

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-860 (Final) (Third Remand)

TIN- AND CHROMIUM-COATED STEEL SHEET FROM JAPAN

AGENCY: United States International Trade Commission.

ACTION: Notice of remand proceedings.

SUMMARY: The United States International Trade Commission (Commission) hereby gives notice of the court-ordered remand of its second remand determination in the antidumping Investigation No. 731-TA-860 concerning tin- and chromium-coated steel sheet from Japan.

EFFECTIVE DATE: [Date signed by Secretary]

FOR FURTHER INFORMATION CONTACT: Douglas Corkran, Office of Investigations, telephone 202-205-3057, or Neal J. Reynolds, Office of General Counsel, telephone 202-205-3093, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

**Background**

In August 2000, the Commission made an affirmative determination in its antidumping duty investigation concerning tin- and chromium-coated steel sheet from Japan. *Tin- and Chromium-coated Steel Sheet from Japan*, Inv. No. 731-TA-860 (Final), USITC Pub. 3337 (Aug. 2000). The Commission's determination was appealed to the U.S. Court of International Trade (CIT). On December 31, 2001, the CIT remanded the matter to the Commission for further proceedings. *Nippon Steel Corp. v. United States*, 182 F.Supp.2d 1330 (Ct. Int'l Trade 2001).

On remand, the Commission conducted further proceedings and, in March 2002, reached an affirmative determination on remand. *Tin- and Chromium-coated Steel Sheet from Japan*, Inv. No. 731-TA-860, Pub No. 3493 (Final)(Remand)(March 2002). On August 9, 2002, the CIT issued an opinion vacating the Commission's affirmative remand determination and directing the Commission to enter a negative determination. *Nippon Steel Corp. v. United States*, 223 F. Supp.2d 1349 (Ct. Int'l Trade 2002)(*"Nippon II"*). The Commission appealed the CIT's decision in *Nippon II* to the Federal Circuit on October 11, 2002.

On October 3, 2003, the Federal Circuit vacated the CIT's decision in *Nippon II* and directed the CIT to remand the Commission's determination for further explanation and analysis.<sup>1</sup> *Nippon Steel*

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<sup>1</sup>*Nippon III* at 5.

*Corp. v. United States*, 345 F.3d 1379 (Fed. Cir. 2003) (*Nippon III*). In *Nippon III*, The Federal Circuit held that the Court went “beyond its statutorily assigned role to ‘review’” to the extent that it engaged in finding facts, determined witness credibility, and interposed its own determinations on causation and material injury itself. The Federal Circuit directed the CIT to remand the determination to the Commission so that the Commission could “attend to all the points made by the Court of International Trade, especially those of [*Nippon II*] which the Commission has not yet had the opportunity to address.”

On February 23, 2004, the Commission issued its second remand determination on February 23, 2004. *Tin- and Chromium-coated Steel Sheet from Japan*, Inv. No. 731-TA-860, Pub No. 3674 (Final)(Second Remand)(Feb. 2004). The Commission again issued an affirmative injury determination. On October 14, 2004, the CIT issued an opinion discussing the Commission’s second remand determination and directing the Commission to enter a negative current injury determination and to issue a remand determination on the issue of threat. *Nippon Steel Corp. v. United States*, Slip op. 04-131 (Oct. 14, 2004).

### **Written Submissions**

The Commission is not reopening the record in this third remand proceeding for submission of new factual information. The Commission will, however, permit the parties to file written submissions limited to the issue of whether the domestic industry is threatened with material injury by reason of the subject imports of tin- and chromium-coated steel sheet from Japan. This submission must be filed with the Commission by November 15, 2004, shall not contain any new factual information, and shall not exceed 15 pages of textual material, double-spaced and single-sided, on stationery measuring 8½ x 11 inches.

All written submissions must conform with the provisions of section 201.8 of the Commission’s rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission’s rules, as amended, 67 Fed. Reg. 68036 (Nov. 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission’s rules, each document filed by a party to the remand proceeding must be served on all other parties to the remand proceeding and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Parties are also advised to consult the Commission’s Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission.

**Participation in the Proceedings**

Only those persons who were interested parties in the prior remand proceedings and are parties in the appeal may participate as parties in the third remand proceedings.

AUTHORITY: This action is taken under the authority of title VII of the Tariff Act of 1930 as amended.

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: November 5, 2004

