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A-357-810
Section 129 Determination
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MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Stephen Claeys
Deputy Assistant Secretary
for AD/CVD Operations

SUBJECT: Section 129 Determination: Final Results of Sunset Review, Oil
Country Tubular Goods from Argentina

Summary

Consistent with the WTO Panel (the Panel) and Appellate Body findings,¹ we have analyzed whether revocation of the antidumping duty order on oil country tubular goods (OCTG) from Argentina would be likely to lead to continuation or recurrence of dumping. As discussed in detail below, we solicited and considered information and argument from domestic and respondent interested parties for the same period at issue in our original sunset review, 1995-2000. Based upon this information and argument, as well as findings on import volumes during 1995-2000 from the original sunset review, we continue to find that revocation of the order would be likely to lead to continuation or recurrence of dumping.

Background

On November 7, 2000, the Department published the final results of sunset review of the antidumping duty order on oil country tubular goods from Argentina.² Based on the continued collection of dumping duties on entries of subject merchandise and the significant decrease of import volumes after the imposition of the order, the Department concluded that revocation of the order would be likely to lead to continuation or recurrence of dumping.

The WTO panel in its report (*Panel Report*), found that the Department's original determination of dumping could not by itself represent a sufficient factual basis for concluding that dumping continued during the life of the order.³ The Panel also found that the fact that dumping duties

¹ *United States – Sunset Reviews of Anti-dumping Measures on Oil Country Tubular Goods from Argentina*, WT/DS268/R (July 16, 2004) and WT/DS268/AB/R (November 29, 2004), respectively.

² See *Notice of Final Results of Expedited Sunset Reviews: Oil Country Tubular Goods from Argentina, Italy, Japan, and Korea*, 65 Fed. Reg. 66701 (November 7, 2000) and accompanying Issues and Decision Memorandum (“Final Results Memorandum”).

³ *Panel Report*, para. 7.219.

continued to be collected on imports over the life of the order did not represent “an adequate factual basis for the proposition that dumping continued” during the period 1995-2000.⁴ The Panel also concluded that application of the “deemed waiver” provisions to Argentine exporters other than Siderca “invalidated” the Department’s order-wide likelihood determination.⁵ The United States did not appeal the Panel’s findings concerning whether an original determination of dumping or continued collection of antidumping duties provided an adequate factual basis for finding likelihood, but did appeal the Panel’s conclusions concerning the Department’s waiver provisions. The Appellate Body affirmed the Panel’s conclusions concerning the waiver provisions and the Panel and Appellate Body reports⁶ were adopted December 17, 2004.

On January 14, 2005, the United States notified the WTO Dispute Settlement Body of its intention to implement the Panel and Appellate Body reports. An arbitrator subsequently determined that 12 months, *i.e.*, until December 17, 2005, was a “reasonable period of time” for the United States to implement the Panel and Appellate Body rulings.⁷ Accordingly, the Department revised its sunset regulations to address, *inter alia*, the Panel and Appellate Body rulings concerning waiver.⁸ The regulations are effective for sunset reviews initiated on or after October 31, 2005. On November 2, 2005, the Department then initiated this Section 129 review to address the Panel’s findings concerning the Department’s likelihood determination. *See* November 2, 2005 letters to Siderca S.A.I.C., Acindar Industria Argentina de Aceros S.A., and Tubhier, S.A.

On October 31, 2005, the Department requested information from Argentine OCTG producers Tubhier, Acindar, and Siderca.⁹ For the period 1995-2000 (the period of the original sunset review), the Department requested, *inter alia*, financial statements, cost of production information for OCTG, and production and shipment volumes. Acindar and Siderca submitted their responses on November 30, 2005. That day, the Embassy of the Argentine Republic in Washington D.C., also submitted a response on behalf of Tubhier. Tubhier reported that it did not ship OCTG to the United States during the original sunset review period and did not intend to ship to the United States in the future. We confirmed with U.S. Customs and Border Protection (CBP) that there were no imports from Tubhier during the original sunset review period.

⁴ *Panel Report*, para. 7.220. The Panel did not rule on the Department’s findings that a significant decline in import volumes following the imposition of the order also supported a determination of likelihood of continuation or recurrence of dumping if that order were revoked. *See Panel Report*, para. 7.221.

⁵ *Panel Report*, para. 7.222.

⁶ *Appellate Body Report*, WT/DS268/AB/R (29 November 2004).

⁷ *Award of the Arbitrator*, WT/DS268/12 (7 June 2005).

⁸ *Procedures for Conducting Five-Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders*, 70 Fed. Reg. 62061 (October 28, 2005).

⁹ In response to a request for assistance from the Department, the Embassy of the Argentine Republic identified Tubhier, S.A. (Tubhier), Acindar, S.A. (Acindar), and Siderca, S.A.I.C. (Siderca) as Argentine OCTG producers. *See* letter of Alejandro Casiro, Minister of the Embassy of the Argentine Republic, to Richard Weible, dated October 28, 2005, found in Appendix I of the Department’s November 22, 2005 memorandum to the file.

Domestic interested party United States Steel Corporation (U.S. Steel) filed comments on November 30, 2005. Siderca filed a rebuttal to U.S. Steel's comments on December 7, 2005. A second domestic interested party, IPSCO Tubulars, Inc. (IPSCO), filed comments on the respondent interested parties' submissions on December 8, 2005. Siderca and Acindar both submitted rebuttals to IPSCO's submission on December 14, 2005. The Department also has included information and argument submitted by domestic and respondent interested parties in the original sunset review on the administrative record of this Section 129 Determination.

Our analysis of the information on the administrative record and the results of this sunset review are described below. The issues raised in the comments submitted by the parties concerning the Section 129 Determination are also addressed below. The Department did not hold a hearing for the Section 129 Determination because none was requested. In addition, waiver of participation by respondent interested parties is not an issue in the Section 129 Determination because we received submissions from the three identified Argentine producers.

Comments from Domestic Interested Parties

U.S. Steel argues that the Department should calculate a margin for Siderca by comparing Siderca's reported cost data to Siderca's export sales to third countries; such a margin, U.S. Steel contends, would be used to determine whether the company was dumping on a global basis during the POR. U.S. Steel submitted the average unit values (AUVs) of Siderca's exports to third countries during the 1998 through 2000 period with its November 30, 2005, comments.

U.S. Steel also argues that Siderca's financial statement for fiscal year 2000 reports significant losses during that period. U.S. Steel argues that these losses could only have arisen from Siderca's export sales since Siderca's home market was not viable during the period of the Department's original investigation (*i.e.*, January 1 - June 30, 1994). Moreover, nothing on the record, U.S. Steel avers, indicates there has been any significant change in the size of Siderca's home market since the original investigation. U.S. Steel maintains that these export sales consisted predominantly of OCTG as Siderca's financial statement attributes the company's losses to "the effects of the drastic fall in world demand for tubes for the oil industry, caused by the fall in oil prices and shrinking steel markets." *See* U.S. Steel's November 30, 2005, submission at 6, citing Siderca's 2000 financial statement at 13. U.S. Steel concludes from this information that Siderca was dumping on a global basis in fiscal 2000. Because this is the most recently completed fiscal year before the end of the sunset period, U.S. Steel contends, this is the most probative evidence as to the likelihood of Siderca's dumping the subject merchandise in the United States had the order been revoked in 2000. *Id.* at 7. U.S. Steel also argues that Siderca ceased shipping OCTG to the United States following imposition of the order, providing further evidence that Siderca could not ship to the United States without dumping. *See* U.S. Steel's November 30, 2005, submission at 7.

With respect to Acindar, U.S. Steel argues that the Department should compare Acindar's reported costs to the AUVs reported by CBP for Argentine exports to the United States during

the POR. The list of these exports is contained in the Department's November 22, 2005, Memorandum to the File at Appendix II. U.S. Steel's additional comments regarding Acindar are based on business proprietary information concerning Acindar and were not susceptible to public summary. However, counsel for Siderca and the Government of Argentina had access to the data under Administrative Protective Order and rebutted U.S. Steel's comments in a December 7, 2005 submission.

IPSCO also argues that the Department should find that the revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping. IPSCO notes that there are significant deficiencies in the data that both Acindar and Siderca submitted in response to the Department's October 31, 2005, questionnaire. Moreover, IPSCO contends, Siderca's attempt to reconstruct its cost data fails to provide information upon which the Department can rely in making its determination. According to IPSCO, Siderca's use of sales volumes, rather than production volumes, in calculating per-unit production costs is flawed because the two volume amounts may differ significantly for various reasons. For instance, IPSCO argues, Siderca may sell from pre-POR inventory, or it may sell OCTG produced by other parties. Per-unit production costs, IPSCO concludes, would then be inaccurate for the POR. IPSCO argues that the Department should fill in gaps in the data submitted by Acindar and Siderca with information adverse to the parties.

Comments from Respondent Interested Parties

Siderca argues that the ten product categories for which the Department requested cost information are so broad they are incapable of supporting a conclusion of whether dumping would be likely to continue or recur. Siderca also contends that the classification system which forms the basis of the export AUVs U.S. Steel included in its November 30, 2005, submission does not correspond to the Department's ten product categories. Siderca contends that no valid comparison can be made by comparing the cost data from the ten product categories with U.S. Steel's submitted export data.

According to Siderca, a valid comparison can be made only on a like product level, *i.e.*, all OCTG. Siderca asserts that this comparison between Siderca's costs and the average prices of all export sales (as given by its sales statistics for the period) contradicts U.S. Steel's assertion that Siderca's selling prices were below its costs. According to Siderca, the Department would find that Siderca's selling prices were above its costs if Siderca's average costs were compared with the average U.S. selling prices as drawn from Preston Publishing's pricing data.¹⁰ Even if the

¹⁰ The Preston Pipe & Tube Report is issued by the Preston Publishing Company, Inc. (Preston Publishing), which was created in 1980 by industry expert Douglass P. Yadon. The report tracks markets for steel pipe & tube, including oil country tubular goods. It is not a buyer, seller, or manufacturer of steel pipe & tube. The Department is using Preston Pipe & Tube Report oil country tubular goods price information; these prices represent the average transaction price (by weighted-average value) for the designated products. These prices are a combination of both domestic and import shipments. The domestic prices include both contract and spot market values and are first point of sale (FOB mill). Import values are calculated CIF, duty paid from official CBP declarations. Import prices may lag behind domestic values by a minimum delay of 90 days due to shipment times. All values are in U.S. dollars per net ton. Land freight has not been included. *See*

Department compares Siderca's reported prices to U.S. Steel's reported AUV export data, Siderca argues, the results would again show that the export prices are above cost. Siderca also disputes U.S. Steel's contention that Siderca is a "global dumper," asking how, if that were the case, it could stay in business. According to Siderca, U.S. Steel has not based this allegation on any type of price comparison that would be recognized under U.S. law or the WTO Antidumping Agreement as constituting a finding of "dumping."

Siderca also challenges the factual bases of U.S. Steel's arguments. Siderca suggests that, contrary to U.S. Steel's claim, OCTG accounted for less than half of Siderca's sales in fiscal year 2000. Siderca also disputes U.S. Steel's argument that, because Siderca's home market was not viable, the company's losses reported on its financial statement are attributable to exports. Siderca argues that home market viability is a concept created by the Department and contingent upon its date of sale determination. Thus, Siderca contends, it may or may not reflect the sales revenue a company records in its books for a given period. According to Siderca, U.S. Steel was selective in the information it used from Siderca's financial statements. Although fiscal 2000 was a period in which the global OCTG market was depressed, Siderca argues, its financial statements show that, in this period, its production facility performed at its maximum efficiency and recorded its lowest production costs. Furthermore, Siderca contends, its financial statement for the fiscal 2000 shows profitability increasing, and links this increase with the recovery in the oil and gas sector that was already underway. Finally, with respect to U.S. Steel's argument that future dumping can be inferred from Siderca's having ceased shipping to the United States after the order was imposed, Siderca argues that such an inference lacks factual basis and is, therefore, inconsistent with the obligations of Article 11.3 of the WTO Antidumping Agreement.

Siderca also addresses U.S. Steel's allegation that Acindar would likely dump if the antidumping duty order were revoked. Siderca argues that Acindar is not a major producer of OCTG, focusing instead on steel long products. Thus, Siderca asserts, the assumptions and inferences that U.S. Steel draws from Acindar's financial statement are extremely weak. Siderca argues that Acindar's OCTG production was never more than one percent of its total output. Thus, Siderca argues, no conclusions can be drawn from the financial statements with respect to such product.

In its December 14, 2005, submission, Siderca argues that nothing in IPSCO's submission justifies its conclusion that the Department should fill in the gaps and issue an affirmative likelihood determination in this proceeding. Siderca contends that there is no reason for it to have anticipated that the Department would require product category-specific costs for the sunset period. Moreover, IPSCO is mistaken that Siderca's reported costs are inaccurate because they are based on sales quantities rather than production quantities. The difference between the two quantities, Siderca argues, are not of a magnitude that could cause any serious distortions in the production costs; instead, Siderca argues, the vast majority of products sold was merchandise that

<http://www.prestonpipe.com/AboutUs.htm> (copy attached to Memorandum to the File, dated December 16, 2005). The data from Preston Publishing are on the administrative record of the Section 129 Determination at Appendix III of the Memorandum to the File, dated November 22, 2005.

it produced. Furthermore, Siderca contends the ratio of inventory levels to sales and cost of sales remained steady throughout the period, and beginning inventory of finished products for each year was within the range of 9-12 percent of the value of cost of goods sold. Siderca and Acindar also argue that U.S. Steel and IPSCO's treatment of information as business proprietary information hindered their abilities to respond effectively.

In its December 14, 2005, submission, Acindar argues that its total production of the subject merchandise is very small, and even irrelevant, in relation to its total production. It states that during fiscal years 1998, 1999, and 2000, OCTG production represented, respectively, less than 0.1 percent, 0.2 percent, and 0.5 percent of total production. Acindar argues that it does not presently have product-specific cost information in the form requested in the questionnaire for the sunset period because the information does not relate to accounting information which it is required to maintain under Argentine law, and because of the age of the information (five to ten years old). Moreover, Acindar contends, because OCTG had never been more than a marginal product for Acindar, not accounting for more than 0.5 percent of Acindar's production in any fiscal year, there was no business or commercial reason to have maintained it. Acindar notes that it never received any notification of the original sunset review in 2000-2001, was not investigated in the original investigation, and did not produce OCTG before 1998.

Analysis

As noted above, the Panel concluded that the Department's original determination of dumping by itself could not represent a sufficient factual basis for concluding that dumping continued during the life of the order.¹¹ The Panel also found that the fact that dumping duties continued to be collected on imports over the life of the order did not represent "an adequate factual basis for the proposition that dumping continued" during the period 1995-2000.¹² To address the Panel's findings and in making our likelihood determination, we collected and analyzed data – for the original sunset review period, 1995-2000 – regarding the Argentine OCTG producers' cost and pricing and U.S. OCTG prices, the Argentine producers' financial statuses, and general market conditions prevalent in the U.S. and global markets. In making our likelihood determination, we also relied on our previous finding regarding the volume of imports of subject merchandise for the period before and the period after the issuance of the antidumping duty order. For the reasons set forth below, the Department determines that revocation of the antidumping duty order on OCTG from Argentina would be likely to lead to continuation or recurrence of dumping.

With respect to Acindar, we find that its submission failed to include any data adequate to calculate costs for the subject merchandise. Acindar claimed that it no longer has the product-

¹¹ *Panel Report*, para. 7.219.

¹² *Panel Report*, para. 7.220. The Panel did not rule on the Department's findings that a significant decline in import volumes following the imposition of the order also supported a determination of likelihood of continuation or recurrence of dumping if that order were revoked. *See Panel Report*, para. 7.221.

specific cost information in the form the Department requested¹³ and, therefore, is unable to provide the requested cost data specific to OCTG sales during the period August 1, 1995, through July 31, 2000. *See* Acindar's November 30, 2005, submission at 1. The Department did, however, have access to Acindar's financial statements which included some summary cost data. *See* Acindar's 2000 financial statement found in U.S. Steel's November 30, 2005, submission at exhibit 5. These data were for the category "tubes, pipes, and structural products." *Id.*, at note 24. Although this category includes the merchandise under review, it also includes other merchandise which is not subject to the review. We are unable to segregate subject from non-subject merchandise. Hence we find this category to be too broad for calculating a meaningful cost/price trend analysis for purposes of this sunset review. The inclusion of costs related to the merchandise not subject to review would distort our analysis.

Although we do not have usable cost data for Acindar, we do have usable price data. Specifically, we are able to compare Acindar's U.S. selling prices during the original sunset review period with prevailing market prices in the United States during that same period. CBP provided the Department with a list of shipments of subject merchandise that entered U.S. Customs territory during the original sunset review period. This list includes, *inter alia*, the values and quantities of Acindar's entries.¹⁴ The data establish that Acindar shipped subject merchandise to the United States beginning in 1998, and continued to ship subject merchandise to the United States for the rest of the original sunset review period. Acindar confirmed the existence of these shipments in its November 30, 2005, submission. *See* Acindar's November 30, 2005, submission at 2.

The Department compared the unit prices of specific types of Acindar's U.S. OCTG shipments to the average prices for the corresponding OCTG sold in the United States during these years.¹⁵ This comparison, which includes Acindar's business proprietary information, is set forth in the memorandum to the file dated December 16, 2005. Our analysis indicates that Acindar's U.S. selling prices during the sunset period were substantially lower than prevailing U.S. market prices for the corresponding OCTG products. Based upon the foregoing, and in the absence of usable cost data from Acindar, we find that Acindar likely was dumping subject OCTG during the original sunset review period. Moreover, these Acindar sales occurred at a time when Acindar was showing losses on its financial statement; the financial statements of other significant OCTG producers, such as Siderca, Lone Star, Maverick, and North Star also were showing losses. (*See* the financial statement of Siderca in Siderca's November 30, 2005, submission, and the financial statements of Lone Star, Maverick, and North Star as set forth in the memorandum to the file dated December 16, 2005.) These losses are an indication that the OCTG market was depressed. The combination of Acindar selling in the United States at below

¹³ Respondent Siderca made the same claim, but nonetheless provided estimated data. The Department is unable to determine whether Acindar could have done the same.

¹⁴ This list is on the record of this proceeding at Appendix II of the Department's Memorandum to the File dated November 22, 2005.

¹⁵ *See* data from Preston Publishing on the administrative record of the Section 129 Determination at Appendix III of the Memorandum to the File, dated November 22, 2005.

market prices at the end of the sunset period and the depressed OCTG market indicates that Acindar likely was dumping significantly in the U.S. market.

We note that Acindar's U.S. sales of OCTG occurred shortly before the end of the original sunset review period. Absent evidence that Acindar intended to cease selling in the United States, and absent evidence that prevailing market conditions were likely to improve in the near future, we consider such sales indicative of Acindar's likely future pricing behavior were the order to be revoked. Moreover, as discussed below, Acindar's marketing strategy suggests that it would continue to sell in the United States after the end of the original sunset review period. *See* Acindar's 2000 financial statement found in Petitioner's November 30, 2005, submission at exhibit 5, page 12.

With respect to Siderca, in response to our October 31, 2005, questionnaire, the company claimed it no longer possessed the information the Department requested, but nonetheless performed a calculation to estimate the requested costs. *See* Siderca's November 30, 2005, submission at attachments 2 and 3. Using its present experience during a single month (October 2005), Siderca sought to allocate its historical costs during the 1995 - 2000 period to specific types of OCTG. Although Siderca attempted to cooperate with the Department's request for information, upon analysis of Siderca's calculations, we have identified significant problems with its allocation of costs, with respect to both OCTG production and all tubular production.

As an initial matter, we find that the estimated product cost data Siderca submitted are inconsistent with other product cost data for steel products. Specifically, in comparing similar types of OCTG, Siderca has reported lower costs for certain products that require additional materials, processing, and testing, as compared to costs for products that do not require such additional materials, processing, and testing. A complete discussion of these discrepancies necessitates discussion of Siderca's business proprietary information; for specific examples, *see* the Department's Memorandum to the File dated December 16, 2005. Such counter-intuitive cost data undercut the overall credibility of the data in Siderca's response. In addition, Siderca's cost calculations for non-OCTG products are problematic because their costs significantly exceed OCTG costs. The products included in this product grouping are line pipe, standard pipe, structural tubing, mechanical tubing, and pressure pipe. The costs for the specific products in this group can vary greatly but, in aggregate, we would expect that they not exceed the costs for the specific noted OCTG product groupings because the majority of tubular demand is in the lower value products such as line pipe, standard pipe, and structural tubing.

The categories which defined our product groupings in this determination were, of necessity, broad. They do, however, reflect three significant characteristics that serve to determine price in the market (*i.e.*, seamless v. welded, carbon v. alloy, and casing v. tubing v. drill pipe). Furthermore, we made our comparison of Acindar's sales, discussed above, based on identical matches of these characteristics. Available information does not enable us to make comparisons on a more specific basis; nor are we obligated to perform a product-specific dumping analysis *de novo* in reaching our likelihood determination. Siderca's proposal to use all OCTG to compare

its costs to the average prices of export sales is even less specific and overly broad and would not assist in our likelihood analysis because the extreme cost and price differences in the various types and grades would not be reflected.

We also find methodological discrepancies with the estimates submitted by Siderca. The estimates for all years were based on Siderca's "operational cost reports." *See* Siderca's November 30, 2005, submission at attachment 4. As Siderca acknowledges, these cost reports were not product-specific. Rather, these reports provide only a summary detail of "the operational costs of the major product lines of the plant on which the production occurs." *Id.* From this statement it is unclear exactly how broad a product category Siderca has used in estimating its cost data. As a result, we are unable to rely on the data for a likelihood analysis regarding OCTG.

Given the unreliability of the cost information provided by Siderca and the fact that Siderca had no U.S. sales of OCTG during the original sunset review period, we make no findings regarding specific instances of likely dumping by Siderca during the original sunset review period. However, for both Siderca and Acindar, we have financial statements from the original sunset review period that provide information on the financial statuses of these companies. This information establishes that the global OCTG market was depressed during a significant portion of the original sunset review period which suggests that prices would continue to be low after the sunset period.

We disagree with Siderca's assertion that the company financial statements of Siderca and Acindar are not relevant for our likelihood analysis. Financial statements provide a good understanding of the status of the entire company, and reflect the company's overall selling practices. Taken together, these data are relevant indicators of likely future pricing trends.

For example, Siderca's fiscal year 2000 financial statement¹⁶ indicates:

- Sales for fiscal 2000 were 25 percent lower than during the previous fiscal year, reflecting the effects of the drastic fall in world demand for tubes for the oil industry.
- Operating results were a loss of \$27 million in fiscal 2000, constituting six percent of sales revenue for the year. The prior year Siderca had recorded a profit of \$28 million.
- During fiscal 2000 Siderca ended with a loss of \$39 million, compared to a profit of \$86 million the previous year.

¹⁶ Siderca's fiscal 2000 financial statement covers the period April 1999 through March 2000, *i.e.*, a period within the original sunset review period.

Given the weakened condition of Siderca at the end of the original sunset review period, we consider that there was no valid indication that a sudden turn-around in the OCTG market was likely.

In addition, Acindar's fiscal year 2000 financial statement¹⁷ indicates:

- Fiscal 1999 net sales were 16.8 percent lower than fiscal 1998; sales for fiscal 2000 fell another 11.8 percent from fiscal 1999.
- Cost of sales, administrative and selling expenses, and depreciation and amortization, as a percentage of net sales, all increased in fiscal 1999 compared to fiscal 1998 levels, and increased again in fiscal 2000 from 1999 levels.
- Operating income decreased from 12.5 percent in fiscal 1998 to 3.8 percent in 1999, and to 0.3 percent in 2000.
- Acindar suffered losses of Argentine pesos (Ps.) 28.3 million in fiscal 1999, and of Ps. 96.9 million in fiscal 2000. These losses contrast markedly with the Ps. 38 million profit Acindar reported for fiscal 1998.

Given the weakened condition of Acindar during the original sunset review period, including substantial losses during fiscal 1999 and 2000, we find it likely that Acindar's U.S. sales of OCTG during the original sunset review period were at dumped prices. As discussed above, we find that Acindar's U.S. AUVs were far below market prices when most producers were losing money. Even if, as Siderca now alleges, Acindar's production of OCTG during the sunset period represented only a short-lived experiment, Acindar was, in fact, shipping and selling OCTG in the United States during the original sunset review period, 1995-2000. Thus, its shipments and pricing of merchandise subject to the dumping order, and the implications for likelihood of continued shipping and selling at dumped prices if the order were revoked subsequent to the original sunset review period, are relevant to the Section 129 Determination. (See Acindar's December 14, 2005, submission, confirming shipments during the original sunset review period.) Accepting, *arguendo*, Siderca's argument that Acindar's OCTG production was a very small portion of its overall production, nothing on the record indicates any intention on the part of Acindar to absent itself from the world OCTG market during the sunset period. Given this, combined with the high likelihood that Acindar dumped at the end of the sunset period, we find (contrary to the implications of Siderca's argument) that Acindar was likely to continue selling in the United States at dumped prices if the order were revoked.

We find additional support for this conclusion from a statement in Acindar's 2000 financial statement regarding its marketing strategy. Acindar states, "Acindar's strategy has been and will

¹⁷ See Acindar's 2000 financial statement at pages 35 and 36, found in Petitioner's November 30, 2005, submission at Exhibit 5. All data are drawn from Acindar's fiscal years, which run from July through June.

continue to be to focus on the Argentine market *while using the export market to stabilize its overall sales volume during periods of slowdown in domestic economic activity.*” See Acindar’s 2000 financial statement at 12 (emphasis added). In other words, Acindar planned to continue export sales in order to maintain its sales volumes. The United States is the world’s largest market for OCTG. See the financial statements of Lone Star, Maverick, and North Star as set forth in the memorandum to the file dated December 16, 2005. We have no evidence from Acindar itself that it planned to exit the U.S. market after the original sunset review period. We also note that the ITC’s finding that OCTG producers had incentive to devote more of their productive capacity to producing and shipping more to the U.S. market was sustained by the Appellate Body.¹⁸

In assessing likelihood, we also rely on our previous finding regarding the volume of imports of subject merchandise for the period before and the period after the issuance of the antidumping duty order. In the original sunset review, we found that after imposition of the order, import volumes significantly decreased from pre-order levels.¹⁹ Declining import volumes after, and apparently resulting from, imposition of an antidumping duty order indicate that exporters would need to dump to sell at pre-order levels.

Conclusion

For the above reasons, and based on the totality of the evidence on the record of the Section 129 Determination, we find that there is likelihood of continuation or recurrence of dumping had the antidumping duty order on OCTG from Argentina been revoked in 2000, *i.e.*, at the end of the original sunset review period.

Agree

Disagree

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

December 16, 2005

Date

¹⁸ *Appellate Body Report*, paras. 330-342.

¹⁹ See *Final Results Memorandum*, Section on Likelihood of Continuation or Recurrence of Dumping, Department’s Position.