

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 duty 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 their substantive response, the domestic interested parties argue that revocation of the subject order would have the effect of resumption of sales at less than fair value by margins equivalent to or greater than those found in the original investigation and subsequent reviews (see June 2, 1999 Substantive Response of the domestic interested parties at 3).

With respect to whether imports of the subject merchandise ceased after the issuance of the order, the domestic interested parties assert that since the issuance of the order, imports of subject tubing from Argentina into the United States have almost disappeared entirely. *Id.* Because imports of subject merchandise from Argentina into the United States have nearly ceased, the domestic interested parties argue that there is a strong likelihood of continuation of dumping should this order be terminated (see June 2, 1999 Substantive Response of domestic interested parties at page 3). Moreover,

the continued dumping at 56.26 percent is highly probative of the likelihood of continuation or recurrence of dumping. *Id.*

Consistent with section 752(c) of the Act, the Department considered the volume of imports before and after the 1989 issuance of the order. The statistics on imports of the subject merchandise cited by the domestic interested parties and those examined by the Department (U.S. Census Bureau IM146 reports), demonstrate that imports of the subject merchandise have ceased since the issuance of the order. Additionally, the margin of 56.26 percent *ad valorem*, the estimate from the original investigation, has continued throughout the history of the order.

The Department finds that the cessation of imports after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping.³ Given that imports of subject merchandise have ceased, that an above *de minimis* deposit rate remains in effect for all imports, that respondent interested parties have waived their right to participate in this review, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue or recur if the order were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department states 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*).

In their substantive response, the domestic interested parties assert that, because imports of subject merchandise from Argentina into the U.S. ceased after the issuance of the order, the Department should find the magnitude of the margin to be 56.26 percent, the

³ Department of Commerce Policy Bulletin, Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders quoting the Uruguay Round Agreements Act, Statement of Administrative Action (citation omitted), 63 FR 18871, 18872 (April 16, 1998).

margin from the original investigation (see June 2, 1999 Substantive Response of domestic interested parties at 3).

The Department agrees with the domestic interested parties' argument concerning the choice of the margin to report to the Commission. Since there have been no administrative reviews of the order, the rate from the original investigation is the only rate available to the Department. Therefore, we determine that the margin determined in the original investigation is probative of the behavior of producers/exporters of subject merchandise from Argentina if the order was revoked.

Final Results of Review

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

| Producer/exporter | Margin (percent) |
|---|------------------|
| All Argentinian producers/exporters | 56.26 |

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.

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

Dated: November 29, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-803]

Final Results of Expedited Sunset Review: Light-Walled Welded Rectangular Carbon Steel Tubing From Taiwan

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

ACTION: Notice of final results of expedited Sunset Review: Light-walled welded rectangular carbon steel tubing from Taiwan.

SUMMARY: On May 3, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on light-walled welded rectangular carbon steel tubing from Taiwan (54 FR 22794) 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 substantive comments filed on behalf of the domestic interested parties 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: Kathryn B. McCormick 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: December 3, 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 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 merchandise subject to this antidumping duty order is Taiwanese light-walled welded carbon steel tubing of rectangular (including square) cross-section, having a wall thickness of not less than 0.065 inches, and 0.375 inches or more but not over 4.5 inches in outside diameter. The subject

merchandise is classifiable under item number 7306.60.50.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS item number is provided for convenience and customs purposes, the written description remains dispositive.

History of the Order

In the original investigation, covering the period January 1, 1988, through June 30, 1988, the Department determined the following margins for U.S. imports of subject merchandise from Taiwan:¹

| Producer/exporter | Margin (percent) |
|--|------------------|
| Ornatube Enterprise ("Ornatube") | 5.51 |
| Vulcan Industrial Corp | 40.97 |
| Yieh Hsing Industries, Ltd | 40.97 |
| All Others | 29.15 |

Since the issuance of the order in 1989, the Department has conducted two administrative reviews. In the first review, covering the period November 21, 1988, through February 28, 1990, the Department determined a margin of 0.1975 percent for Ornatube. In the second review, covering the period March 1, 1990, through February 28, 1991, the margin for Ornatube was 18.05 percent. To date, the Department has not issued a duty-absorption determination in this case.

Background

On May 3, 1999, the Department initiated a sunset review of the antidumping duty order on light-walled welded carbon steel tubing from Taiwan (64 FR 23596), pursuant to section 751(c) of the Act. The Department received a notice of intent to participate on behalf of California Steel and Tube, Hannibal Industries Inc., Maruichi American Corporation, Searing Industries, Leavitt Tube, Vest Inc., and Western Tube and Conduit (collectively "domestic interested parties"), within the applicable deadline (May 18, 1999) specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. The domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product. We received a complete substantive response from the domestic interested parties on June 2, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). Many of the domestic interested parties are members of the Committee on Pipe and Tube Imports,

¹ See *Final Determination of Sales at Less than Fair Value; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan*, 54 FR 5532 (February 3, 1989).

the trade association on whose behalf the original petition was filed. We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), 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 (*i.e.*, an order in effect on January 1, 1995). On September 7, 1999, the Department determined that the sunset review of the antidumping duty order on light-walled welded rectangular carbon steel tubing from Taiwan is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than November 29, 1999, in accordance with section 751(c)(5)(B) of the Act.²

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping duty 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 duty order, and it 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 determination concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. Additionally, the domestic interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin 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,

² See *Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 48579 (September 7, 1999).

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 duty 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 their substantive response, the domestic interested parties argue that revocation of the subject order would have the effect of resumption of sales at less than fair value by margins equivalent to or greater than those found in the original investigation and subsequent reviews (see June 2, 1999, Substantive Response of domestic interested parties at 3).

With respect to whether imports of the subject merchandise ceased after the issuance of the order, the domestic interested parties assert that, since the issuance of the order, imports of subject tubing from Taiwan to the United States have almost disappeared entirely. *Id.* For instance, they contend, whereas in 1988 (the year before the antidumping duty order was issued), there were nearly 16,000 tons of U.S. imports of subject merchandise from Taiwan, in 1998, there were less than 100 tons of subject imports from Taiwan. *Id.* Thus, the domestic interested parties argue that continuing margins and the nearly total cessation of U.S. imports of the subject merchandise from Taiwan indicate a strong likelihood of continuation of dumping should the Department revoke this order. *Id.*

The Department agrees with the domestic interested parties' argument that continuing margins and the nearly total cessation of U.S. imports from Taiwan indicate a strong likelihood that Taiwanese importers/producers will continue to export at less than fair value in the absence of the order. We found that, according to U.S. Census Bureau IM149 reports, imports declined significantly during the period following the order and margins continue to exist at levels above *de minimis*. If imports cease or decline significantly, it is reasonable to assume that exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping.³ Further, if dumping continues after the issuance of an order, it is reasonable to determine that dumping would continue were the order revoked.

Given that dumping has continued at levels above *de minimis* after the issuance of the order, import volumes for subject merchandise declined significantly, respondent interested parties have waived their right to participate in this review before the Department, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue were the order revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department states 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*).

In their substantive response, the domestic interested parties assert that, because imports of subject merchandise from Taiwan into the United States declined significantly after the issuance of the order, the Department should

report to Commission the margin from the original investigation (see June 2, 1999, Substantive Response of domestic interested parties at 3).

The Department agrees with the domestic interested parties' argument concerning the margins to report to the Commission. The margins from the original investigation are the only rates that reflect the behavior of Taiwanese producers/exporters without the discipline of the order and, therefore, are probative of the behavior of producers/exporters of subject merchandise from Taiwan if the order were revoked.

Final Results of Review

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

| Producer/exporter | Margin (percent) |
|--|------------------|
| Ornatube Enterprise ("Ornatube") | 5.51 |
| Vulcan Industrial Corp. | 40.97 |
| Yieh Hsing Industries, Ltd. | 40.97 |
| All Others | 29.15 |

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

Dated: November 27, 1999.

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

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-008]

Final Results of Expedited Sunset Review: Small Diameter Carbon Steel Pipes and Tubes From Taiwan.

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

³ Department of Commerce Policy Bulletin, *Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, quoting the Uruguay Round Agreements Act, Statement of Administrative Action (citation omitted), 63 FR 18871, 18872 (April 16, 1998).