

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Imperial and all-others: 11.13 percent.<sup>9</sup> We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, while acknowledging that the Department normally will provide the Commission with the dumping margins from the original investigation, Hercules argues that, in the instant review, the Department, nevertheless, should report to the Commission a more recently calculated margin because Imperial increased its dumping in order to increase its market share in the United States. (See the July 1, 1999 Substantive Response of Hercules at 6-7.) In addition to supplying data, which tend to indicate that Imperial's market share in the United States has increased after the imposition of the order,<sup>10</sup> Hercules also claims that Imperial's market behavior of not raising its export prices,<sup>11</sup> after a higher dumping margin was imposed in the most recent administrative review,<sup>12</sup> suggests that Imperial intends to continue dumping at the recent, higher margins to hold onto or to increase its market share. *Id.* Therefore, Hercules urges, the Department should provide to the Commission the more recent, increased margin, because that margin is the better indicator of the Imperial's likely behavior in the event the order is revoked.

The Department disagrees with the Hercules' suggestion pertaining to the margin that is likely to prevail were the order to be revoked. In the Sunset Policy Bulletin, the Department indicated that when a company chooses to increase dumping in order to maintain or increase its market share, the Department may report a more recently calculated margin to the Commission. (See section II.B.2 of the Sunset Policy Bulletin.) In the instant case, however, the Department's latest finding of

increased weighted-average dumping margins of the subject merchandise did not coincide with increased import volumes or increased market share. In contrast, the largest import volume and highest market share of the subject merchandise were associated with the lowest dumping margin.<sup>13</sup> Therefore, the Department determines that it is inappropriate for the Department to report a more recently calculated rate to the Commission. Instead, because the margins from the original investigation accurately reflect the behavior of British producers and exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

#### Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Imperial Chemical Industries PLC ("Imperial") .....	11.13
All Others .....	11.13

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

<sup>13</sup> The increases of the import volumes and market shares of the subject merchandise were simultaneous with a decrease (not increase) in dumping margins: in its first two administrative reviews, covering the period 1992 to 1993 and 1993 to 1994, the Department reduced the weighted-average dumping margins for the subject merchandise to 6.62 (the original rate was 11.13) and 1.48, respectively. The three-year moving average of each of the import volume and the average market share of the subject merchandise during 1992-1994, is the highest compared to any other three-year period (for the market share, the average of 1992-1994 is tied with that of 1994-1996). See footnote 4 and 5, *supra*. In other words, and more importantly, the imposition of a sharply increased antidumping margin by the Department, for the review period of 1996-1997, did not result in increased import volume and market share. See *Id.*

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-479-801]

#### Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Yugoslavia

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of expedited sunset review: Industrial Nitrocellulose From Yugoslavia.

**SUMMARY:** On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from Yugoslavia (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** October 27, 1999.

#### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset

<sup>9</sup> See *Final Determination of Sales at Less Than Fair Value: INC from the United Kingdom*, 55 FR 21055 (May 22, 1990).

<sup>10</sup> See footnote 7, *supra*. Also, according to Hercules' business proprietary information, the magnitude of Imperial's increased market share is comparable to its volume increases during the relevant period.

<sup>11</sup> To support this, Hercules submits its business manager's sworn affidavit, in which the business manager indicated an absence of price increase by Imperial since Imperial's antidumping margin increased from 1.48 percent to 13.0 percent in March, 1999. (See the July 1, 1999 Substantive Response of Hercules, attachment 4.)

<sup>12</sup> See footnote 5, *supra*. In the most recent administrative review, the Department assessed Imperial with a higher 13.0 percent antidumping margin than in the previous review-1.48 percent.

Regulations") and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

### Scope

The product covered by this order is industrial nitrocellulose ("nitrocellulose") from Yugoslavia. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

### History of the Order

The antidumping duty order on nitrocellulose from Yugoslavia was published in the **Federal Register** on October 16, 1990 (55 FR 41870).<sup>1</sup> In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 10.81 percent.<sup>2</sup> Since that time, the Department has completed no administrative reviews. We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

### Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Yugoslavia (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline

specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. domestic producer of nitrocellulose and was the petitioner in the original investigation. (See Hercules' July 1, 1999 Substantive Response at 1–2.)

We did not receive a substantive response from any respondent interested parties to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Yugoslavia is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.<sup>3</sup>

### Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall

provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

### Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

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

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3–5). To buttress its contention, Hercules points out a drastic decline in import volumes of the subject

<sup>1</sup> See *Antidumping Duty Order: Industrial Nitrocellulose from Yugoslavia*, 55 FR 41870 (October 16, 1990).

<sup>2</sup> However, the underlying investigation dealt with only one Yugoslavian company, Milan Blagojevic ("Milan"), located in Lucani, Yugoslavia.

<sup>3</sup> See *Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 55233 (October 12, 1999).

merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise fell to zero.<sup>4</sup> *Id.* The cessation of imports almost immediately after the issuance of the order, Hercules further argues, is highly probative of the likelihood of future dumping. *Id.*

Moreover, Hercules indicates that, for the past five years, the import volumes of the subject merchandise have been at zero.<sup>5</sup> *Id.* In conclusion, Hercules contends that Yugoslavian manufacturers/exporters of the subject merchandise have not been able to sell in the United States during the antidumping duty order regime; in other words, Yugoslavian manufacturers/exporters have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules, the United States Census Bureau IM146s, and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined substantially.<sup>6</sup> Moreover, for the period 1994–1998, the United States International Trade Commission Data show a complete cessation of the import volumes for the subject merchandise.<sup>7</sup> Therefore, the Department determines that the import volumes of the subject merchandise ceased after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. Because no

administrative review has been conducted since the issuance of the order, the margins from the original investigation are the prevailing and therefore effective margins. Thus, the Department determines that weighted-average dumping margins for the subject merchandise have continued above the *de minimis* level.

Given that the import volumes of the subject merchandise ceased completely after the issuance of the order, that dumping margins above the *de minimis* level have continued since the issuance of the order, and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

#### Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Milan and all-others: 10.81 percent.<sup>8</sup> We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Hercules urges the Department to report to the Commission the dumping margins from the original investigation as the margins likely to prevail. (See the July 1, 1999 Substantive Response of Hercules at 6.) Hercules argues that, since the Department has not conducted any administrative reviews pertaining to the instant order, the best and only possible recommendation the Department can make, regarding margins that are likely to prevail, is the ones from the original investigation. *Id.*

The Department agrees with Hercules' suggestion pertaining to the margin that is likely to prevail if the order were

revoked. Because the margins from the original investigation reflect the behavior of Yugoslavian producers/exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

#### Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Milan Blagojevic .....	10.81
All Others .....	10.81

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This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

**Richard W. Moreland,**  
Acting Assistant Secretary for Import Administration.

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A–351–804]

#### Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Brazil

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of expedited sunset review: Industrial Nitrocellulose from Brazil.

<sup>4</sup> The order was imposed on October 16, 1990. (See footnote 1, *supra*.) In 1989 and 1990, imports of the subject merchandise were 748 and 1,041 metric tons, respectively; however, during the period from 1991 through 1998, the import volumes were as follows: 1991–312; 1992–47; 1993–0; 1994–0; 1995–0; 1996–0; 1997–0; and 1998–0 metric tons. (See Hercules' July 1, 1999 substantive response, Attachment 2.)

<sup>5</sup> See footnote 4, *supra*. During 1994–1998, the average import volume of the subject merchandise was 0 metric ton.

<sup>6</sup> See footnote 3, *supra*. The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

<sup>7</sup> See footnote 4.

<sup>8</sup> See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Yugoslavia, 55 FR 34946 (August 27, 1990).