A-201-817
NAFTA Remand
Sunset Review
EG III-8/JD

SECOND REDETERMINATION ON REMAND
OIL COUNTRY TUBULAR GOODS FROM MEXICO: SUNSET REVIEW

In the Matter of:
Oil Country Tubular Goods from Mexico; Final Results of Sunset Review of Antidumping Duty Order,
Secretariat File No. USA-Mex-2001-1904-03 (Panel Decision, February 8, 2006)

Summary

In accordance with the remand instructions of the North American Free Trade Agreement Bi-National Panel ("Panel") in the above-referenced case, the Department of Commerce ("the Department") has again examined the methodology employed to determine whether the revocation of the antidumping duty order on oil country tubular goods ("OCTG") from Mexico would be likely to lead to continuation or recurrence of dumping at the margin of 21.70 percent *ad valorem*. After addressing the questions posed by the Panel, and giving careful analysis to the statute, regulations, and Statement of Administrative Action ("SAA") (H.R. Doc. No. 103-316, vol. 1 (1994); 1994 U.S. Code Cong. & Adm. News, part 6) governing sunset reviews, and the parties' comments, we continue to determine that the revocation of the antidumping duty order on OCTG from Mexico would be likely to lead to continuation or recurrence of dumping.

Background

On July 20, 1994, the Department initiated an investigation on sales at less than fair value of OCTG from Mexico in the United States. The Department reached a negative preliminary determination on February 2, 1995 (see Preliminary Determination of Sales at Not Less Than Fair Value: Oil Country Tubular Goods From Mexico, 60 FR 6510), and a final affirmative determination on June 28, 1995 (see Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Mexico, 60 FR 33567 ("LTFV Determination"), finding a weighted average margin of 23.79 percent. After affirmative investigations by both the Department and the International Trade Commission ("the ITC"), the Department published an antidumping duty order ("Order") on August 11, 1995 (see Antidumping Duty Order: Oil Country Tubular Goods From Mexico, 60 FR 41056). The only company investigated in the proceeding was Tubos de Aceros de Mexico, S.A. ("TAMSA").

Subsequent to the Order, TAMSA challenged the Department's findings and requested that a Bi-National Panel review the final determination. That Panel remanded the Department's final determination and directed the Department to (1) substitute a weighted-average factor for the adverse factor used in the calculation of nonstandard costs for certain products and (2) provide a complete explanation of its reasoning for its use of 1994 data in calculating general and administrative (G&A) expense. See In the Matter of: Oil Country Tubular Goods from Mexico; Final Determination of Sales at Less Than Fair Value, USA-95-1904-04 (July 31, 1996).

The Department recalculated the nonstandard costs using a weighted-average factor and provided an explanation of the use of 1994 data in calculating G&A expenses. The Department submitted its remand determination on October 25, 1996. On December 2, 1996, the Panel affirmed the remand determination of the Department. See Oil Country Tubular Goods From Mexico: Notice of Panel Decision, Amended Order and Final Determination of Antidumping

Duty Investigation in Accordance With Decision Upon Remand, 62 FR 5612 (February 6, 1997). As a result, the margin for TAMSA was reduced from 23.79 percent to 21.70 percent.

The Department terminated the review for the first administrative review period because it found that TAMSA had no shipments of subject merchandise during the period. See Oil Country Tubular Goods from Mexico; Notice of Termination of Antidumping Duty Administrative Review, 62 FR 19309 (April 21, 1997). However, TAMSA requested administrative reviews for the second, third, and fourth administrative reviews. In each case, TAMSA had a single sale of merchandise in the United States with a quantity of 100 MT, 120 MT, and 50 MT, respectively. In each administrative review, the Department found a dumping margin of zero. See, respectively, Oil Country Tubular Goods from Mexico: Final Results of Antidumping Administrative Review, 64 FR 13962 (March 23, 1999), Oil Country Tubular Goods from Mexico: Final Results of Antidumping Review, 65 FR 1593 (January 11, 2000), and Oil Country Tubular Goods From Mexico: Oil Country Tubular Goods from Mexico: Final Results of Antidumping Review and Determination Not To Revoke in Part, 66 FR 15832 (March 21, 2001).

The Department initiated the automatic five-year sunset review for this order on July 3, 2000. See Notice of Initiation of Five-Year ("Sunset") Reviews, 65 FR 41053 (July 3, 2000). The Department published the Final Results of the review on March 9, 2001. See Oil Country Tubular Goods ("OCTG") from Mexico; Final Results of Sunset Review of Antidumping Order, 66 FR 14131. In its determination, the Department found that the revocation of the Order would likely lead to the continuation or recurrence of dumping. Id.

Subsequent to the completion of the sunset review, TAMSA challenged the Department's findings and requested that a Bi-National Panel review the final determination. A public hearing was held on November 17, 2004, in Washington DC, at which oral arguments were presented by the parties. The Panel issued a Decision of the Panel ("First Decision") on February 11, 2005, remanding the review to the Department.

In response to the Panel's directives in the First Decision, the Department issued a Redetermination on Remand on May 13, 2005. See Redetermination on Remand, Oil Country Tubular Goods from Mexico: Sunset Review, USA-MEX-2001-1904-03 (May 13, 2005) ("Redetermination on Remand"). After a full, thorough and careful consideration of the facts in the case, as directed by the Panel, the Department continued to determine that the revocation of the antidumping duty order on OCTG from Mexico would be likely to lead to continuation or recurrence of dumping.

The Panel issued a Decision of the Panel ("Second Decision") on February 8, 2006, again remanding the review to the Department.

The Panel's Remand

In its Second Decision, the Panel acknowledged that the Department provided evidence to demonstrate that the peso continued to decline after the imposition of the Order. However, the Panel found that the Department made no similar analysis of TAMSA's dollar-denominated debt. Thus, according to the Panel, the Department "failed to consider whether the substantial decrease in TAMSA's financial expense ratios offsets the 'likelihood' presumption that results from the decrease in TAMSA's post-order exports." See Second Decision at page 5. The Panel went on to conclude that "the Department's failure to consider a change of this magnitude in TAMSA's financial expense ratio, owing to the substantially lower dollar-denominated debt, renders the Department's likelihood determination unreasonable and unsupported by the evidence." Id. Finally, although the Panel recognized the final determination is not at issue, the Panel concluded that "the high financial expense ratio experienced by TAMSA as a result of the peso devaluation led to the determination of dumping (in the original investigation). The substantial subsequent decrease in TAMSA's foreign currency debt may show that such a scenario is unlikely to recur." Id.

Therefore, the Panel concluded that since "the Department failed to provide a reasoned analysis to support a conclusion that TAMSA's high financial expense ratio is likely to recur, we believe that TAMSA's evidence overcomes the likelihood presumption based upon the post-order decrease in TAMSA's exports. In other words, we conclude that the Department's Redetermination has not reasonably established that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping." Id. at page 6.

The Panel directed the Department to determine whether the decrease in the magnitude of TAMSA's foreign currency denominated debt in the sunset review period outweighs the "likelihood" presumption that results from TAMSA's decreased exports post-order. If the Department determines that the lower level of foreign currency denominated debt does not outweigh the "likelihood" presumption, then the Panel directs the Department to explain the reasons behind its determination. Should the Department determine that the lower levels of foreign currency debt does outweigh the "likelihood" determination, the Panel directs the

Department to enter a finding of no likelihood of continuation or recurrence of dumping. Id. at page 11.

Analysis and Redetermination

After re-examining the record and reviewing the arguments and information submitted by parties, the Department does not find that TAMSA's financial expense ratio alters the Department's initial "likelihood" determination. Therefore, the Department continues to find dumping is likely to continue or recur absent the Order.

As noted above, the Panel found that the Department did not do an analysis of TAMSA's debt levels during the sunset review period. According to the Panel, the Department did not consider whether the substantial decrease in TAMSA's financial expense ratio from the investigation to the administrative reviews affects the Department's "likelihood" determination. The Panel concluded that the Department's failure to consider the changes in the financial expense ratio rendered the Department's "likelihood" determination "unreasonable and unsupported by the evidence." See Second Decision at page 5.

In reaching its conclusion, the Panel appears to have agreed with TAMSA's arguments and reasoning. See Second Decision at 5. In its arguments to the Panel, TAMSA contends that a unique combination of peso devaluation and large long-term dollar denominated debt resulted in an abnormally large financial expense ratio during the investigation. That large financial ratio, which the Department calculated for the final determination using TAMSA's information, resulted in the Department finding a number of home market sales below the cost of production.

As a result of the cost findings, the Department compared sales in the United States to constructed value, resulting in a dumping finding in the investigation. TAMSA argues that, absent the supposed unique and one-time combination of debt and devaluation, the financial expense would be lower, there would be no material sales below cost and, thus, no comparison to constructed value, and no finding of dumping. Therefore, it would be unlikely that dumping would recur under the order.

TAMSA's arguments, however, are based on a number of assumptions that are not valid, and rest on suppositions that are not supported by the facts. First, TAMSA asserts that the combination of peso devaluations and dollar-denominated debt during the investigation was unique and did not recur during the subsequent sunset review period. However, an examination of currency devaluations and TAMSA's debt indicate that both events occurred during the sunset review period, and there is nothing on the record which would indicate that the events would not recur in the future. Second, TAMSA assumes that exchange rate movements are the controlling factor in the determination of the financial expense ratio. In fact, the level of the financial expense ratio is dependent on a number of factors, as an examination of TAMSA's own experiences during the investigation and subsequent administrative review periods clearly demonstrates. Third, TAMSA assumes that findings of sales below cost in the home market, or that a comparison of sales in the United States to constructed value, automatically results in the finding of dumping margins. However, the facts do not support this assumption. When all of these facts are fully examined, it is clear that the line of reasoning presented by TAMSA is unsupported. Furthermore, when all of these facts are examined in light of the highly probative fact of decreased import levels, substantial evidence supports the Department's decision.

Analysis of TAMSA's Long-Term Debt and Peso Devaluations

TAMSA has consistently maintained that the only reason it is subject to the antidumping duty order on OCTG from Mexico is the severe peso devaluation in 1994 coupled with its level of dollar-denominated debts. See, e.g., Letter from TAMSA to Secretary Gutierrez, Oil Country Tubular Goods ("OCTG") from Mexico; Final Results of Sunset Review of Antidumping Duty Order: Comments, February 25, 2005, at page 6. The Panel, in its First Decision, directed the Department to examine the peso devaluation and dollar-denominated debt as "other factors" to determine their relevance and effect on the Department's "likelihood" determination in the sunset review. See First Decision at page 24. In response to this request, the Department placed on the record the exchange rates between the U.S. dollar and the Mexican peso from April 1, 1993, to March 31, 2005, and worksheets showing the percentage change in the peso value on a six-month basis from January of 1993 to December of 2000. See Letter to All Interested Parties from the Department of Commerce, April 26, 2005. These worksheets show that peso devaluations in excess of nine percent occurred at least three times after the period January through June of 1994.[1] The Department also noted that TAMSA continued to have long-term dollar-denominated

[1] The Department cited a peso devaluation of nine percent in the period January – June 1994 in the investigation. See Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Mexico, 60 FR 33567 (June 28, 1995) at Comment 6.

debt through 1998. See Redetermination on Remand at 27. While the Panel noted the Department's discussion of exchange rate changes between the peso and the dollar subsequent to the investigation, it further stated that the Department provided "no comparable data with respect to the decline in TAMSA's US dollar-denominated debt." See Second Decision at page 5.

In order to comply with the Panel's Order to "determine whether the decrease in the magnitude of TAMSA's foreign currency denominated debt in the sunset review period outweighs the 'likelihood' presumption that results from the decrease in TAMSA's post-order exports," the Department has examined data regarding the alleged decline in TAMSA's debt. Specifically, the Department has placed information on the record with respect to TAMSA's financial statements developed during the fourth administrative review. See Letter to All Interested Parties from the Department of Commerce, February 28, 2006. Based on the information from this submission as well as information already on the record of this sunset review proceeding, the Department has analyzed TAMSA's debt and equity position for the years 1994 through 1999. See Attachment 1. Rather than a steady decline over the sunset period, as TAMSA claims, the figures indicate a rise and fall in the levels of long-term debt year-to-year, until the end of 1998. In fact, long-term debt levels in 1996 and 1997 are comparable to annualized debt levels in 1994, while the debt levels in 1995 greatly exceed the annualized levels of 1994.[2] Id. Coupled with the peso devaluation worksheets, the evidence on the record shows

[2] TAMSA's long-term debt levels from 1994 to 1998, as listed in TAMSA's financial statements were 1,152,972 pesos, 2,120,717 pesos, 986,988 pesos, 1,057,096 pesos, and 493,250

that the peso devaluations and debt levels of 1995 substantially exceed those of the first half of 1994. Also, a peso devaluation at a level comparable to the first half of 1994, concurrent with the period of investigation, occurred in the first half of 1998, at the same time that TAMSA still had significant long-term dollar-denominated debt. Far from being a unique, one-time event as TAMSA has maintained, the combination of large peso devaluations and significant long-term dollar denominated debt that occurred in the first half of 1994 did occur subsequent to the order.

Although many of the subsequent declines in the value of the peso occurred while TAMSA still possessed dollar-denominated debts, the Department calculated zero margins for the reviews. If these debts and currency devaluations were a major source of the margin found in the investigation, it would be reasonable to assume that they would also result in margins in the administrative reviews. That U.S. dollar-denominated debts and further currency devaluations existed, and the Department, nevertheless, calculated zero margins in subsequent administrative reviews indicates either that the debts were not a significant reason for a margin in the LTFV Determination, or that the sales in the reviews were not representative of TAMSA's normal commercial activity, or both.

While evidence on the record during the sunset review indicates that TAMSA did not have any long-term dollar-denominated debt in 1999, there is nothing on the record to indicate that TAMSA would not borrow in dollars in the future. Therefore, it is impossible to say with

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pesos, respectively. See Attachment 1.

certainty that the combination of peso devaluations and long-term dollar denominated debt would not occur in subsequent years. In fact, as companies generally need capital to finance their operations, it is highly likely that TAMSA will borrow either domestically or from foreign sources to do so.

Analysis of TAMSA's Financial Expense Ratio

The Panel, in its Second Decision, notes that TAMSA's financial expense ratio in the investigation was 39.5 percent. In the subsequent administrative reviews, the Panel notes that TAMSA's financial expense ratios were 1.96 percent, 1.96 percent, and zero percent. See Second Decision at pages 5 - 6. The Panel reasons that the difference is due to high levels of foreign currency debt and the peso devaluation during the investigation period, which, according to TAMSA, disappeared in subsequent years. Id. at 5. Notwithstanding our findings that significant peso devaluations and high levels of foreign currency debt existed simultaneously in several years after the investigation, the relationship between the exchange gains and losses and the financial expense ratio is not exact. As a test of the relationship, the Department recalculated hypothetical financial expense ratios for the investigation and review periods after eliminating foreign exchange gains and losses. See Letter to All Interested Parties from the Department of Commerce, February 28, 2006. The results of the Department's calculations are contained in Attachment 2. Excluding all exchange rate gains and losses, and the effects of the peso devaluation, the financial expense ratio in the investigation would be approximately 20 percent. Performing the same exercise for the second, third, and fourth administrative reviews, the financial expense ratios would have been 3.5 percent, 5.9 percent, and 3.3 percent, respectively. Thus, the rise and fall in the financial expense ratio from the investigation period to the review periods is not based solely on exchange rate changes in the peso.

An understanding of the financial expense ratio is important to understanding why this is so. The financial expense ratio is intended to capture the cost of a company's capital requirements. This would incorporate cash requirements for current production as well as for the cost of fixed asset acquisitions. The ratio is calculated by dividing company-wide net financial expenses by the cost of goods sold from the company's consolidated financial statements. Thus, changes in levels of sales can have a significant impact on the financial expense ratio.

In fact, evidence on the record indicates that fluctuations in the cost of goods sold were the major factors in the change of the financial expense ratio. While the company's financial expenses remained relatively stable in the investigation and through the review periods, the level of sales (i.e., the denominator used to allocate these costs across current activity) fluctuated greatly. In fact, the cost of goods sold in 1997 (the second review period) is nearly six times the cost of goods sold in 1994 (the investigative period), while the net interest and financing expense is nearly the same. Thus, the same level of expenses are spread across a higher level of activity.

Therefore, contrary to TAMSA's assertions and the Panel's reasoning, the large decrease in the financial expense ratio from the investigation period to the administrative review periods is not due primarily to the absence of long-term foreign debt and a peso evaluation. Instead, a major factor in the decrease of the ratio appears to be the change in the cost of goods sold.

The Department does not have information on the record to examine further the changes in the cost of goods sold. Furthermore, TAMSA has never raised this issue in the sunset review as a possible "other factor" for the Department to consider in its "likelihood" determination. Finally, even if the cost of goods sold somehow remained constant in subsequent years, it is impossible to say at what level TAMSA may borrow to finance operations, or what peso exchange gains or losses will occur in the future, and how those might affect the financial expense ratio. Thus, it is not possible for the Department to state with certainty what the financial expense ratio will be in the future or what impact it might have on any below cost sales analysis.

Sales Below Cost and Margin Calculations

The Panel notes that the increase in the financial expense ratio resulted in the Department finding sales below cost in the comparison market during the investigation. See Second Decision at page 5. In fact, so many sales were found to be below the cost of production ("COP") that the Department had to rely on comparing U.S. sales to constructed value ("CV") for the purposes of calculating dumping margins. See TAMSA's February 25, 2005 brief at pages 6 - 7. When the Department compared sales in the United States to the CV for the comparison market, the Department found dumping.

TAMSA has consistently maintained that the finding of dumping is a direct result of sales below COP. Without sales below COP, asserts TAMSA, there will be no dumping. The principle cause of a finding of sales below COP in this proceeding, again according to TAMSA, is the financial expense ratio from the investigation. As TAMSA stated, "even if a dramatic devaluation were to occur again (which was not likely), it could not significantly increase the financial expense component of TAMSA's COP, it would not cause sales below cost, it would not cause a comparison with a CV consisting of an inflated financial expense component, and it would not lead to dumping." Id. at pages 7 - 8. TAMSA's statements, however, are illogical on their face. As the Department previously explained, the change in the financial expense ratio was not inflated by the supposed one-time combination of a currency devaluation and possession of long-term dollar-denominated debt. Moreover, the assumption that a finding of sales below cost, or comparison to constructed value, results in a finding of dumping, is simply not supported by the facts.

It is useful to discuss briefly the role of determining whether sales were made in the comparison market below the cost of production when determining whether dumping exists. The Department compares sales made in the United States to sales in a comparison market that are sold for consumption in an exporting country or third country market, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as those sold in the United States. Under section 773(b) of the Tariff Act of 1930 as amended ("the Act"), sales of the foreign like product made at prices below the COP may be disregarded for determining normal value. Pursuant to section 773(b)(2)(C)(i) of the Act, where less than twenty percent of a respondent's home market sales for a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where twenty percent or more of a respondent's sales of a given product during the POR were at prices less than COP, we determine such sales to have been made in substantial quantities, in accordance with section 773(b)(2)(C)(i) of the Act, and disregard those sales. The practical effect of the statute is to calculate normal value on profitable comparison market sales, as the Panel noted. See Second Decision at page 5, footnote 4.

Disregarding sales below COP affects the calculation of normal value. However, it does not necessarily result in a finding of dumping. Nor, conversely, is it necessary to have sales below COP in order to have dumping.

The Department has conducted administrative reviews where it disregarded sales below COP and did not find dumping. See, e.g., Certain Hot-Rolled Carbon Steel Flat Products From Thailand: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 68 FR 68336 (December 8, 2003), and Certain Hot-Rolled Carbon Steel Flat Products From Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 69 FR 19388 (April 13, 2004). In the administrative review, the Department has disregarded sales below COP while finding no dumping.[3] Therefore, a finding of sales below COP does not necessarily result in the finding of a dumping margin.

Conversely, it is not necessary for the Department to conduct a sales below COP investigation in order to find dumping. The Department has found dumping when comparing sales in the United States to sales in the comparison market without investigating whether there were sales made below COP in the comparison market. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose from the Netherlands, 70 FR 28275 (May 17, 2005) and Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From the Netherlands, 69 FR 77205 (December 27, 2004).

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[3] See also Certain Hot-Rolled Carbon Steel Flat Products From Thailand; Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke and Rescind in Part, 70 FR 73197 (December 9, 2005). The Department notes that it has preliminarily determined that Sahaviriya Steel Industries Public Company Limited, the company subject to the administrative review in the cited proceeding, sold subject merchandise at zero or de minimis margins for three consecutive administrative reviews and in commercial quantities. Unlike with TAMSA and Hylsa, the Department has preliminarily found the respondent in Certain Hot-Rolled Carbon Steel Flat Products From Thailand was selling in commercial quantities. Compare Certain Hot-Rolled Carbon Steel Flat Products From Thailand with Oil Country Tubular Goods from Mexico: Final Results of Antidumping Review and Determination Not To Revoke in Part, 66 FR 15832 (March 21, 2001). The Department's finding that TAMSA did not sell in commercial quantities for three consecutive review periods has been upheld by both a separate NAFTA panel proceeding and the World Trade Organization. See In the Matter of: Oil Country Tubular Goods from Mexico: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke, USA-MEX-01-1904-05 (January 27, 2006) and United States – Anti-dumping Measures on Oilcountry Tubular Goods (OCTG) from Mexico, WT/DS282/R. Thus, because TAMSA did not make sales in commercial quantities, TAMSA's consecutive zero margins are not probative of TAMSA's likely future behavior.

Finally, the comparison of sales in the United States to CV does not necessarily result in a finding of dumping. See, e.g., Oil Country Tubular Goods From Mexico: Final Results of Antidumping Duty Administrative Review, 64 FR 13962 (March 23, 1999) and Oil Country Tubular Goods From Mexico: Preliminary Results of Antidumping Duty Administrative Review, 63 FR 48699 (September 11, 1998), with respect to Hylsa.

In conclusion, TAMSA's attempt to link sales below COP or the use of CV to a finding of dumping is simply not accurate. The Department has conducted numerous antidumping duty investigations and administrative reviews, as evidenced above, where such a linkage simply does not exist.

Analysis of Effect of "Other Factors" On Likelihood

In summary, TAMSA makes the following arguments:

- A purported unique and one-time combination of a large peso devaluation and the possession of large long-term dollar-denominated debt holdings during the investigation allegedly caused the financial expense ratio to rise dramatically.

- Due to this "one-time" event, TAMSA's costs were increased and the Department found so many sales below COP that it resorted to CV for the purposes of calculating normal value, and consequently the Department found a dumping margin.

- Since the "one-time" event supposedly did not recur subsequent to the investigation, the financial expense ratio allegedly would drop.

- The Department would not find sales below cost, would not need to rely on CV to calculate normal value, and thus would not find dumping in future reviews.

- The Department's calculation of zero margins in the administrative reviews subsequent to the investigation, coupled with the lower financial expense ratios that existed during the reviews, allegedly supports this assertion.

• These “other factors” supposedly outweigh the Department’s original “likelihood” determination.

Again, notwithstanding the fact that a sunset determination is conducted on an order-wide basis, the Department has shown conclusively that each of the arguments in TAMSA’s reasoning is not supported by the evidence. The Department has shown, through an analysis of the peso devaluations and debt positions of TAMSA subsequent to the investigation, that the combination of peso devaluations and long-term dollar-denominated debts that occurred during the investigation was not a one-time, unique event. There is nothing on the record to indicate that TAMSA might not borrow in the future to finance operations, thus potentially exposing itself to new foreign exchange risks.

Furthermore, the Department has also shown, through an analysis of TAMSA’s financial expense, that the driving factor in the change of the financial expense ratio between the investigation and the administrative reviews is due in large part to dramatic changes in the cost of goods sold, not exchange rate gains and losses. In our previous redetermination, and contrary to TAMSA’s assertions, we noted that the Department did disregard sales below COP during the administrative reviews. See Redetermination on Remand at 19. Regardless, the Department has also shown that there is no certain link between the finding of sales below COP, or the use of CV as normal value, and the finding of dumping margins.

Finally, the Department’s determination that TAMSA did not ship subject merchandise in commercial quantities during the sunset review period has been upheld by both the WTO and a separate NAFTA panel, confirming that TAMSA's zero margins in the administrative reviews are not indicative of its behavior were the order on Mexican OCTG to sunset.

In short, based on an analysis of the facts, the Department cannot find a conclusive link to support the argument that dumping by TAMSA in this order is dependent on a combination of peso devaluation and dollar-denominated debt that affects the financial expense ratio. The Department does not find TAMSA's "other factors" sufficient to overturn the Department's previous "likelihood" determination, and we continue to find that dumping would likely recur or continue if the Order were to sunset.

TAMSA's Export Levels to the United States

It is beyond dispute that TAMSA's shipments to the United States decreased significantly after imposition of the Order from pre-order levels. Evidence on the record demonstrates that there has been a significant decline in imports after the imposition of the Order, not just from TAMSA but from Mexico as a whole. After four administrative reviews, and notably after the imposition of zero cash deposit margins,[4] shipments from TAMSA remained at significantly reduced levels. The SAA states that either an "existence of dumping margins" or a "cessation of imports" after an Order are "highly probative" of the likelihood of continuation or recurrence of dumping. See SAA at 890. Therefore, relevant "other factors" presented by parties must

[4] The fourth antidumping duty administrative review covered the period August 1, 1998, to July 31, 1999. A cash deposit rate of zero was established for both TAMSA and Hylsa after the conclusion of the second antidumping duty administrative review, the results of which were published on March 23, 1999. See Oil Country Tubular Goods From Mexico: Final Results of Antidumping Duty Administrative Review, 64 FR 13962 (March 23, 1999).

overcome these “highly probative” conditions. In this case, TAMSA’s “other factors” are not sufficient to overcome the Department’s reasonable assumption that, given the significant decline in TAMSA’s shipments, dumping is likely to recur or continue. See SAA at 890.

TAMSA’s pattern of exports of OCTG to the United States during the sunset review period, and the circumstances surrounding those exports, fully support the Department’s original “likelihood” determination based on the substantial decrease in exports. If TAMSA had shown a link between the supposed one-time peso devaluation/dollar-denominated debt during the investigation and the existence of dumping, a claim that the Department has shown to be without support, TAMSA should be able to ship to the United States in commercial quantities without dumping. By the year 1999, all of the conditions should have been optimal for sales and shipments of OCTG by TAMSA to the United States. First, accepting arguendo TAMSA’s argument that debt and devaluation are linked to dumping, and that these events did not recur after the investigation, TAMSA, through its affiliated importer, would have been able to sell at non-dumped prices in the United States. After March 23, 1999, the cash deposit rate for imports of subject merchandise produced by TAMSA was zero. Furthermore, the United States market for OCTG is sufficiently lucrative that one would expect shipments from a producer in a neighboring country to increase, if that producer were able to sell without dumping. In fact, the United States market for OCTG is one of the largest in the world, with annual consumption in the range of 1.4 to 2.5 million tons in the years 1996 to 2000. See American Iron and Steel Institute Annual Statistical Report, 2000. Information on the record indicates that the United

States was not a “low volume” market for TAMSA prior to the imposition of the Order and was not a “low volume” market in general after the imposition of the order. See TAMSA’s Substantive Response at Exhibit 2, and the Department’s Memorandum to the File, New Information obtained by the Department, April 26, 2005. Given all of these conditions, it is reasonable to assume that shipments of OCTG from Mexico, especially those manufactured by TAMSA, would increase from nearly non-existent levels beginning in April of 1999, if the assumptions underlying TAMSA’s arguments were correct.

Instead, exports to the United States remained at levels well below those prior to the Order and did not show any increase from levels in previous administrative review periods. TAMSA’s argument, that due to the elimination of a supposedly unique occurrence of a peso devaluation with high dollar-denominated debts dumping is not likely to recur, is puzzling given the lack of subsequent shipments. However, the Department has demonstrated that TAMSA’s ability to ship without dumping is not predicated on whether or not there has been a recurrence of a peso devaluation at the same time that TAMSA holds large dollar-denominated debts. Instead, the reasonable conclusion is that TAMSA did not ship in commercial quantities because it could not sell OCTG in the United States without dumping.

The Department noted in the sunset review that the SAA and the House Report (H.R. Rep. No. 103-826, pt. 1 (1994)) state that it is reasonable to infer that dumping would resume were an order revoked if the volume of imports declined significantly after an order is issued. The Department also noted that imports declined significantly and TAMSA was able to sell only small amounts of OCTG without dumping. See Oil Cuntry Tubular Goods from Mexico; Final Results of Sunset Review of Antidumping Duty Order, 66 FR 14131 (March 9, 2001). The zero margins obtained by TAMSA came only after single shipments of low quantities in each review.

As import levels decreased significantly subsequent to the investigation (and during the sunset review period), the question before the Department is whether the "other factors" cited by TAMSA overcome the "highly probative" nature of the import volumes. They do not. As demonstrated in the first redetermination and further explained above, the evidence on the record does not support TAMSA's position. During the POI, the United States was a large and significant market for TAMSA. The United States remained a large and significant market for OCTG during the subsequent five-year sunset review period. A TAMSA affiliate is the sole importer of TAMSA-produced merchandise, and a zero cash deposit margin existed for part of the five-year sunset review period. Despite *all* of these facts, TAMSA's shipments to the United States fell to near zero. Thus, there is an apparent correlation between the imposition of the Order and TAMSA's inability to ship in commercial quantities. It is therefore reasonable to conclude that, absent the discipline of the Order, dumping is likely to continue or recur.[5]

[5] As to Hylsa, the Panel concluded that it had "no basis for determining in the present case whether, in accordance with the order-wide basis of sunset review determinations, the Department's 'likelihood' determination in the present case properly reflects a final determination that Hylsa dumped during the review period." See Second Decision at 7. The Department's finding of likelihood does not rest upon the dumping margin incurred by Hylsa.

Post-Draft Comments

The Department issued a draft of its redetermination on remand to the parties on March 1, 2006, and solicited briefs from all parties by March 6, 2006, and rebuttal briefs by March 8, 2006. Both TAMSA and petitioners IPSCO Tubulars Inc., Lone Star Steel Company, and Maverick Tube Corporation (collectively "petitioners") submitted briefs on the Department's draft redetermination on March 6, 2006. Petitioners submitted rebuttal comments on March 8, 2006. A summary of the comments, followed by the Department's position, is below.

Petitioners' Brief

Petitioners argue that the Panel's order to the Department to consider whether the effects of TAMSA's foreign currency denominated debts and peso devaluations during the sunset review outweigh the "likelihood" presumption that results from decreases in post-order exports conflicts with U.S. law. Petitioners reason that the Panel's order is contrary to U.S. law because the law requires the Department to consider only dumping margins and import levels, absent good cause for consideration of other factors. According to petitioners, the Department's draft determination clearly shows that there is no good cause to consider TAMSA's arguments. Petitioners cite to 19 U.S.C. § 1675a(c) and the SAA at 890 in support of their arguments. See Letter from Schagrin Associates to the U.S. Department of Commerce, Oil Country Tubular Goods from Mexico: Sunset Review NAFTA Panel Decision, USA-MEX-2001-1904-03, March 6, 2006 ("Petitioners' Case Brief") at 2 - 4. Petitioners further argue that "[c]ontrary to the Panel's conclusion, it is reasonable for Commerce to presume under U.S. law that if TAMSA's prices and costs during the sunset period of six years did not establish dumping, TAMSA's imports would have increased to at least pre-order levels, given the robust trade for OCTG in the U.S. market." Id. at 4.

Furthermore, petitioners argue that the Panel's conclusion that the fact pattern involving the peso valuation and TAMSA's long-term dollar debt during the sunset review period indicate a probable absence of dumping "is based on a simplistic understanding of the calculation of the antidumping margins." Id. at 5. Petitioners state that the dumping margin is based on a number of factors that are constantly changing, and that "it is virtually impossible for Commerce to weigh the impact of particular factors, such as the foreign-currency exchange rate and level of foreign-denominated debt, as the Panel has ordered, in isolation from the other factors affecting dumping." Id. at 6. Petitioners believe that the issues currently before the Panel prove the point that dumping proceedings are extremely complex. Id.

Petitioners are puzzled by TAMSA's claims (which, according to petitioners, the Panel supports) that the elimination of this peso devaluation and debt would result in an absence of dumping, since an appreciation of the peso value would result in an increase in normal value. Such an increase in normal value makes dumping more likely, according to petitioners, since U.S. export prices would be compared to higher home market normal value prices and would likely result in dumping margins were TAMSA to sell merchandise in commercial quantities in the United States. Id. Regardless, petitioners state that U.S. law simply does not require the Department to weigh the impact of TAMSA's foreign currency debt in its "likelihood" determination. The Department need only consider whether respondents showed "good cause" to determine whether "other factors" overcome the Department's "likelihood" determination with respect to import volumes. Id. at 7. Petitioners believe that the Department's draft redetermination amply demonstrates that no good cause exists, and that the "other factors" do not overcome the Department's "likelihood" determination based on import levels. Id. at 7 - 8.

TAMSA's Brief

TAMSA begins its brief by stating that it disagrees with the Department's conclusions and reasoning in the draft redetermination. See Letter from White & Case to the Department of Commerce, Oil Country Tubular Goods ("OCTG") from Mexico; Final Results of Sunset Review of Antidumping Duty Order, March 6, 2006 ("TAMSA's Case Brief") at 1. TAMSA believes that the Department's draft redetermination "reflects a fundamental disagreement between the Department and TAMSA regarding the legal standard governing the Department's determination." Id. TAMSA believes that the differences must be resolved by the Panel, and makes a series of comments and questions which it believes will, along with the Department's answers, assist the Panel by providing more information. Id. at 2. To that end, TAMSA makes four comments and questions.

First, TAMSA again states its belief that the peso devaluation and long-term debt conditions during the investigation were the primary factors in the Department's original dumping determination. TAMSA believes that the Department's draft redetermination may indicate that the Department does not believe that these factors played a significant role in the original dumping determination. TAMSA requests that if the Department does not believe these factors played a significant role in the Department's determination during the investigation, it should explain the rationale behind this belief. Id. at 2 - 3.

Second, TAMSA asserts that the draft redetermination does not make clear whether the Department believes that TAMSA significantly reduced its indebtedness during the sunset period. TAMSA believes that the Department should state clearly whether it believes that TAMSA reduced its debt and exposure to foreign currency devaluations or not. Id. at 3.

Third, TAMSA states that it provided information from the various administrative reviews to demonstrate the actual financial expense ratios used in the investigation and administrative reviews by the Department. TAMSA notes that the Department recalculated the financial expense ratios in the draft redetermination. TAMSA asks that the Department explain the purpose of the recalculation of these ratios. Id.

Finally, TAMSA alleges that the Department selectively incorporated new information onto the record from other segments of this case. For example, according to TAMSA, the Department added information to the record regarding TAMSA's indebtedness but did not add information regarding the reduction in export volumes to the United States. TAMSA asks that the Department be more even-handed and consider more information in its analysis. Id. at 3 - 4.

Rebuttal Briefs

TAMSA did not submit a rebuttal brief. Petitioners submitted a rebuttal brief on March 8, 2006. See Letter from Schagrin Associates to the Department of Commerce, Oil Country

Tubular Goods from Mexico: Sunset Review NAFTA Panel Decision, USA-MEX-2001-1904-03 ("Petitioners's Rebuttal Brief"). Petitioners begin by stating that the Department should not alter its "likelihood" determination and should not sunset this order, as the Department's interpretation of the statute and analysis of the facts in this redetermination are entitled to deference by the Panel. See Petitioners Rebuttal Brief at 2. Petitioners emphasize that the Department's determination must be based on U.S. law, and believe that the Panel cannot disregard the statute or the Department's reasonable construction thereof. Petitioners cite to the SAA at 890, which states that if imports cease after the issuance of an order it is reasonable to assume that exporters cannot sell without dumping, and that such a cessation is highly probative of the likelihood of continuation or recurrence of dumping. Id. Petitioners also believe that the Department's analysis of the facts, specifically regarding the peso devaluation and the level of TAMSA's U.S. dollar-denominated debt, are accurate and worthy of deference by the Panel. Id.

Petitioners note that TAMSA raised the following four points in its case brief:

- the role of TAMSA's dollar-denominated debts and the peso currency devaluation in the original LTFV determination;
- The level of TAMSA's debts;
- The financial expense ratio, and;
- the incorporation into the record of information that supports the Department's analysis.

Id. at 3. Petitioners then address each of these issues in detail.

First, with respect to the basis for the original antidumping duty investigation, petitioners note that there are a number of factors involved in the calculation of a dumping margin and that the peso devaluation and debt experienced by TAMSA during the investigation is "not close to being 'the most important factor' that led to dumping in the original investigation." Id. Petitioners contend that the prices and the material costs of subject merchandise are ordinarily the most important factors in a dumping determination. Id. at 3-4. Petitioners further state that the Department's analysis in the remand determination showed that the primary reason for the drop in the interest expense rate after the investigation was due to an increase in the cost of goods sold, not TAMSA's level of debt and the peso devaluation. Id. at 4. Moreover, petitioners note that the interest expense ratio used by the Department in the investigation did not use the full-year 1994 expenses, which would have captured a much larger peso devaluation. Thus, TAMSA's claim that the largest portion of the peso devaluation occurred during the POI is incorrect. Id. at 4-5.

Next, petitioners take issue with TAMSA's statement that the Department's redetermination did not make clear whether TAMSA reduced its indebtedness during the sunset period. Id. at 5. On the contrary, according to petitioners, the Department's determination and analysis "could hardly be clearer." Id. Petitioners then cite to the Department's Attachment 1 of the draft redetermination and recite the short- and long-term debt figures listed there. Id. at 5-6. Petitioners note that TAMSA takes issue with the Department's statement that TAMSA "allegedly" reduced debt during the sunset review period, and believe that the Department was referring to the fact that TAMSA claimed the existence of a large reduction of debt immediately after the investigation period when no such reduction appears to have occurred. Id. at 6.

Third, petitioners maintain that the Department's analysis of the financial expense ratio appears to be based on the Panel's instructions. Id.

Finally, in response to TAMSA's allegations that the Department "selectively" placed new information on the record, petitioners assert that the Department's actions are in response to the Panel's order. As the Panel did not request that the Department further examine TAMSA's export levels after the imposition of the order, the Department concentrated on those issued raised by the panel in its Second Decision.

Department's Position

With regard to petitioners suggestion that there is not "good cause" for the Department to consider the changes in TAMSA's foreign currency debt as part of the Department's "likelihood" determination, the Department notes the Panel's statement that "[t]he Department also appears to accept that TAMSA has shown 'good cause' to consider what role TAMSA's 'other factors' may have played in TAMSA's export practices during the sunset review period." See Second Decision at 4. In accordance with the Panel's instructions in the first order of remand, the Department considered these "other factors" under 19 U.S.C. § 1675a(c)(2). See First Decision at 24.[6]

[6] "The Panel considers that the Department's failure to consider TAMSA's 'other factors' conflicts with the mandate of the SAA and the statute that the Department conduct a thorough investigation to determine as accurately as possible whether upon revocation of the antidumping duty order, dumping would be likely to continue or recur." Id.

Petitioners also believe it "puzzling, as TAMSA claims, and the Panel maintains, that the appreciation of the peso against the dollar following the investigation would decrease the likelihood of dumping." See Petitioners' Case Brief at 6. Petitioners believe that a peso appreciation would result in an increase in the normal value used by the Department to calculate dumping, resulting in a likelihood of a margin or an increased margin. Petitioners are correct that, so long as a Mexican company such as TAMSA maintained consistent sales prices of subject merchandise in pesos, the translation to dollar figures for the calculation of normal value would result in a higher normal value when the peso is rising vis the dollar. All other things being equal, a rising peso might also result in a lower financial expense ratio, as exchange rate gains would offset expenses associated with debts. However, as petitioners point out in their rebuttal brief, "a myriad of factors affect the calculation of the dumping margin." See Petitioners Rebuttal Brief at 3.

With respect to TAMSA's arguments, the Department maintains that the legal standard governing the sunset determination is clear. As the Panel noted, the statute makes clear that the administering authority (i.e. the Department) shall revoke an order unless the administrating authority makes a determination that dumping would be likely to continue or recur. See First Decision at 6, quoting 19 U.S.C. § 1675(d)(2). The Panel notes that 19 U.S.C. § 1675a(c), concerning the determination of likelihood of continuance or recurrence of dumping, states that the administrating authority shall consider the weighted average dumping margins determined in the investigation and reviews, as well as the volume of imports of the subject merchandise before and after the issuance of an antidumping duty order. Id. at 6-7. The Panel also notes that the statute also states that the administrating authority will consider other factors if good cause is shown. Id. at 7. Finally, the Panel notes that the SAA clearly states "that the existence of dumping margins after the order or the cessation of imports after the order, is highly probative of the likelihood of continuation or recurrence of dumping." Id., quoting the SAA at 890. The Department's statutory obligations, and the probative value of the information on the record is therefore clear. The issue before the Panel is whether the Department's consideration of TAMSA's "other factors" indicates that these "other factors" outweigh the "highly probative" nature of the near cessation of imports after the imposition of the order.

With respect to TAMSA's other issues and questions, the Department will address each of these in turn. First, TAMSA states that "[i]f the Department maintains the view that the Mexican peso devaluation and TAMSA's level of indebtedness did not play a significant role in the original dumping determination, the Department should explain further the basis for such a rationale so that it can be assessed by the Panel." See TAMSA's Case Brief at 2-3. The findings in the investigation, however, are not at issue here. The Department's antidumping duty findings have already been affirmed by a separate bi-national panel under the NAFTA. See In the Matter of Oil Country Tubular Goods from Mexico, NAFTA Bi-national Panel, USA-MEX-95-1904-04 (July 31, 1996).

However, insofar as changes in conditions from the investigation to the sunset review period might indicate the likelihood of continued or the recurrence of dumping, the Department has already addressed this issue. As the Department stated above, the evidence is clear that peso devaluations, of a similar magnitude to the devaluation in the first half of 1994, at a time when TAMSA still held long-term debt, occurred after the investigation. See Redetermination on Remand at 27. The Department also noted that TAMSA could borrow again at any time to finance its operations. Thus, contrary to TAMSA's claims, these were not unique, one-time events, and may occur again in the future. Further, the Department has shown that the changes in the financial expense ratio between the investigation and the review periods were due primarily to changes in the cost of good sold, not on exchange rate losses. Finally, the Department demonstrated that there is no conclusive link to a finding of sales below cost and the finding of margins. Therefore, a peso devaluation coupled with long-term debts is not the primary factor in the likelihood of continuance or recurrence of dumping.

As to TAMSA's level of indebtedness, the Department has already stated that TAMSA's financial statements on the record indicate that TAMSA's long-term debts were eliminated by the end of 1999. See Redetermination on Remand at 20. TAMSA alleged that the combination of the peso devaluation at a time that it held long-term debts was a unique and one-time event that occurred only in 1994. By inference, since the Department has shown that peso devaluations of a similar or greater magnitude occurred after the first half of 1994,[7] in order for there not to be a repetition of the 'unique, one-time' event that occurred during the investigation, TAMSA must

[7] See Redetermination on Remand at 27-28.

not have had long-term debt after 1994. However, our analysis indicates that TAMSA did in fact possess long-term debt until 1999. See Attachment 1. Therefore, TAMSA's elimination of long-term debt did not occur until some five years after the investigation.

Concerning the financial expense ratio, TAMSA asks why the Department recalculated the ratio. As stated above on page 11, the Department recalculated the expense net of exchange rate gains and losses in order to determine the relationship between the exchange gains and losses and the changes in the financial expense ratio between the investigation and periods of review. As stated on page 12, the Department found that the major reason for the change in the financial expense ratio was due to the change in the cost of goods sold and not, as TAMSA claimed, due to changes in the exchange rate gains and losses.

Finally, TAMSA states that the Department "has chosen to incorporate into the record certain information" in a selective matter. See TAMSA's Case Brief at 3-4. Specifically, TAMSA states that the Department included information regarding TAMSA's debt levels, but did not include information regarding TAMSA's reduction in export volumes to the United States. The Department placed this information on the record in response to the Panel's directive in the Second Decision. The Panel stated that the Department placed evidence on the record regarding the peso exchange rate movements during the sunset review period, but provided "no comparable data with respect to the decline in TAMSA's U.S. dollar-denominated debt." See Second Decision at 5. Furthermore, in discussing the Redetermination on Remand, the Panel stated that the Department's analysis in that redetermination "did not take into account the magnitude of the decrease in TAMSA's dollar-denominated debt and the resulting dramatically lowered financial expense ratio." Id. The Panel did not question the Department's analysis in the first redetermination of the decrease in imports during the sunset review period. See Redetermination on Remand at 26. Therefore, in the instant remand, the Department's analysis centered on the questions of the levels of long-term debt held by TAMSA after the investigation, as well as the changes in the financial expense ratio. The information used to supplement the record addresses these issues.

The Department notes that TAMSA has had adequate opportunity to supplement the record in this proceeding. See Letter to All Interested Parties, February 18, 2005, soliciting information from parties with respect to the "other factors" raised by TAMSA. TAMSA selectively included information from its various financial reports throughout this proceeding,[8] but chose not to supplement the record further with respect to export levels.

The Department's response to the Panel in this redetermination is consistent with the Panel's requests and answers the Panel's questions with respect to TAMSA's long-term debt and the changes in the financial expense ratio during the sunset review period. TAMSA has presented no information in its brief to counter the Department's analysis that there is no link

[8] See, e.g., Letter from White & Case to the Department of Commerce, Oil Country Tubular Goods ("OCTG") from Mexico; Final Results of Sunset Review of Antidumping Duty Order: Second Comments on Draft Remand Determination, May 3, 2005. Attachment 3 contains only partial financial reports.

between the absence of a claimed 'unique, one-time' peso devaluation during the sunset review period and an absence of a finding of dumping.

Conclusion

In conclusion, TAMSA has not demonstrated that these "other factors" should change the Department's likelihood determination. TAMSA's line of reasoning that a peso devaluation similar to that which occurred during the investigation (which was supposedly unique to the investigation) would lead to a significant increase in the financial expense ratio, which would lead to higher COP, leading to a subsequent finding of sales below cost and possible comparison of U.S. sales to constructed value, and finally leading to a dumping margin, has been proven false. On the contrary, as established in the first redetermination and above, there is no exclusive correlation between its "other factors" and continued dumping. However, it is clear that TAMSA's exports of OCTG to the United States declined significantly after the imposition of the order.[9] The statute and the SAA clearly state that a cessation of imports after the imposition of an order is highly probative of the likelihood of continuation or recurrence of dumping. Therefore, the Department, based on all of the evidence on the record, finds that the revocation of this Order would likely lead to a continuation or recurrence of dumping.

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[9] The Department's determination that TAMSA did not export subject merchandise to the United States in commercial quantities was upheld by a separate bi-national Panel under the NAFTA. See In the Matter of Oil Country Tubular Goods from Mexico: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke, USA-MEX-01-1904-05 (January 27, 2006).

If the Panel affirms this redetermination, we will publish a notice in the Federal Register in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. §1675(a)(1)).

____
David M. Spooner
Assistant Secretary
for Import Administration

____
(Date)

TAMSA Debt and Equity

In Thousands of Mexican Pesos

	1993	1994**	1994	1995	1996	1997	1998	1999
Short-term debt	839,476	815,654	1,088,202	1,346,817	887,824	378,080	1,121,495	1,113,173
Long-term debt	690,392	583,506	1,152,972	2,120,717	986,988	1,057,096	493,250	-
TOTAL DEBT	1,529,868	1,399,160	2,241,174	3,467,534	1,874,812	1,435,176	1,614,745	1,113,173
Capital stock	2,806,492	4,749,469	4,919,404	5,830,487	5,830,487	8,166,844	8,151,835	8,894,085
APIC	1,789,027	2,453,425	2,948,609	3,716,509	3,716,509	5,113,108	5,130,082	5,816,281
TOTAL EQUITY	4,595,519	7,202,894	7,868,013	9,546,996	9,546,996	13,279,952	13,281,917	14,710,366
TOTAL DEBT and EQUITY	6,125,387	8,602,054	10,109,187	13,014,530	11,421,808	14,715,128	14,896,662	15,823,539

** TAMSA failed to provide their 1994 annual audited financial statements; thus this information is based on the 2nd quarter 1994 financial statements submitted at exhibit 37 of the 3/3/95 section D response.

References:

1993 figures from exhibit D-8 of the 2/1/1995 section D submission from the Investigation.
June 30, 1994 figures from exhibit E-37 of the 3/3/1995 supplemental section D submission from the Investigation.
Annual 1994 figures from attachment 1 to petitioner's 5/9/1995 Case Brief in the Investigation.
1995 to 1999 figures from TAMSA's 5/3/2005 response in NAFTA for the 2000 sunset review.
We note that the pertinent excerpts of the above referenced submission/exhibits were placed on the record of the sunset review on February 28, 2006. See the Department's Letter to Interested Parties dated February 28, 2006.

Analysis of Financial Expense Rates
In Thousands of Mexican Pesos
Annual figures

	Formula	1994	1997	1998	1999
Interest and financing expense, net	a	151,824	155,713	237,395	99,531
COGS	b	783,626	4,490,178	4,029,211	2,994,677
Financial Expense Rate*	a/b	**19.37%**	**3.47%**	**5.89%**	**3.32%**

*Excludes (loss) gain on net monetary position and net foreign exchange (loss) gain.

References:
1994 figures from petitioners' 5/9/1995 submission placed on the record of the Investigation.
1997 to 1999 figures from cost verification exhibit 4 obtained in the 4th administrative review (98-99 review).
We note that the pertinent excerpts of the above referenced submission/exhibits were placed on the record of the sunset review on February 28, 2006. See the Department's Letter to Interested Parties dated February 28, 2006.