

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of
the Antidumping Duty Order on Certain Steel Concrete Reinforcing
Bars from Turkey; Final Results

Summary

We have analyzed the responses of the domestic interested parties in the second sunset review of the antidumping duty order covering certain steel concrete reinforcing bars (rebar) from Turkey.

We recommend that you approve the positions we described in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response:

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

History of the Order

The Department of Commerce (Department) published its final affirmative determination of sales at less than fair value (LTFV) in the Federal Register with respect to imports of rebar from Turkey at the following rates:¹

¹ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey, 62 FR 9739 (Mar. 4, 1997) and Notice of Amendment of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey, 62 FR 16543 (Apr. 7, 1997).

Colakoglu Metalurji A.S. (Colakoglu)	9.84
Ekinciler Demir Celik A.S.	18.68
Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi A.S.	18.54 (amended)
Izmir Demir Celik Sanayi A.S.	41.80
Izmir Metalurji Fabrikasi Turk A.S.	30.16
All Others	16.06 (amended)

The Department later published in the Federal Register the antidumping duty order on rebar from Turkey.²

Since the issuance of the antidumping duty order, the Department has conducted nine administrative reviews with respect to the order on rebar from Turkey, as well as various new shipper reviews.³

There have been no changed circumstances determinations concerning the order. The order remains in effect for all manufacturers, producers, and exporters of the subject merchandise from Turkey, except for those companies which have been revoked from the order (i.e., ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. (ICDAS); Colakoglu; and Diler Demir Celik Endustrisi ve Ticaret A.S./Diler Dis Ticaret A.S./Yazici Demir Celik Sanayi ve Turizm Ticaret A.S. (Diler)).⁴ Regarding ICDAS, we note that the Department has submitted a remand redetermination to the Court of International Trade (CIT) in which, in light of the calculations in that remand, it requested to reinstate ICDAS in the order on rebar from Turkey. See the “Final Results of Redetermination Pursuant to Court Remand” in Nucor Corporation, Gerdau Ameristeel Corporation, and Commercial Metals Company v. United States, Court No. 05-00616 (December 15, 2005), dated January 31, 2006.

The Department conducted the first sunset review on imports of rebar from Turkey, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and found that revocation of the

² See Antidumping Duty Order: Certain Steel Concrete Reinforcing Bars From Turkey, 62 FR 18748 (Apr. 17, 1997).

³ See Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination to Revoke in Part, 72 FR 62630 (Nov. 6, 2007) (2005-2006 Rebar from Turkey Final); Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of New Shipper Review, 72 FR 62628 (Nov. 6, 2007); Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part, 71 FR 65082 (Nov. 7, 2006) (2004-2005 Rebar from Turkey Final); Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part, 70 FR 67665, 67666 (Nov. 8, 2005) (2003-2004 Rebar from Turkey Final); Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part, 69 FR 64731 (Nov. 8, 2004) (2002-2003 Rebar from Turkey Final); Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part, 68 FR 53127 (Sept. 9, 2003); Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 66110 (Oct. 30, 2002); Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review, 66 FR 56274 (Nov. 7, 2001); and Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review, 64 FR 49150 (Sept. 10, 1999).

⁴ See 2005-2006 Rebar from Turkey Final and 2003-2004 Rebar from Turkey Final.

antidumping duty order would be likely to lead to continuation or recurrence of dumping at the same rates as found in the original investigation.⁵ The International Trade Commission (ITC) determined, pursuant to section 751(c) of the Act, that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁶ Thus, the Department published the notice of continuation of this antidumping duty order.⁷

On February 1, 2008, the Department published the notice of initiation of the second sunset review of the antidumping duty order on rebar from Turkey pursuant to section 751(c) of the Act. See Initiation of Five-Year (“Sunset”) Reviews, 73 FR 6128 (Feb. 1, 2008). The Department received the Notice of Intent to Participate from Nucor Corporation, CMC Steel Group, and Gerdau Ameristeel, Inc. (collectively “the domestic interested parties”), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic-like product in the United States.

We received a complete substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no responses from respondent interested parties for the order covered by this sunset review. As a result, pursuant to section 751(c)(4)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting an expedited (120-day) sunset review of this order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margins of dumping likely to prevail if the order were revoked. Below we address the comments of the domestic interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

⁵ See Final Results of Expedited Sunset Review: Certain Concrete Reinforcing Bars from Turkey, 67 FR 45457 (July 9, 2002).

⁶ See Steel Concrete Reinforcing Bar From Turkey, 68 FR 10032 (Mar. 3, 2003).

⁷ See Continuation of Antidumping Duty Order: Certain Concrete Reinforcing Bars from Turkey, 68 FR 14579 (Mar. 26, 2003).

The domestic interested parties believe that revocation of this antidumping duty order would be likely to lead to a continuation or recurrence of dumping by the Turkish manufacturers, producers, and exporters of the subject merchandise due to continued dumping. See Substantive Response of domestic interested parties (March 3, 2008) at 4-8. Specifically, the domestic industry argues that revocation of the antidumping order on rebar from Turkey would have the effect of the continuation or resumption of sales at LTFV by margins equivalent to, or greater than, those found in the first sunset review. According to the domestic industry, the Department found that dumping margins consistent with those in the original investigation (i.e., ranging from 9.84 to 41.80 percent, with an all-others rate of 16.06 percent) existed in the first sunset review.

The domestic industry contends that, since the first sunset review, dumping by Turkish rebar producers has continued at more than de minimis rates. In fact, the domestic industry argues that dumping levels have increased since the first sunset review, and only upon the establishment of new, higher margins in the second sunset period, did rapidly increasing imports of dumped Turkish rebar fall. Finally, the domestic industry argues that the behavior of ICDAS subsequent to its revocation from the order demonstrates that Turkish producers are likely to significantly increase their imports at LTFV.

Department's Position:

Consistent with 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. 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 basis.⁸ In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.⁹ In addition, pursuant to 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

Further, section 751(c)(4)(B) of the Act provides that 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 review, the Department did not receive a substantive response from any respondent interested party.

In the first sunset review, the Department calculated weighted-average dumping margins that ranged between 9.84 and 41.80 percent for several Turkish manufacturers, producers, and exporters of rebar. Moreover, in reviews conducted subsequent to the first sunset review,

⁸ See SAA at 879 and House Report at 56.

⁹ See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

margins above levels of de minimis continued for Turkish companies, including the all-others rate. See 2005-2006 Rebar from Turkey Final, 2004-2005 Rebar from Turkey Final, 2003-2004 Rebar from Turkey Final, and 2002-2003 Rebar from Turkey Final.

In addition, using statistics provided by the domestic industry at Attachment 2 of its submission, as well as those used in the first sunset review, the Department finds that imports of rebar from Turkey fluctuated between 122,392 short tons and 1,238,990 short tons after the sunset review in 2002.¹⁰ The pre-order level in 1995 was 293,000 short tons. Given that dumping continues at above de minimis levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

The domestic industry requests that the Department report to the ITC the margins determined in the first sunset review for those companies involved in that review, and confirm the margins assigned to the companies who did not participate in the first sunset review, but that were involved in the 2004-2005 administrative review.

Department's Position

Normally the Department will provide to the ITC the company-specific margin from the investigation for each company. For companies not investigated specifically, 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. The Department's preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC.

Since the first sunset review, the Department conducted various reviews on rebar from Turkey. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rate for those companies in the first sunset review, as well as the company-specific rates for those entities included in the 2004-2005 review, but that did not participate in the first sunset review. The Department finds that it is appropriate to provide the ITC with the rates from the investigation for those companies involved in the first sunset review because these are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Regarding the additional companies included in the 2004-2005 review, the Department similarly finds that it is appropriate to provide the ITC with the rate from the investigation (*i.e.*, the all-others rate) for these companies because this rate is based on calculated rates that reflect the behavior of manufacturers, producers, and exporters

¹⁰ We note that these figures include imports by Turkish companies which have been revoked from the order. The import volumes during this sunset review exclusive of these companies' volumes would be lower than those referenced if those revoked companies exported subject merchandise after their revocation from the order.

without the discipline of an order in place. Thus, the Department will report to the ITC these same margins as listed in the Final Results of Review section below.

Final Results of Review

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

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
Colakoglu Metalurji A.S.	Revoked ¹¹
Ekinciler Demir Celik A.S.	18.68
Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi A.S.	18.54
Izmir Demir Celik Sanayi A.S.	41.80
Izmir Metalurji Fabrikasi Turk A.S.	30.16
All Others	16.06 ¹²

¹¹ See 2005-2006 Rebar from Turkey Final, 72 FR 62630, 62631 (Nov. 6, 2007).

¹² On November 8, 2005, and November 6, 2007, respectively, ICDAS and Diler were revoked from the order. As noted above, we have a request pending before the CIT to reinstate ICDAS in the order.

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 the final results of review in the Federal Register.

AGREE _____

DISAGREE _____

David M. Spooner
Assistant Secretary
for Import Administration

(Date)