

and the terms of an APO is a sanctionable violation.

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

Dated: October 28, 1999.

**Richard W. Moreland,**

Acting Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-122-404]

#### Final Results of Full Sunset Review: Live Swine From Canada

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

**ACTION:** Notice of final results of full sunset review: live swine from Canada.

**SUMMARY:** On June 25, 1999, the Department of Commerce ("the Department") published a notice of preliminary results of the full sunset review of the countervailing duty order on live swine from Canada (64 FR 34209) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). We provided interested parties an opportunity to comment on our preliminary results. We received comments from both domestic and respondent interested parties and held a public hearing. As a result of this review, the Department finds that revocation of this order would not be likely to lead to continuation or recurrence of a countervailable subsidy.

**FOR FURTHER INFORMATION CONTACT:** Scott E. Smith 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, DC 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** November 4, 1999.

#### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 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 Regulations") and in 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 merchandise subject to this countervailing duty order is shipments of live swine, except U.S. Department of Agriculture ("USDA") certified purebred breeding swine, slaughter sows and boars, and weanlings from Canada.<sup>1</sup> Weanlings are swine weighing up to 27 kilograms or 59.5 pounds.<sup>2</sup> This merchandise is currently classifiable under the Harmonized Tariff Schedule ("HTS") item numbers 0103.91.00 and 0103.92.00. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

#### Background

On June 25, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Live Swine from Canada* (64 FR 34209) ("Preliminary Results"). In our preliminary results, we found that revocation of the order would likely result in the continuation or recurrence of a countervailable subsidy. In addition, we preliminarily determined that the net countervailable subsidy likely to prevail if the order were revoked would be Can\$0.01802234/lb.

On August 9, 1999, within the deadline specified in 19 CFR 351.209(c)(1)(i), we received comments on behalf of National Pork Producers Council ("NPPC").<sup>3</sup> We also received comments from the Gouvernement du Quebec ("GOQ"), the Government of Canada ("GOC") and the Canadian Pork

<sup>1</sup> On August 29, 1996, the Department issued the final results of a changed circumstances review revoking the order, in part, with respect to slaughter sows and boars. The revocation became effective on April 1, 1991 (see *Live Swine from Canada; Final Results of Changed Circumstances Countervailing Duty Administrative Review, and Partial Revocation In Part of Countervailing Duty Order*, 61 FR 45402 (August 29, 1996)).

<sup>2</sup> In the *Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled and Frozen Pork Products from Canada*, 50 FR 25097 (June 17, 1985), the Department also calculated a net subsidy for dressed-weight swine. However, the Department terminated its investigation with respect to fresh, chilled, and frozen pork products from Canada based on a finding by the Commission that no material injury, threat of material injury, or retardation of an infant industry existed.

<sup>3</sup> The NPPC is a trade organization representing U.S. hog and pork producers through a federation of 44 affiliated state pork producer associations with a total membership of 85,000. NPPC's membership consists of small family farms and large hog operations.

Council and its Members ("CPC"), the Canadian respondents in this proceeding (collectively, "the Canadian respondents"). On August 16, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from the NPPC and each of the Canadian respondents. On August 18, 1999, the Department held a public hearing. We have addressed the comments received below.

As a result of our reconsideration, we find that the net subsidy rate likely to prevail were the order revoked is *de minimis*. Because any subsidy rate would be *de minimis*, we find that it is not likely that revocation would result in the continuation or recurrence of a countervailable subsidy.

#### Comments

*Comment 1:* The NPPC states that it agrees with the Department's preliminary finding that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The NPPC argues that given the extensive federal and provincial programs available, there can be little question that the Department properly found that subsidization would be likely to continue if the order were revoked.

The Canadian respondents argue that, when corrected for errors in the *Preliminary Results*, any net countervailable subsidy likely to prevail is zero or *de minimis*. As such, the Department should find that subsidization would not be likely to continue or recur if the order were revoked.

*Department Response:* Based on comments received, we have recalculated the net countervailable subsidy likely to prevail were the order revoked. Because, as discussed below, we find that the subsidy likely to prevail is *de minimis*, for our final results of full sunset review we determine that revocation of this countervailing duty order would not be likely to result in the continuation or recurrence of a countervailable subsidy.

*Comment 2:* The NPPC argues that although, in the *Preliminary Results*, the Department identified the Newfoundland Hog Price Stabilization Program as a program that was created after the imposition of the order which still exists, the Department failed to include this program in its net subsidy calculation. The NPPC requests the Department correct this error for its final determination.

As discussed in more detail below, the CPC argues that the Newfoundland Hog Price Stabilization Program was terminated on March 31, 1994.

*Department Response:* We disagree that we incorrectly failed to include a subsidy rate from the Newfoundland Hog Price Stabilization Program in our preliminary calculation of the net subsidy likely to prevail if the order were revoked. Leaving aside the question of termination, we note that the Department never calculated a subsidy rate for this program because it had not been used. Therefore, we do not believe it appropriate to include a rate from this program in the calculation of the net countervailable subsidy likely to prevail were the order revoked.

*Comment 3:* The NPPC notes that, in addition to the ten programs used in the net subsidy calculation in the *Preliminary Results*,<sup>4</sup> the Department identified six programs for which no subsidy rate has ever been calculated—the Newfoundland Farm Products Corporation Hog Price Support Program, Western Diversification Program, Agricultural Products Board Program, Newfoundland Weanling Bonus Incentive Policy, Federal Atlantic Livestock Initiative, and Ontario Swine Sales Assistance Program. Further, the NPPC argues that the Department acknowledged that none of these six programs has been found to be terminated or modified in such a way that they would not confer any countervailable benefit in the future. Therefore, to ensure the most accurate net countervailable subsidy rate is reported to the Commission, the NPPC requests that the Department include in its final calculation of the net countervailable subsidy likely to prevail a rate for each of these programs. The NPPC recommends the use of neutral “facts available” in order to identify a subsidy rate for each of the six programs.

As discussed in more detail below, the Canadian respondents assert that the Western Diversification Program, Agricultural Products Board Program, and Federal Atlantic Livestock Initiative were never found to provide a countervailable subsidy on the subject merchandise and, therefore, cannot be included in any rate likely to prevail. Further, they argue that there has been

a long track record on non-use of the Ontario Swine Sales Assistance Program. Therefore, this program should not be included in the calculation. Finally, with respect to the Newfoundland Farm Products Corporation Hog Price Support Program and the Newfoundland Weanling Bonus Incentive Policy, the Canadian respondents argue that these programs have been terminated and should thus be excluded from any calculation. We note that the CPC alleges that the Newfoundland Farm Products Corporation Hog Price Support Program is the same as the Newfoundland Hog Price Support Program.

*Department Response:* The Department disagrees with the NPPC that we should include a neutral facts available rate for these programs in calculating the net subsidy likely to prevail were the order revoked. In the *Preliminary Results* the Department did not include these six programs in the calculation of the net subsidy rate on the basis that, despite no finding that any of these programs had been terminated, the Department had never calculated a subsidy rate for any of these programs because the Department has never been presented with evidence establishing the countervailability of these programs and/or these programs have not been used.

As discussed below, over the life of this order the Department has never been presented with sufficient evidence that the Western Diversification Program, Agricultural Products Board Program, or Federal Atlantic Livestock Initiative provide a countervailable subsidy with respect to subject merchandise. In addition, with respect to the Newfoundland Weanling Bonus Incentive Policy, and the Ontario Swine Sales Assistance Program, although found countervailable, the Department has never calculated a subsidy rate during the POI or any administrative review because the Department had determined the programs had not been used. Additionally, as discussed below, we agree with the CPC that the Newfoundland Farm Products Corporation Hog Price Support Program is the same as the Newfoundland Hog Price Support Program.

Over the fourteen year life of the order, neither of these programs has been found to provide a measurable countervailable subsidy. The NPPC has provided no convincing argument or evidence that, were the order revoked, these programs would be used and found to provide a measurable countervailable subsidy. Therefore, the Department does not agree that it is appropriate to calculate a facts available

subsidy rate likely to prevail for these programs were the order revoked.

*Comment 4:* The NPPC argues that the Department prematurely decided that British Columbia Feed Grain Market Development Program (“Program 1”); (2) Canada/Alberta Swine Improvement Programs Study (“Program 2”); (3) Prince Edward Island Interest Payments on Assembly Yard Loan Program (“Program 3”); and (4) British Columbia Special Hog Payment Program (“Program 4”) were terminated. The NPPC argues that the Department should utilize different criteria in the course of sunset reviews with respect to determinations regarding program termination. Specifically, the NPPC asserts that the sunset criteria for program termination should be more rigorous than for administrative reviews because sunset determinations may have the effect of terminating the order. Termination through administrative action, rather than through legislative means, the NPPC argues, is insufficient for the Department, in the course of a sunset review, to determine that the program has indeed been terminated.

The GOQ argues that the Department applied the appropriate standard to programs determined terminated in administrative reviews. The GOQ asserts that neither the statute nor its legislative history supports the argument that the Department may apply a more stringent standard to programs that the Department previously determined to be terminated before they may be considered terminated for sunset review purposes. Further, the GOQ argues that, in the context of a sunset review, the Department’s prior determination that a program is terminated is sufficient to support revocation of an order unless contrary evidence has been shown that the program is likely to be reinstated.

*Department Response:* The Department agrees with the NPPC, in part. The Department agrees that the elimination of a program administratively is not as strong a basis for a finding of termination as elimination through legislative action (see *Sunset Policy Bulletin*). However, where a program was put in place administratively, it is reasonable to expect that the government would terminate the program in the same manner (see *Final Results of Expedited Sunset Review: Heavy Iron Construction Castings from Brazil*, 64 FR 30313 (June 7, 1999)). In these circumstances, unless there is a basis for concluding that the government is likely to reinstate the program, we continue to believe it is appropriate to treat a program previously found to be terminated in an

<sup>4</sup>The ten programs used in the net subsidy calculation in the *Preliminary Results* were: Technology Innovation Program under the Agri-Food Agreement, Ontario Livestock and Poultry and Honeybee Compensation Program, Ontario Bear Damage to Livestock Compensation Program, Ontario Rabies Indemnification Program, New Brunswick Swine Industry Financial Restructuring Program, Newfoundland Hog Price Support Program, Quebec Farm Income Stabilization Insurance Program, New Brunswick Livestock Incentives Program, Support for Strategic Alliances Program under the Agri-Food Agreement, and Nova Scotia Improved Sire Program.

administrative review as terminated for the purpose of sunset reviews.

With respect to Program 1, the Department determined that the program was terminated with no residual benefits in the 1990–1991 administrative review. The Department has information on the record of this proceeding which indicates that this program was terminated at the end of the 1988 crop year and that final payments were made in February, 1990. Since the Department's determination in the 1990–1991 administrative review regarding this program's termination, the Department has not found any grounds for reconsideration of this program or its termination. Based on these facts, the Department continues to find this program terminated.

With respect to Program 2 and Program 3, the Department determined that these programs were terminated with no residual benefits in the 1991–1992 administrative review. Specifically, the Department found that these programs were terminated prior to April 1, 1991, with no residual benefits after this date. Since the Department's determination in the 1991–1992 administrative review regarding the termination of these programs, the Department has not found any grounds for a reconsideration of these programs or their termination. Based on these facts, the Department continues to find these programs terminated.

With respect to the Program 4, the Department determined that the program was terminated with no residual benefits in the 1994–1995 administrative review. Specifically, the Department found that this program was terminated prior to April 1, 1994, with no residual benefits after this date. Further, information on the record indicates that this program was only in existence during fiscal year 1988–1989 and that all benefits were countervailed during the 1988–1989 administrative review. Since the Department's determination in the 1994–1995 administrative review regarding this program's termination, the Department has not found any grounds for a reconsideration of this program or its termination. Based on these facts, the Department continues to find this program terminated.

*Comment 5:* The NPPC argues that the Department should take into consideration new programs that have not been investigated and include such programs in its analysis. The NPPC argues that the Department should consider new programs proposed by both federal and provincial governments and should consider programs

determined to provide subsidies in other proceedings.

Specifically, the NPPC alleges that the Farm Improvement and Marketing Cooperative Loans Act ("FIMCLA"), identified in the Department's *Preliminary Negative Countervailing Duty Determination; Live Cattle from Canada* (64 FR 25279, May 11, 1999) ("Cattle Prelim"), provides countervailable benefits to Canadian hog producers. In addition, the NPPC alleges that the Manitoba Pork Council will impose a twenty cent levy on each iso-wean and weanling pig exported out of the province. This export tax is apparently being used to fund Manitoba manure disposal. Therefore, the NPPC requests that the Department include these programs in its final sunset determination as programs likely to provide a countervailable subsidy were the order revoked.

The CPC asserts that the news release, relied upon by the NPPC in its request that the Department identify subsidy rates from levies being imposed by the Manitoba Pork Council, does not discuss a new government program, but rather, on-going producer-funded activities. The CPC argues that the NPPC has not identified a new program, nor has it even attempted to explain how producer-collected and producer-funded promotion, education and research activities could ever provide a countervailable benefit. On this basis, the CPC argues that the statutory likelihood the Department must have in making its calculations is not present.

With respect to the program currently under investigation in the live cattle investigation, the CPC argues that the Department need not consider such programs and, in the *Preliminary Results*, correctly rejected the NPPC's suggestion to do so.

*Department Response:* The Department disagrees with the NPPC. With respect to new programs proposed by the federal and provincial governments of Canada, the NPPC merely claims that these governments are discussing the possibility of establishing new subsidies for Canada's hog farmers. Furthermore, the NPPC argues that the Canadian federal government is contemplating a recovery plan that would include a comprehensive financial aid package that could potentially provide subsidies. The Department finds that reports of mere "contemplation" or "possibility" of new programs do not provide sufficient justification for the Department to determine that new programs will provide a countervailable subsidy were the order revoked.

With respect to FIMCLA, the Department disagrees with the NPPC. First, the FIMCLA program was enacted in 1987 with the purpose of increasing the availability of loans for the improvement and development of farms and the processing, distribution or marketing of farm products by cooperative associations. The SAA at 889 states that "subsidy allegations normally should be made in the context of [administrative] reviews . . . however, where there have been no recent [administrative] reviews or where the alleged countervailable subsidy program came into existence after the most recently completed [administrative] review, [the Department] may consider new subsidy allegations in the context of a . . . [sunset] review." However, the FIMCLA program has been in existence for over a decade, providing ample opportunity for domestic interested parties to allege countervailable benefits to swine producers during the course of administrative reviews.

In addition, the information included in the verification report of our investigation of live cattle from Canada relates only to benefits received by cattle producers, not cattle and swine producers (see Verification Report: Live Cattle from Canada, dated August 27, 1999). Thus, the Department has no information regarding the extent of usage of the FIMCLA program, if any, by swine producers and, therefore, whether there is any benefit provided to swine producers. Because the Department has no information with which to make a determination regarding any countervailable benefits of this program with respect to live swine because NPPC provided no evidence that this program was used by swine producers, and because domestic interested parties had ample opportunity but failed during the administrative review process to allege the countervailability of this program, the Department finds that an analysis of this program, in the context of this sunset review, is not warranted.

*Comment 6:* The CPC and GOC claim that four programs identified in the Department's *Preliminary Results* as providing countervailable subsidies have been terminated.<sup>5</sup> The CPC argues that it has repeatedly provided documentation demonstrating that these programs have been terminated (with no residual benefits) over the past three successive administrative reviews, although the Department did not make

<sup>5</sup>The four programs are: Nova Scotia Improved Sire Policy, Newfoundland Hog Price Support Program, Newfoundland Weanling Bonus Incentive Policy, and Newfoundland Hog Price Stabilization Program.

a determination regarding termination in any of the administrative reviews. The CPC re-submitted the documentation concerning the termination of these programs for this sunset review and requests that the Department make a determination concerning their termination in the course of this sunset review.

The NPPC argues that the Department, even applying the less rigorous standards of administrative reviews, has never made a formal finding that these programs were officially terminated. Further, the NPPC argues that the documentation provided by the CPC to support a finding of termination is insufficient to demonstrate that these programs have been terminated in such a way that they would not be reinstituted, as the SAA and the Department's policy bulletin anticipate.

*Department Response:* The Department agrees with the CPC that it is appropriate to consider possible termination of these programs during the course of this sunset review. Because there were no exports of the subject merchandise from the provinces in question during administrative reviews in which the CPC raised the issue of program termination, the fact that the Department did not consider possible termination during the reviews could not have had an effect on the outcome of those administrative reviews. Thus, the Department has not had a real opportunity to address respondents' evidence of termination. However, because the existence or termination of these programs may have an effect on the outcome of this sunset review, the Department will consider such information during the course of this review.

According to documentation presented by the Government of the Province of Newfoundland, the Newfoundland Hog Price Support Program was terminated on March 18, 1993, the Newfoundland Weanling Bonus Incentive Policy was terminated on March 31, 1993, and the Newfoundland Hog Price Stabilization Program was terminated on March 31, 1994.<sup>6</sup> According to documentation presented by the Government of the Province of Nova Scotia, the Nova Scotia Improved Sire Policy was terminated on May 15, 1996.<sup>7</sup>

With respect to the Newfoundland programs, the Government of the Province of Newfoundland submitted, in support of its argument for termination, a provincial budget report from 1993 indicating that production subsidies to hog producers were eliminated in 1993. Given this documentation submitted by the Government of the Province of Newfoundland, we are satisfied that the three Newfoundland programs have been terminated. Further, because the benefits from these programs would not be allocated over time, we find no residual benefits from any of these programs.

With respect to the Nova Scotia Improved Sire Program, the Government of the Province of Nova Scotia submitted an affidavit in support of its argument that this program had been terminated. No other evidence in support of termination was provided. We do not find an affidavit, in and of itself, sufficient for the Department to consider this program terminated. Therefore, the Department will not consider this program terminated in this sunset review and will include the subsidy rate for this program in its net subsidy calculation.

*Comment 7:* The CPC and GOC argue with respect to the Western Diversification Program, the Agricultural Products Board Program, and the Federal Atlantic Livestock Feed Initiative, that the Department never made a determination that any of these programs conferred a countervailable subsidy to producers and exporters of swine. Rather, although each of the programs was included in one or more administrative review questionnaires, none of the programs has ever been used or found countervailable with respect to exports of subject merchandise. As such, the CPC argues that the existence of these programs cannot support a decision that revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy.

The NPPC suggests that the status of a program that has yet to be countervailed should not be treated differently from a program that has not been used in recent administrative reviews. The NPPC argues that the order acts as a general deterrent to the continued use of countervailable programs or to exporting products that are subject to an order and thus it should not be viewed as unusual that a particular program has never conferred a benefit on exported products. On this basis, the NPPC contends that simply because some programs have not been countervailed does not mean that the programs are not likely to confer a

benefit in the future if the order were revoked. The NPPC therefore requests that for the purpose of the final results, the Department should calculate a proposed benefit for each such program.

In rebuttal, the Canadian respondents argue that there is no factual basis for including a subsidy rate from programs that have not been found to confer subsidies. Moreover, the GOQ argues that the Department must reject NPPC's argument and proposed facts available rates. Referring to the language of the SAA regarding the undue speculation associated with the calculation of future net countervailable subsidies, the GOQ asserts that the NPPC is asking the Department to unduly speculate what the subsidy rates might be for programs that never had subsidy rates calculated throughout the investigation and twelve administrative reviews. The GOQ further argues that the NPPC has submitted no evidence for the record that its proposed facts available rates bear any relation whatsoever to the rates likely to prevail for these programs.

*Department Response:* We do not agree with the NPPC that we should include a proposed benefit from any of these three programs in our final calculation of the net subsidy likely to prevail. Rather, the Department agrees with the CPC that these programs, having never been found to be countervailable with respect to exports of the subject merchandise, do not support a likelihood finding. Further, we agree with the GOQ that calculation of a rate for any of these programs would be unduly speculative. Therefore, we are not including a proposed benefit for any of these programs in our final results.

*Comment 8:* The CPC argues that the Ontario Swine Sales Assistance Program should be excluded from the Department's determination concerning the likelihood of continuation or recurrence of a countervailable subsidy. The CPC claims that benefits from this grant program were last provided to producers and/or exporters of the subject merchandise in 1982. Thus, the length of non-use of this program is in accordance with the Department's policy concerning a "long track record" of non-use of a program. The CPC, therefore, requests that this program be excluded from the Department's final determination.

The NPPC argues that other factors outweigh the CPC's objections to the inclusion of this program. Specifically, the NPPC argues that, by its own title, the Ontario Swine Sales Assistance Program is specifically related to swine. Further, despite its non-use, this program has remained in existence for

<sup>6</sup> See Questionnaire Response for the Government of the Province of Newfoundland, 1996-1997 administrative review and as submitted by the CPC in its August 9, 1999, case brief.

<sup>7</sup> See Supplemental Questionnaire Response for the Government of the Province of Nova Scotia, 1996-1997 administrative review and as submitted by the CPC in its August 9, 1999, case brief.

one particular industry for an extensive period of time and is indicative of the special nature and special benefits that have been and continue to be available to this industry. The NPPC argues that a hog farmer's decision not to avail itself of one particular program that has remained in existence while a variety of other programs are available and have been widely used does not demonstrate the requisite track record of non-use. Rather, it suggests that hog farmers have not been required to use that particular program because they have been able to benefit from the wide variety of other programs available. Under these circumstances, the NPPC argues that a long track record of non-use has not been established.

**Department Response:** We disagree with the NPPC's argument that a long track record of non-use cannot be established in cases where exporters benefit from other countervailable programs that exist. We believe that such a standard would inappropriately make moot the question of program non-use in cases where any program continues to be used.

Further, we agree with the CPC that there is a long track record of non-use of the Ontario Swine Sales Assistance Program. During the original investigation of live swine from Canada, the Department found that countervailable subsidies in the form of grants were provided under this program during 1982, a period prior to the fiscal year 1984 period of investigation ("POI"). The Department has not found this program used during the POI or during any subsequent administrative review period (a period of over 14 years). As stated in the *Sunset Policy Bulletin*, where a company has a long track record of not using a program, including during the investigation, the Department normally will determine that the mere availability of the program does not, by itself, indicate likelihood of continuation or recurrence of a countervailable subsidy. Because the Ontario Swine Sales Assistance Program was not used during the POI or in any subsequent administrative review of the countervailing duty order on live swine from Canada, the Department determines that there is a "long track record" of non-use. Therefore, we find that the mere availability of this program does not, by itself, indicate likelihood of continuation or recurrence of a countervailable subsidy. Further, because we have determined that the program is not likely to provide a countervailable subsidy were the order revoked, we have not included a subsidy rate from this program in our

calculation of the net subsidy likely to prevail if the order were revoked.

**Comment 9:** The GOQ argues that three programs which the Department preliminarily found likely to provide a countervailable benefit, specifically the Quebec Farm Income Stabilization Insurance Program, the Ontario Bear Damage to Livestock Compensation Program, and the Ontario Rabies Indemnification Program, in fact, have a "long track record" of non-use and should be excluded from the Department's final determination. The GOQ acknowledges that the *Sunset Policy Bulletin* states that where a company has a long track record of not using a program, including during the investigation, the Department normally will determine that the mere availability of the program does not, by itself, indicate likelihood of continuation or recurrence of a countervailable subsidy. The GOQ claims, however, that holding transition orders (*i.e.* orders in place as of January 1, 1995) to the same standard as non-transition orders places an unreasonable and inappropriate time-specific burden on parties that was not intended by Congress. According to the GOQ, the long track record standard was clearly established for non-transition orders, orders that will be reviewed after five years. As such, the Department is unjustified in requiring a more lengthy long track record of non-use for transition orders based solely on the fact that the order is a transition order. Further, the GOQ argues that an order may be otherwise revoked through administrative review based on non-receipt or non-application for benefits for a period of five years. As such, the appropriate standard for determining long track record of non-use in a sunset review should be whether, for a majority of the recent five years, there is non-use. Based on this standard, the GOQ requests the Department determine that these three programs have a long track record of non-use and, as a result, exclude them from the Department's final determination.

The NPPC argues that the continued existence of these programs is not in question. Further, the NPPC asserts that the non-use of one particular program among many other programs suggests only that the hog farmers have not been required to use that particular program because they have been able to benefit from other programs available. Under these circumstances, the NPPC asserts that a long track record of non-use has not been established and, therefore, the Department properly included these programs as likely to provide a countervailable subsidy were the order revoked.

**Department Response:** The Department disagrees with the GOQ that two of these programs have a long track record of non-use. The Ontario Bear Damage to Livestock Compensation Program was found to provide a countervailable subsidy during the 1994-1995 administrative review (62 FR 18087, April 14, 1997). The Quebec Farm Income Stabilization Insurance Program provided a countervailable subsidy as recently as April 1, 1996 (see Substantive Response of GOQ at 11). Therefore, even if the appropriate standard for determining long track record was five years, these two programs do not have a long track record of non-use.

With respect to the Ontario Rabies Indemnification Program, this program was last found to provide a countervailable subsidy during the 1993-1994 administrative review (61 FR 52408, October 7, 1996; Amended, 61 FR 58383, November 14, 1996). Although the Department does not agree with the GOQ that because an order could be revoked through administrative review based on five years of non-use, the long track record standard in sunset reviews must be five years, we do agree that there is a long track record of non-use of the Ontario Rabies Indemnification Program. Therefore, we have not included a subsidy rate from this program in our calculation of the net countervailable subsidy likely to prevail if the order were revoked. Department does not agree that this constitutes a long track record of non-use.

**Comment 10:** The GOC and GOQ argue that the Department has twice refused to consider the requests of the GOQ and the GOC for "green-box" treatment for the Support for Strategic Alliances and Technology Innovation programs under the Agri-Food Agreement because the benefits conferred by them are *de minimis* and would not affect the subsidy rate. Having refused to consider requests for green-box treatment, the GOC and GOQ argue, the Department cannot now find these programs to be countervailable. If the Department is to consider these programs, the GOQ asserts that the Department must make a determination regarding its "green-box" requests and the countervailability of these programs in the course of this sunset review.

In addition, the GOC and GOQ argue that these programs expired March 31, 1998. The GOQ states that the Department, in its 1996-1997 administrative review, noted that the Agri-Food Agreement was enacted by both the governments of Canada and Quebec for the period April 1, 1993

through March 31, 1998. The GOQ states that this program has not been replaced. The GOQ also provided an affidavit from a Quebec government official stating that the program has expired and has not been replaced. As such, the GOQ requests that the Department find the Agri-Food Agreement has expired and eliminate it from the Department's final sunset determination.

The NPPC did not address these programs.

**Department Response:** With regard to the Technology Innovations program and the Support for Strategic Alliances program, the Department continues to find that any benefit to the subject merchandise under either program, or both programs combined, is so small that there is no cumulative impact on the overall subsidy rate. Accordingly, because there is no impact on the overall subsidy rate in this sunset review, we have not included the benefits from Technology Innovations program and the Support for Strategic Alliances program in the calculated net subsidy for this review. Therefore, as in prior administrative reviews, we determine that it is not necessary to address the issue of whether benefits under these programs are non-countervailable as green box subsidies pursuant to section 771(5B)(F) of the Act.<sup>8</sup>

**Comment 11:** The Canadian respondents argue that the Department's decision to continue to treat the Quebec Farm Income Stabilization Insurance ("FISI") program as countervailable is contrary to law. The GOQ states that in two administrative reviews, the Department treated the FISI program as non-countervailable as instructed by Binational Panels convened under the United States-Canada Free Trade Agreement. Furthermore, the GOQ adds, the Department has never found an above *de minimis* net subsidy for FISI in any administrative review of this order. Based on this information, the GOQ argues, the Department should

determine that the FISI program is not countervailable.

**Department Response:** The Department disagrees with the Canadian respondents. As we explained in *Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews*, 61 FR 52408 (October 7, 1996), the remand determinations issued pursuant to panel decisions in prior reviews requested the Department to reconsider certain aspects of the underlying methodology used in those determinations. Because panel decisions are binding only on the proceeding of that respective review, none of these remand determinations requires the Department to establish a policy affecting all subsequent reviews, as they are based on different administrative records. Therefore, because the Department is not bound by these panel decisions with respect to its decision in this sunset review, because the Department has found the FISI program countervailable even after the latest remand determination concerning FISI and because the FISI program continues to exist, the Department continues to find the FISI program countervailable.

Furthermore, as explained in *Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews*, 61 FR 52408 (October 7, 1996), where the Department has determined a program to be countervailable, it is the Department's policy not to reexamine the issue in subsequent reviews unless new information or evidence of changed circumstances is submitted which warrants reconsideration. In this sunset review, the GOQ has presented essentially the same arguments as in previous reviews but provided no new information or evidence of changed circumstances concerning the countervailability of FISI. Because the cumulative information on the record of this proceeding provides no evidence that FISI is not countervailable, the Department will continue to treat this program as a countervailable subsidy.

**Comment 12:** The CPC argues that the Newfoundland Hog Price Support Program and the Newfoundland Farm Products Corporation Hog Price Support Program, identified separately by the Department in its *Preliminary Results* are, in actuality, the same program. The CPC requests that the Department correct this error in the final results of this sunset review.

The NPPC did not address this issue. However, as discussed above, the NPPC requested that the Department apply a neutral facts available rate to this program.

**Department Response:** As discussed above, for the purposes of these final

results, we determine that the Newfoundland Hog Price Support Program was terminated without residual benefits. Therefore, we have not included any benefit from this program in our calculation of the net countervailable subsidy likely to prevail were the order to be revoked. With respect to the Newfoundland Farm Products Corporation Hog Price Support Program, the Department agrees with the CPC that this is the same program as the Newfoundland Hog Price Support Program. In the notice of preliminary results of the 1987-1988 administrative review, the Department first identifies the program by name as the Newfoundland Hog Price Support Program Farm and then discusses the Newfoundland Farm Products Corporation Hog Price Support Program (see 55 FR 20812 (May 21, 1990)).

**Comment 13:** The Canadian respondents argue that three program rates from the original investigation, which used a different calculation methodology, must be trade weighted in order to be combined with rates from subsequent administrative reviews. The CPC argues that the subsidy rates calculated in the original investigation of this order use a methodology which the Department subsequently reexamined and ultimately rejected in the first administrative review. This new methodology weight-averages benefits from individual provincial programs by that province's share of exports to the United States ("trade-weighting"). This trade-weighted methodology has been used in every administrative review of this order. The CPC argues that the inclusion of three programs from the original investigation, which were not trade-weighted, and seven programs from subsequent administrative reviews, which were trade-weighted, is illogical. The CPC argues that the Department is combining the rates of programs that were calculated in completely different manners. As such, the CPC requests that the rates from the original investigation be trade-weighted to reflect the Department's most current and accepted methodology.

The NPPC argues that the Department properly used the rates found in the investigation, or review. Acknowledging that different calculation methodologies may have been used in subsequent proceedings, the NPPC argues nonetheless that the Department should not undertake to recalculate these rates based on different methodologies in different administrative reviews that are based on different records. The NPPC asserts that, accordingly, the

<sup>8</sup> See, e.g., *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Germany*, 62 FR 54990, 54995 (October 22, 1997); *Certain Carbon Steel Products from Sweden; Preliminary Results of Countervailing Duty Administrative Review*, 61 FR 64062, 64065 (December 3, 1996) and *Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review*, 62 FR 16549 (April 7, 1997); *Final Negative Countervailing Duty Determination: Certain Laminated Hardwood Trailer Flooring ("LHF") From Canada*, 62 FR 5201 (February 4, 1997); *Industrial Phosphoric Acid From Israel; Preliminary Results of Countervailing Duty Administrative Review*, 61 FR 28845 (June 6, 1996) and *Industrial Phosphoric Acid From Israel; Final Results of Countervailing Duty Administrative Review*, 61 FR 53351 (October 11, 1996).

Department's preliminary calculations are correct and should not be revised.

**Department Response:** The Department agrees with the Canadian respondents. Following the original investigation, the Department adopted a trade-weighting methodology for the calculation of subsidy rates for the programs benefitting live swine from Canada. The Department stated, in *Live Swine from Canada; Final Results of Countervailing Duty Administrative Review*, 54 FR 651 (January 9, 1989), that the trade-weighted methodology provides a better measure of the subsidy on exports to the United States than the methodology used in the original investigation. This is because it gives greater weight to those provinces which export more hogs to the United States and therefore more accurately reflects the level of subsidy on the subject merchandise. The Department continues to find this true. Therefore, for purposes of combining subsidy rates from the investigation (which were not trade-weighted) with those calculated in the administrative reviews, the Department finds that it is appropriate to trade weight the rates from the original investigation. We do not view this as the calculation of new rates. Rather, the Department is using the rates from the original investigation as adjusted by the methodology currently in use. The two programs from the original investigation which the Department applied the trade-weighting methodology to are the Quebec Farm Income Stabilization Insurance Program ("FISI") and the New Brunswick Livestock Incentives Program ("NBLI"). The trade-weighted subsidy rate for FISI is Can\$0.00320542/lb. and the trade-weighted subsidy rate for NBLI is Can\$0.00000054/lb.

**Comment 14:** The CPC argues that the remaining eight programs<sup>9</sup> used by the Department in its preliminary net subsidy calculation have never collectively provided more than a *de minimis* level of benefit in any of the twelve administrative reviews of this order. As such, the existence of these programs does not support a finding of likelihood of continuation or recurrence of a countervailable subsidy were the order revoked.

The CPC argues that the fact that none of these programs is national in scope

but, rather, each is limited to a particular province, is crucial to the Department's sunset analysis. Asserting that the SAA contemplates that the Department will take into account a company's history of use or non-use of a particular program, the CPC argues that, because the order is administered and rates are calculated on a country-wide basis, the Department should take into account provincial shares of exports over time to determine use or non-use of particular provincial programs.

The CPC notes that the Department has never calculated an above *de minimis* benefit from the two New Brunswick programs and argues that the minimal exports from New Brunswick have never contributed to the overall CVD rate. Thus, Canadian exports have a long history of not benefitting from these provincial programs. Additionally, the CPC asserts that, based on the fact that Quebec has virtually no exports of the subject merchandise to the United States, as with the New Brunswick programs, Canadian exports have a long history of not using Quebec programs. The CPC adds that the reason for both New Brunswick's and Quebec's consistently very low share of exports is the growth of the pork packing industry in Quebec and the constant demand by packers in that province for live swine. This factor has been constant and will not change according to the CPC.

With respect to Ontario, the CPC argues that although Ontario exports significant numbers of live swine to the United States, because of the very small nature of benefits from the Ontario programs, the Department has never calculated an above *de minimis* benefit for these programs over the history of these proceedings. In conclusion, the CPC argues that the existence of these eight programs do not support a finding of a likelihood of continuation or recurrence of a countervailable subsidy were the order to be revoked.

The NPPC argues that in an administrative review, the Department properly weight-averages the subsidy rate on the basis of actual shipments because it is attempting to calculate a precise cash deposit rate that will actually be applied to exports. However, the NPPC argues that the sunset proceeding is substantially different from an administrative review, and thus the calculations in a sunset review are also substantially different from the calculations made in an administrative review. Given the objective of the sunset review is to calculate an estimated rate that would result if the order were revoked, the NPPC argues that it would not be proper to weight average the rate

on the basis of past levels of exports given that the absence of exports may have been the direct result of the countervailing duty order and elimination of the order would likely result in the resumption of shipments. Accordingly, the NPPC argues that the Department has properly calculated the net subsidy rate.

**Department Response:** The Department continues to find that where a countervailable subsidy program continues to exist and provides benefits to producers and/or exporters of the subject merchandise, it is appropriate to include such a program in the calculation of the net countervailable subsidy likely to prevail were the order revoked. Despite the limited use of some of these eight programs, producers and/or exporters of live swine from Canada have received, and/or have the potential to receive, countervailable benefits from each of these programs.<sup>10</sup> However, because the Department is combining rates calculated during administrative reviews, during which benefits were weighted based on province-specific exports, and the Department has determined it is appropriate to trade-weight the benefits from the original investigation in order to make a comparison based on the same methodology over the life of the order, we believe that the CPC's arguments and concerns are adequately addressed. As to the NPPC's arguments, while we agree that any rate calculated in a sunset review will not be applied to entries, we do not agree that our calculations should not be as precise as possible. Because the Department administers this order on a country-wide basis and has consistently, in every administrative review, determined that it is appropriate to trade weight benefits by province-specific exports, for the purpose of determining the net countervailable subsidy likely to prevail were the order revoked, as discussed above, we determine that trade weighting of benefits is appropriate.

**Comment 15:** The Canadian respondents disagree with the Department's use of the *de minimis* rate from the 1989-1990 administrative review for the purpose of this sunset review. The CPC asserts that the Department provided no explanation for its choice of \$0.0030/lb. as the *de minimis* rate. The CPC further asserts that the Department revised the

<sup>9</sup>The eight programs are: Quebec Farm Income Stabilization Program, New Brunswick Livestock Incentives Program, New Brunswick Swine Industry Financial Restructuring Program, Technology Innovation Program under the Agri-Food Agreement, Support for Strategic Alliances Program under the Agri-Food Agreement, Ontario Livestock and Poultry and Honeybee Compensation Program, Ontario Bear Damage to Livestock Compensation Program, and Ontario Rabies Indemnification Program.

<sup>10</sup>The CPC claims that the Technology Innovation Program under the Agri-Food Agreement and the Support for Strategic Alliances Program under the Agri-Food Agreement were terminated on March 31, 1998 and argue that neither program can provide a basis of support for the Department's *Preliminary Results*.



methodology used to calculate the *de minimis* rates in the 1995–1996 administrative review so that the weighted-average selling price used in the calculation reflects the weight of a live swine. The CPC argues that the Department should, using pricing data from the most recently completed review, determine that the *de minimis* rate is C\$0.0035/lb.

The NPPC did not address this issue.

**Department Response:** The Department agrees with the CPC that the *de minimis* rate from the 1989–1990 administrative review, by itself, is not the appropriate *de minimis* rate for the purpose of this sunset review. Because the net subsidy has never been reported on an *ad valorem* basis over the life of this order, the Department calculated the *de minimis* rate in terms of cents per pound (or kilogram) in the administrative reviews. We agree with the CPC that the Department adjusted the methodology for calculating the *de minimis* rate so that the weighted-average selling price used in the calculation reflects the weight of a live swine. However, we are not persuaded that such a change in methodology negates the validity of *de minimis* rates calculated prior to the change in methodology. Nor are we convinced that the use of the most recently calculated rate is appropriate. In considering the appropriate *de minimis* rate for purposes of this sunset review, we note that the *de minimis* rates have fluctuated over the life of the order, ranging from C\$0.0028/lb. to C\$0.0041/lb. Therefore, we determined not to rely on any one rate, but rather to apply as the *de minimis* standard in this sunset review an average of previously calculated rates. For this purpose, we calculated the simple average of the rate from the 1986–1997 administrative reviews,<sup>11</sup> in terms of cents per pound. As a result, we find the *de minimis* rate to be C\$0.0033/lb. (see Memo to File, RE: *De Minimis* Calculation, dated October 28, 1999).

**Comment 16:** The CPC claims that mathematical errors exist in the Department's calculations of the subsidy rates for six programs cited in the *Preliminary Results*.<sup>12</sup> Specifically, the

CPC argues that the Department's conversions from Canadian cents per kilogram to Canadian cents per pound in its *Preliminary Results* were done incorrectly for these six programs. They request that the Department correct these errors for its final determination. In addition, the CPC states that the Department, in its *Preliminary Results*, used both subsidy rates rounded to the fourth decimal place and subsidy rates rounded to the eighth decimal place.<sup>13</sup> The CPC requests that the Department round all subsidy rate calculations to the same decimal place.

The NPPC did not address these issues.

**Department Response:** The Department agrees with the CPC and will correct for the final the conversion of the subsidy rates from cents per kilogram to cents per pound. As a result of our corrections, we find the net countervailable subsidies likely to prevail were the order revoked: Can\$0.00000003/lb. for the Ontario Bear Damage to Livestock Compensation; Can\$0.00000004/lb. for Ontario Livestock and Poultry and Honeybee Compensation Program; and Can\$0.00000013/lb. for Ontario Rabies Indemnification; and Can\$0.00000002/lb. for Nova Scotia Improved Sire Program. As such, the Department will rely on these values for its net subsidy calculations in its final determination.

#### Final Results of Review

As discussed more fully above, we determine that the Technology Innovation and Support for Strategic Alliances Programs under the Agri-Food Agreement are programs that, even if countervailable, would not have a measurable impact on the Department's net subsidy calculation. Further, we find that the Newfoundland Hog Price Support Program, the Newfoundland Hog Price Stabilization Program, and the Newfoundland Weanling Bonus Incentive Program are programs that have been terminated without residual benefits and we note that, even if these programs had been found to continue, they would have no measurable impact on the Department's net subsidy

calculation. Additionally, we find there is a long track record of non-use of the Ontario Rabies Indemnification Program.

We find that the Ontario Livestock and Poultry and Honeybee Compensation Program, the Ontario Bear Damage to Livestock Compensation Program, the New Brunswick Swine Industry Financial Restructuring Program, the Quebec Farm Income Stabilization Insurance Program, and the New Brunswick Livestock Incentives Program continue to exist and provide, or have the potential to provide, countervailable benefits were the order revoked. We combined the subsidy rates from these programs and found the net countervailable subsidy to be Can\$0.0032/lb., below the *de minimis* level of Can\$0.0033/lb. (see Memo to File, RE: Final Net Subsidy Calculations).

Based on the reasons cited above and those set forth in our *Preliminary Results*, the Department finds that the net countervailable subsidy likely to prevail were the order revoked is *de minimis*. Therefore, as a result of this sunset review, the Department finds that revocation of the countervailing duty order would not be likely to lead to continuation or recurrence of a countervailable subsidy.

As result of this determination by the Department that revocation of the countervailing duty order on live swine from Canada would not be likely to lead to continuation or recurrence of a countervailable subsidy, the Department, pursuant to section 751(d)(2) of the Act, will revoke this countervailing duty order. Pursuant to 751(c)(6)(A)(iv) of the Act, this revocation is effective January 1, 2000. The Department will instruct the U.S. Customs Service to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

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

<sup>11</sup> Of the twelve administrative reviews of this order, the Department is creating an average of the *de minimis* levels using the last eleven. The *de minimis* level calculations are not available from the first administrative review (1985–1986 administrative review). The Department attempted to obtain the *de minimis* level calculations from the sunset review participants, however, these calculations either do not exist or could not be located (see Memo to File, RE: Request for *De Minimis* Calculations, dated October 28, 1999).

<sup>12</sup> The six programs are: Nova Scotia Improved Sire Program, Technology Innovation Program

under the Agri-Food Agreement, Support for Strategic Alliances Program under the Agri-Food Agreement, Ontario Livestock and Poultry and Honeybee Compensation Program, the Ontario Bear Damage to Livestock Compensation Program, and Ontario Rabies Indemnification Program.

<sup>13</sup> The Department used subsidy rates rounded to the fourth decimal place for the following subsidy programs: Nova Scotia Improved Sire Program, Technology Innovation Program under the Agri-Food Agreement, Ontario Rabies Indemnification Program, Ontario Bear Damage to Livestock Compensation, and Ontario Livestock and Poultry and Honeybee Compensation Program.



protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: October 28, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-28775 Filed 11-3-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-801]

#### Final Results of Expedited Sunset Reviews: Antifriction Bearings From Germany

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

**ACTION:** Notice of final results of expedited sunset reviews: antifriction bearings from Germany.

**SUMMARY:** On April 1, 1999, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping duty orders on ball bearings, cylindrical roller bearings, and spherical plain bearings (collectively, "antifriction bearings") from Germany 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 an adequate response filed on behalf of a domestic interested party and an inadequate response from respondent interested parties in each of these reviews, the Department decided to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to the continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Mark D. Young 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, DC 20230; telephone: (202) 482-3207 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** November 4, 1999.

#### Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of

the Act. The Department's procedures for conducting 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 Regulations"), and 19 CFR part 351 (1999) 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 products covered by these reviews are antifriction bearings ("AFBs") from Germany, which include ball bearings ("BBs"), cylindrical roller bearings ("CRBs"), and spherical plain bearings ("SPBs") and parts thereof. For a detailed description of the products covered by these orders, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset reviews on AFBs from Japan, published concurrently with this notice.

#### History of the Orders

On May 3, 1989, the Department issued final determinations of sales at less than fair value ("LTFV") with respect to imports of AFBs from Germany.<sup>1</sup> The antidumping duty orders on AFBs were issued by the Department on May 15, 1989, and the dumping margins that were found in the final determinations of sales at LTFV were affirmed.<sup>2</sup> Since the imposition of these orders, the Department has conducted nine administrative reviews.<sup>3</sup> The orders remain in effect for all manufacturers and exporters of the subject merchandise. In the final results of the 1995-1996 and 1997-1998 administrative reviews of these

<sup>1</sup> See Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, May 3, 1989, 54 FR 18992.

<sup>2</sup> See Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, May 15, 1989 54 FR 20900.

<sup>3</sup> See Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, 64 FR 35590 (July 1, 1999); 63 FR 33320 (June 18, 1998); 62 FR 54043 (October 17, 1997); 62 FR 2081 (January 15, 1997); 61 FR 66472 (December 17, 1996); 60 FR 10900 (February 28, 1995); 58 FR 39729 (July 26, 1993); 57 FR 28360 (June 24, 1992); and 56 FR 31692 (July 11, 1991).

antidumping duty orders, the Department found that antidumping duties were being absorbed by German producers of AFBs.<sup>4</sup> This review covers all producers and exporters of AFBs from Germany.

#### Background

On April 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on AFBs from Germany, pursuant to section 751(c) of the Act. By April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulation*, we received notices of intent to participate from the following parties: Link-Belt Bearing Division ("Link-Belt"); The Torrington Company ("Torrington"); MPB Corporation ("MPB"); Roller Bering Company of America ("RBC"); New Hampshire Ball Bearing, Inc. ("NHBB"); and NSK Corporation ("NSK Corporation"). Each of these parties claimed status as domestic interested parties on the basis that they are a domestic producer, manufacturer, or wholesaler of one or more of the products subject to these orders.<sup>5</sup>

Within the deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i), on May 3, 1999, the Department received complete substantive responses from each of these domestic interested parties with the exception of Link-Belt. In addition, SKF USA and SKF GmbH (collectively "SKF") notified the Department that they would not file a substantive response in the sunset reviews of the AFBs orders. Finally, we received a complete substantive response on behalf of FAG Kugelfischer Georg Schäfer AG and FAG Bearings Corporation (collectively "FAG"). FAG asserts that it is a foreign manufacturer and exporter of BBs and CRBs and is, therefore, an interested party within the meaning of section 771(9)(A) of the Act. We received rebuttal comments from Torrington and MPB, RBC, NHBB, NSK Corporation, and FAG on May 12, 1999, within the deadline. On May 21 and May 24, 1999, we informed the International Trade Commission ("Commission") that, on the basis of inadequate response from respondent interested parties, we were conducting expedited sunset reviews of these orders

<sup>4</sup> See Final Results of Antidumping Duty Administrative Reviews, 62 FR 54043 (October 17, 1997) (1995-96); and Final Results of Antidumping Duty Administrative Reviews, 64 Fed. Reg. 35590 (July 1, 1999) (1997-98).

<sup>5</sup> Torrington, RBC, and NHBB filed with respect to BBs, CRBs, and SPBs. Link-Belt and MPB filed with respect to BBs and CRBs. NSK Corporation filed with respect to BBs only.