevail if the order is revoked. Below we address the comments of the interested party.

Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Carpenter Technology asserts that revocation of the order of SSWR would likely lead to continuation or recurrence of dumping by Taiwanese manufacturers and exporters. See September 2, 2003, substantive response of Carpenter Technology at 21.

With respect to weighted-average dumping margins, Carpenter Technology notes that the Department established a 8.29 percent dumping margin rate for Walsin Cartech Specialty Steel Corp., and an “All Others” rate of 8.29 percent, in the antidumping duty order. Id. at 19.

With respect to import volumes, Carpenter Technology states that the order has been effective in reducing the volume of SSWR shipped to the United States from producers that were found to be dumping at significant levels. *See* September 2, 2003, substantive response of Carpenter Technology at 24. Moreover, Carpenter Technology claims that the record demonstrates that the discipline of the order has forced subject producers either to increase their prices to low dumping levels or to significantly reduce their volume to the United States. Id. at 23.

Carpenter Technology notes that the Department considers the weighted-average dumping margins determined in the investigation and in subsequent reviews, as well as the volume of

imports for the period before and the period after the issuance of the order, when determining whether revocation of an antidumping duty order would lead to continuation or recurrence of dumping. *Id.* at 22. Given the history of this case, Carpenter Technology asserts that dumping of the subject SSWR from Taiwan would be likely to continue or recur if the order were revoked. *Id.* at 23.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”), specifically the Statement of Administrative Action (“SAA”), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis. *See* section II.A.2 of the *Sunset Policy Bulletin*. In addition, the Department indicated that it will normally determine that revocation of an antidumping 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 (*see* section II.A.3).

In making this determination, the Department considers the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the order. In this case, our

review of the U.S. Census of the Bureau statistics, indicate that import volumes declined the year of the imposition of the order. See December 1, 2003, Memo to File: Import Volume on SSWR from Taiwan. Further, dumping margins at levels above *de minimis* continued to exist after the issuance of the order. Therefore, given that dumping at levels above *de minimis* continued over the life of the order, import volumes of the subject merchandise declined after the imposition of the order, and respondent interested parties waived their right to participate in this review, the Department determines that dumping would likely continue or recur if the order on SSWR from Taiwan were revoked.

Magnitude of the Margin Likely to Prevail:

Interested Party Comments

In their substantive response, Carpenter Technology recommends that, consistent with the *Sunset Policy Bulletin*, the Department provide to the Commission the company-specific and “All Others” rates from the original investigation.

Department’s Position

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the “All Others” rate from the investigation. *See* section II.B.1 of the *Sunset Policy Bulletin*. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.

The Department agrees with Carpenter Technology. The Department found dumping margins at 8.29 percent for Walsin Cartech Specialty Steel Corp. and an All Others rate at 8.29. Both the statute and regulations provide that in reviews of orders, the Department will treat as *de minimis* any weighted-average dumping margin that is less than 0.50 percent ad valorem. See section 752(c)(4)(B) of the Act and 19 CFR 351.106(c)(1). Further, section 752(c)(4)(B) of the Act specifically provides that the *de minimis* standard to be applied in sunset reviews is the standard applied in reviews conducted under subsections (a) and (b) of section 751 of the Act (*i.e.*, 0.50) percent.

Consistent with the *Sunset Policy Bulletin* and the SAA, we determine that the margins from the Department’s original investigation are probative of the behavior of Taiwanese manufacturers and exporters of SSWR if the order were revoked because these are the only calculated rates which reflect the behavior of exporters without the discipline of the order. Therefore, we will report to the Commission the company-specific and “all-others” rate from the original investigation, except for Yieh Hsing Enterprise Corp., Ltd., who received a *de minimis* rate in the investigation and as a result was excluded from the order.

Final Results of Review

We determine that revocation of the antidumping duty order on SSWR from Taiwan would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Taiwanese Manufacturers/Exporters	Weighted Average Margin (percent)
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Walsin Cartech Specialty Steel Corp. 8.29
Yieh Hsing Enterprise Corp., Ltd. Excluded
All Others 8.29

Recommendation

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

AGREE _____

DISAGREE _____

James J. Jochum
Assistant Secretary
for Import Administration

(Date)