

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 Sunset Review of the
Antidumping Duty Order on Stainless Steel Wire Rod from South Korea;
Final Results of Expedited Review

Summary

We have analyzed the substantive response of domestic interested party in the expedited sunset review of the antidumping duty order covering stainless steel wire rod (“SSWR”) from South Korea.

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 a substantive response by 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 South Korea. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From South Korea*, 63 FR 40404 (July 29, 1998). On September 15, 1998, the Department published the amended final determination of sales at less than fair value and the antidumping duty order (“Order”). *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod from South Korea*; 63 FR 49331 (September 15, 1998). In the amended final determination, the Department found the weighted-average dumping margin of 5.19 percent for Dongbang Special Steel Co., Ltd./Changwon Specialty Steel Co., Ltd./Pohang Iron and Steel Co., Ltd. (“POSCO”), 28.44 percent for Sammi Steel Co., Ltd., and 5.19 percent for all other producer, manufacturers, and exporters of SSWR from South Korea not specifically listed above.

Pursuant to the remand of the Court of International Trade, Commerce issued final results of redetermination on February 9, 2001, covering the final antidumping duty determination of sales at less than fair value on SSWR from Korea. *See Final Results of Redetermination: Al Tech Specialty Steel Corp. v. United States*, Ct. No. 98-10-03054. As a result of this redetermination, Commerce concluded the weighted-average dumping margin of Changwon Specialty Co., Ltd., Dongbang Special Steel Co., Ltd., and POSCO was 5.77 percent, and the “All Others” margin was 5.77 percent.

The first administrative review was requested by Changwon Specialty Steel Co., Ltd.,

Dongbang Special Steel Co., Ltd., and POSCO for the period of March 5, 1998 to August 31, 1999. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 64 FR 60161 (November 4, 1999). The Department rescinded this review upon the request withdrawal by respondents. *See Stainless Steel Wire Rod from Korea: Rescission of Antidumping Administrative Review*, 65 FR 2139 (January 13, 2000).

The second administrative review was requested by Changwon Specialty Steel Co., Ltd., and Dongbang Special Steel Co., Ltd. for the period of September 1, 1999 to August 31, 2000. *See Initiation of Antidumping and Countervailing Duty Administrative Review*, 65 FR 71299 (November 30, 2000). The Department published the final results of its administrative review, and determined a weighted average margin of 6.80%. *See Stainless Steel Wire Rod from Korea: Final Results of Antidumping Duty Administrative Review*, 67 FR 6685 (February 13, 2002). On March 12, 2002, the Department published an amended margin of 5.61 for POSCO/Changwon/Dongbang. *See Stainless Steel Wire Rod from Korea: Amended Final Results of Antidumping Duty Administrative Review*, 67 FR 11096.

On September 4, 2001, the Department published in the *Federal Register* an opportunity to request an administrative review of the South Korea AD Order for the period of September 1, 2000 to August 31, 2001. *See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation: Opportunity to Request Administrative Review*, 66 FR 46257. However, no interested party requested a review.

The fourth and most recent administrative review on SSWR from South Korea was initiated by the Department on October 18, 2002 based on a request filed by Changwon Specialty Steel Co., Ltd.

And Dongbang Special Steel Co., Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 67 FR 65336. The Department published a notice of extension of the time limit to issue the preliminary results of this subject review. *See Stainless Steel Wire Rod from South Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 26571 (May 16, 2003). Commerce intends to issue the final results by February 4, 2004. The Department has not issued any duty absorption findings in this case. The Order on SSWR from South Korea remains in effect for all manufacturers, producers, and exporters of the subject merchandise.

Background

On August 1, 2003, the Department published the notice of initiation of the sunset review of the antidumping duty order on SSWR from South Korea. *See Initiation of Five-Year Sunset Reviews*, 68 FR 45219 (August 1, 2003). The Department received Notices of Intent to Participate on behalf of a domestic interested party, Carpenter Technology Corporation (“Carpenter Technology”), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. The domestic interested party claimed interested party status under section 771(9)(C) of the Act, as U.S. producers of SSWR.

We received a complete substantive response, from the domestic interested party on September 2, 2003, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). In their substantive response, the domestic interested party states that they have been involved in this proceeding since their inception and remain committed to full participation in this sunset review. *See Domestic Interested Party’s Substantive Response*, September 2, 2003, at p. 3.

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, a 120-day, review of this Order. The Order remains in effect for all producers and exporters of SSWR from South Korea.

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 antidumping duty 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 domestic interested party.

Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Carpenter Technology asserts that revocation of the antidumping duty order of SSWR would likely lead to continuation or recurrence of dumping by South Korean manufacturers and exporters.

See Substantive Response of the Domestic Interested Party, September 2, 2003 at p. 21.

With respect to weighted-average dumping margins, Carpenter Technology provided in the record history of the case indicating dumping margins above *de minimis* continue to exist.

Carpenter Technology asserts that the discipline of this order has been effective in reducing the levels of dumping. The U.S. import of SSWR from South Korea dropped from 11,778,574 in 1998 to 4,066,058 in 2002. *See Attachment 1: Domestic Interested Party's Substantive Response*, September 2, 2003. Carpenter Technology notes that the Department considers the weighted-average dumping margins determined in the investigation in subsequent review. In addition, the Department considers the volume of imports for the period before and after the issuance of the order. The domestic interested party concludes that South Korea will continue dumping if the order were revoked. *See Domestic Interested Party's Substantive Response*, p. 21.

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 dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. *See Section II.A.3*.

Section 751(c)(4)(B) of the Act provides that, in addition to considering the guidance on likelihood cited above, the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In this sunset review, the Department did not receive a substantive response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

As discussed above, in conducting its sunset review, the Department considers: (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 the period after the issuance of the antidumping duty order when determining whether revocation of the order would lead to continuation or recurrence of dumping. In the original investigation, the Department calculated weighted-average dumping margins that range between 23.81 percent to 28.44 percent for several Korean manufacturers, producers, and exporters of stainless steel wire rod. Moreover, in the subsequent administrative reviews of this order, margins above levels of *de minimis* continued for Korean companies.

Import statistics provided by the domestic interested party and confirmed by the Department indicate that import volumes decreased after the order was issued. *See Attachment to Domestic Interested Party's Substantive Response*, September 2, 2003. As indicated above, 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. In this instant, dumping continued at levels above *de minimis* after the issuance of the order, and although import volumes have declined. Based on this analysis, and

waiver of respondent responses, the Department finds that the existence of dumping margins above *de minimis* levels are highly probative of the likelihood of continuation or recurrence of dumping. For these reasons, the Department determines that dumping is likely to continue or recur if the order on SSWR from South Korea were revoked.

Magnitude of the Margin Likely to Prevail:

Interested Party Comments

In their substantive response, the domestic interested party 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 the domestic interested party that the margins from the original investigation are probative of the behavior of South Korean manufacturers and exporters of SSWR if the order were revoked because they are the only calculated rates which reflect the behavior of exporters without the discipline of the order in place. Therefore, the Department will report to the

Commission the company-specific and “All Others” rates from the original investigation as contained in the *Final Results of Reviews* section of this decision memo.

Final Results of Reviews

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

South Korea Manufacturers/Exporters	Weighted Average Margin (percent)

Dongbang Special Steel Co., Ltd./	
Changwon Specialty Steel Co., Ltd./	
Pohang Iron and Steel Co.	5.77
Sammi Steel Co., Ltd.	28.44
All Others	5.77

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)