

DATE: September 30, 2010

MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: Susan H. Kuhbach
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited First Sunset
Reviews of the Antidumping Duty Orders on Purified
Carboxymethylcellulose (CMC) from Finland, the Netherlands,
and Sweden

Summary

We have analyzed the responses of the domestic interested party in the sunset reviews of the antidumping duty orders covering CMC from Finland, the Netherlands, and Sweden.¹ We recommend that you approve the positions described in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margins likely to prevail

History of the Orders

The domestic interested party for the antidumping duty orders on CMC from Finland, the Netherlands, and Sweden is Aqualon Company (Aqualon).²

¹ Despite our determination that the response submitted by Akzo Nobel Functional Chemicals B.V. (Akzo Nobel) (formerly known as Akzo Nobel Surface Chemistry B.V.), respondent for CMC from the Netherlands, was not adequate, we have included a summary of its arguments and have addressed these arguments in the "Department's Position" sections of this memorandum.

² Aqualon Company is a division of Hercules Incorporated.

Finland

On May 17, 2005, the Department of Commerce (the Department) published its final affirmative determination of sales at less than fair value (LTFV) in the *Federal Register* with respect to imports of CMC from Finland. See *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005). On June 30, 2005, in accordance with section 735(d) of the Tariff Act of 1930, as amended (the Act), the U.S. International Trade Commission (the ITC or the Commission) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of LTFV imports of purified CMC from Finland, Mexico, the Netherlands and Sweden. Based on affirmative final determinations by the Department and the ITC, on July 11, 2005 the Department published in the *Federal Register* an antidumping duty order on CMC from Finland. See *Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden*, 70 FR 39734 (July 11, 2005) (*CMC Antidumping Duty Orders*). The final determination rates were as follows: 6.65 percent for Noviant Oy and 6.65 percent for the “all others” rate.

Since the issuance of the antidumping duty order, the Department has completed three administrative reviews.³ In the first administrative review, the Department determined that CP Kelco Oy was the successor-in-interest to Noviant Oy. See *Purified Carboxymethylcellulose from Finland; Notice of Preliminary Determination of Antidumping Duty Administrative Review*, 72 FR 44106, 44107 (August 7, 2007) (unchanged in *2004-2006 CMC Finland Final Results*). In the first, second and third administrative reviews, the Department determined weighted average margins with respect to CP Kelco Oy of 5.97 percent, 13.89, and 12.00 percent, respectively. The Department is currently conducting a fourth administrative review.⁴ The Department intends to issue the final results of the fourth administrative review on December 7, 2010 (this deadline may be extended).

On June 2, 2010, the Department published the notice of initiation of the first sunset reviews of the antidumping duty orders on CMC from Finland, the Netherlands, Mexico, and Sweden pursuant to section 751(c) of the Act.⁵ On June 3, 2010, the Department received a timely notice of intent to participate from Aqualon. See 19 CFR 351.218(d)(1)(i). Aqualon claimed domestic interested party status under section 771(9)(C) of the Act, as the sole manufacturer of a domestic-like product in the United States.

On July 1, 2010, we received an adequate substantive response from Aqualon within the 30-day deadline specified under 19 CFR 351.218(d)(3)(i). The Department received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218 (e)(1)(ii)(C)(2), the Department began conducting

³ See *Purified Carboxymethylcellulose from Finland, Notice of Final Results of Antidumping Duty Administrative Review*, 72 FR 70568 (December 12, 2007) (*2004-2006 CMC Finland Final Results*); *Purified Carboxymethylcellulose from Finland; Final Results of Antidumping Duty Administrative Review*, 73 FR 75397 (December 11, 2008); and *Purified Carboxymethylcellulose from Finland; Notice of Final Results of Antidumping Duty Administrative Review*, 74 FR 28886 (June 18, 2009).

⁴ See *Purified Carboxymethylcellulose from Finland; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 47788 (August 9, 2010).

⁵ *Initiation of Five-Year (“Sunset”) Review*, 75 FR 30777 (June 2, 2010).

an expedited (120-day) sunset review of this order and notified the Commission. *See* Letter to Ms. Catherine DeFilippo, Director, Office of Investigations, U.S. International Trade Commission, from James Maeder, Director, Office 2, AD/CVD Operations, entitled “Expedited and Full Sunset Reviews of the Antidumping Duty Orders Initiated in June 2010,” dated July 22, 2010 (Letter to the ITC).

The Netherlands

On May 17, 2005 the Department published its final affirmative determination of sales at LTFV in the *Federal Register* with respect to imports of CMC from the Netherlands. *See Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose from the Netherlands*, 70 FR 28275 (May 17, 2005). On June 30, 2005, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of LTFV imports of purified CMC from Finland, Mexico, the Netherlands and Sweden. Based on affirmative final determinations by the Department and the ITC, on July 11, 2005, the Department published in the *Federal Register* an antidumping duty order on CMC from the Netherlands. *See CMC Antidumping Duty Orders*. The final determination rates were as follows: 14.88 percent for Noviant B.V., 13.39 percent for Akzo Nobel Surface Chemistry B.V., and 14.57 percent for the “all others” rate.

Since the issuance of the antidumping duty order, the Department has completed three administrative reviews.⁶ In the first administrative review, the Department determined that CP Kelco B.V. was the successor-in-interest to Noviant B.V. *See Purified Carboxymethylcellulose from the Netherlands; Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 44099, 44101 (August 7, 2007) (unchanged in *2004-2006 CMC Netherlands Final Results*). In the first, second, and third administrative reviews, the Department determined weighted average dumping margins with respect to CP Kelco B.V. of 4.59 percent, 7.02 percent, and 24.23 percent, respectively. The Department is currently conducting a fourth administrative review, covering imports of subject merchandise produced and exported by Akzo Nobel Functional Chemicals B.V. (Akzo Nobel) and CP Kelco B.V.⁷ The Department intends to issue the final results of the fourth administrative review on December 8, 2010 (this deadline may be extended).

On June 2, 2010, the Department published the notice of initiation of the first sunset review of the antidumping duty order on CMC from Finland, the Netherlands, Mexico, and Sweden pursuant to section 751(c) of the Act.⁸ On June 3, 2010, the Department received a

⁶ *See Purified Carboxymethylcellulose from the Netherlands: Final Results of Antidumping Duty Administrative Review*, 72 FR 70821 (December 13, 2007) (*2004-2006 CMC Netherlands Final Results*); *Purified Carboxymethylcellulose From the Netherlands: Final Results of Antidumping Duty Administrative Review*, 73 FR 75393 (December 11, 2008) (*2006-2007 CMC Netherlands Final Results*); and *Purified Carboxymethylcellulose from the Netherlands: Final Results of Antidumping Duty Administrative Review*, 74 FR 52742 (October 14, 2009) (*2007-2008 CMC Netherlands Final Results*).

⁷ *See Purified Carboxymethylcellulose From the Netherlands; Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 48310 (August 10, 2010) (*CMC Netherlands Fourth Administrative Review (2008-2009) Preliminary Results*), where the Department preliminarily determined that Akzo Nobel Functional Chemicals B.V. is the successor-in-interest to Akzo Nobel Surface Chemistry B.V.

⁸ *Initiation of Five-Year (“Sunset”) Review*, 75 FR 30777 (June 2, 2010).

timely notice of intent to participate from Aqualon. *See* 19 CFR 351.218(d)(1)(i). Aqualon claimed domestic interested party status under section 771(9)(C) of the Act, as the sole manufacturer of a domestic-like product in the United States.

On July 1, 2010, we received an adequate substantive response from Aqualon within the 30-day deadline specified under 19 CFR 351.218(d)(3)(i). On July 2, 2010, respondent Akzo Nobel filed a response concerning the sunset review of CMC from the Netherlands. Using the data provided by Aqualon in its July 1, 2010, substantive response, and data at pages 12 and 13 of Akzo Nobel's July 2, 2010, response, the Department found that Akzo Nobel accounted for less than 50 percent of exports of subject merchandise from the Netherlands. On July 22, 2010, the Department determined that Akzo Nobel's response was not adequate because Akzo Nobel did not account for more than 50 percent of the total exports of subject merchandise to the United States over the relevant five-year period as required by 19 CFR 351.218(e)(1)(ii)(A). *See* Memorandum to Richard O. Weible, Director, AD/CVD Operations, Office 7, "Adequacy Determination in the First Five-Year 'Sunset Review' (2005 through 2009) of the Antidumping Duty Order on Purified Carboxymethylcellulose from the Netherlands," dated July 22, 2010. Therefore, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department determined that it would conduct an expedited (120-day) sunset review of this order and notified the Commission. *See* Letter to the ITC.

Sweden

On May 17, 2005 the Department published its final affirmative determination of sales at LTFV in the *Federal Register* with respect to imports of CMC from Sweden. *See Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Sweden*, 70 FR 28278 (May 17, 2005). On June 30, 2005, the ITC notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States was materially injured by reason of LTFV imports of subject merchandise. On the basis of its affirmative finding of sales at LTFV, and the findings of the ITC, the Department issued an antidumping duty order on CMC from Sweden. *See CMC Antidumping Duty Orders*. The final determination rates were as follows: 25.29 percent for Noviant AB and 25.29 percent for the "all others" rate.

Since the issuance of the antidumping duty order, the Department has completed two administrative reviews.⁹ In the first administrative review, the Department determined that CP Kelco AB was the successor-in-interest to Noviant AB. *See Purified Carboxymethylcellulose From Sweden: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 44089, 44090 (August 7, 2007) (unchanged in *2004-2006 CMC Sweden Final Results*). In the first and second administrative reviews, the Department determined weighted-average dumping margins with respect to CP Kelco AB of 3.84 percent and 5.44 percent, respectively.

⁹ *See Purified Carboxymethylcellulose from Sweden: Final Results of Antidumping Duty Administrative Review*, 72 FR 69667 (December 10, 2007) (*2004-2006 CMC Sweden Final Results*) and *Purified Carboxymethylcellulose From Sweden: Final Results of Antidumping Duty Administrative Review*, 73 FR 75395 (December 11, 2008).

On September 29, 2008, the Department rescinded the third administrative review of the antidumping duty order on CMC from Sweden for the period July 1, 2007, through June 30, 2008. *See Purified Carboxymethylcellulose from Sweden: Notice of Rescission of Antidumping Duty Administrative Review*, 73 FR 56553 (September 29, 2008).

On June 2, 2010, the Department initiated the instant sunset review of the antidumping duty order on CMC from Sweden pursuant to section 751(c) of the Act. *See Initiation of Five-Year (Sunset) Reviews*, 75 FR 30777 (June 2, 2010).¹⁰ On June 3, 2010, the Department received a timely notice of intent to participate from Aqualon. *See* 19 CFR 351.218(d)(1)(i). Aqualon claimed domestic interested party status under section 771(9)(C) of the Act, as the sole manufacturer of a domestic-like product in the United States.

On July 1, 2010, we received an adequate substantive response from Aqualon within the 30-day deadline specified under 19 CFR 351.218(d)(3)(i). The Department received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department determined to conduct an expedited (120-day) sunset review of this order and notified the Commission. *See* Letter to the ITC.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting these sunset reviews to determine whether revocation of the antidumping duty orders would likely lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and the periods after the issuance of the antidumping duty orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the Commission the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the domestic interested party.

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Party Comments

Finland

Aqualon asserts that data during the sunset review period demonstrate that imports of subject merchandise from Finland continued after the issuance of the order.¹¹ Aqualon further states that dumping margins during this period have been significant—as high as 13.89 percent—and this has not deterred CP Kelco Oy from selling large quantities of CMC into the U.S. market.¹² Aqualon adds that given the existence of dumping margins in the administrative

¹⁰ On July 9, 2010, the Department noted that the case number for carboxymethylcellulose from Sweden was listed incorrectly in the June 2, 2010, initiation notice, and corrected the case number for this sunset review. *See Initiation of Five-Year (“Sunset”) Review*, 75 FR 39494 (July 9, 2010).

¹¹ *See* Aqualon’s Substantive Response for CMC from Finland, dated July 1, 2010, at 5.

¹² *Id.*

reviews of this order, it is unlikely that the Finnish producer would be able to sell at pre-order volumes without dumping.¹³ Therefore, according to Aqualon, the Department should determine that if the order were revoked, it is likely that CP Kelco Oy would continue dumping and selling in significant volumes.

The Netherlands

Aqualon asserts that data during the sunset review period demonstrate that imports of subject merchandise from the Netherlands continued after the issuance of the order.¹⁴ Aqualon further states that dumping margins during this period have been significant—as high as 24.23 percent—and this has not deterred respondents from selling large quantities of CMC into the U.S. market.¹⁵ Aqualon adds that given the existence of dumping margins in the administrative reviews of this order, it is unlikely that the Dutch producers would be able to sell at pre-order volumes without dumping.¹⁶ Therefore, according to Aqualon, the Department should determine that if the order were revoked, it is likely that Dutch CMC respondents would continue dumping and selling in significant volumes.

Akzo Nobel argues that revocation of the antidumping order on CMC from the Netherlands will not cause continuation or recurrence of material injury to the domestic industry at any foreseeable point in the future.¹⁷ Akzo Nobel further argues that the primary exporter from the Netherlands (*i.e.*, CP Kelco) has recently ceased production, and Akzo Nobel, the sole producer now in the Netherlands, has had only marginal exports to the United States and is already producing at maximum capacity.¹⁸ Thus, according to Akzo Nobel, the volume of Dutch exports to the United States will decline substantially irrespective of the continuance of the order.¹⁹ Additionally, according to Akzo Nobel, rapid growth in demand in the United States and elsewhere for CMC means that prices will rise, as should sales and profits for the U.S. industry.²⁰ However, Akzo Nobel states that it believes that there will be little or no effect on U.S. market prices if the antidumping order on subject merchandise from the Netherlands is lifted.²¹

Sweden

Aqualon asserts that data during the sunset review period demonstrate that imports of subject merchandise from Sweden continued after the issuance of the order.²² Aqualon further states that dumping margins during this period have been significant, and this has not deterred CP Kelco AB from selling large quantities of CMC into the U.S. market.²³ Aqualon adds that given the existence of dumping margins in the administrative reviews of this order, it is unlikely

¹³ *Id.*

¹⁴ See Aqualon's Substantive Response for CMC from the Netherlands, dated July 1, 2010, at 5.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See Akzo Nobel's Substantive Response, dated July 2, 2010, at 3.

¹⁸ *Id.* at 3-4.

¹⁹ *Id.* at 3.

²⁰ *Id.*

²¹ See Akzo Nobel's Substantive Response, dated July 2, 2010, at 9.

²² See Aqualon's Substantive Response for CMC from Sweden, dated July 1, 2010, at 5.

²³ *Id.*

that the Swedish producer would be able to sell at pre-order volumes without dumping were it to recommence operations in Sweden.²⁴ Therefore, according to Aqualon, the Department should determine that if the order were revoked, it is likely that CP Kelco AB would continue dumping and selling in significant volumes.

Department's Position:

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA), H. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determinations of likelihood of the continuation or recurrence of dumping will be made on an order-wide basis. In addition, the Department normally 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. In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

Finland: The Department examined the data for the relevant periods which show that, subsequent to the imposition of the antidumping duty order, imports of CMC from Finland have decreased. We reviewed public U.S. import data as reported by the U.S. ITC Dataweb for 2003-2009, which includes the five-year sunset period (2005-2009). *See* Memorandum to The File from Dena Crossland, International Trade Compliance Analyst, through Angelica Mendoza, Program Manager, regarding the Import Volumes for the First Sunset Review of the Antidumping Duty Orders on Purified Carboxymethylcellulose from Finland, the Netherlands, and Sweden, dated September 30, 2010 (Import Volumes Memo). We compared the public import data to Aqualon's reported data and found that these data are comparable, once the data reported by Aqualon were converted into kilograms.

Additionally, Aqualon only reported imports for 2005 through 2009, which were classified in the Harmonized Tariff Schedule of the United States (HTSUS) at the 10-digit subheading 3912.31.00.10.²⁵ When comparing imports of subject merchandise for the five-year sunset review period, the Department's practice is to look at the full year prior to initiation of the investigation (as opposed to prior to issuance of the order).²⁶ Because our practice is to analyze data from the full year prior to the investigation (*i.e.*, 2003) and the new 10-digit HTSUS number

²⁴ *Id.*

²⁵ At page 12 of the Appendix of Aqualon's Substantive Response, dated July 1, 2010, Aqualon referenced HTSUS number 3913.31.00.10. Aqualon stated on September 15, 2010, that it had mistakenly referenced the wrong HTSUS number in its substantive response and intended to reference HTSUS number 3912.31.00.10. *See* Memorandum to the File from Dena Crossland, Regarding Final Results of First Sunset Reviews of the Antidumping Duty Orders on Purified Carboxymethylcellulose from Finland, the Netherlands, and Sweden; Correction to Domestic Interested Party's July 1, 2010, Substantive Response, dated September 23, 2010 (Correction Memo).

²⁶ *See, e.g., Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007) and accompanying Issues and Decision Memorandum at Comment 1; *Furfuryl Alcohol From Thailand; Preliminary Results of the Second Sunset Review of the Antidumping Duty Order*, 71 FR

(3912.31.00.10) was not created until 2005, we have used import data that entered the United States under HTSUS number 3912.31.00 for the entire 2003 through 2009 period, as they are more comparable. *See* Import Volumes Memo.

The Department notes that in the full year prior to initiation of the investigation, *i.e.* 2003, the import volume of CMC from Finland was 11.230 million kilograms. *See* Import Volumes Memo. During the 2005-2009 period, imports of CMC from Finland averaged 6.455 million kilograms (*see* Import Volumes Memo), indicating an overall decline in imports from the pre-order period.

The results of the administrative reviews conducted as part of this proceeding indicated that Finnish producers have continued to dump when selling their product in the U.S. market during the post-order period. Accordingly, based on the continued existence of dumping margins and the significant decline in subject imports from Finland as a result of the order, the Department determines that dumping is likely to recur if the order is revoked.

The Netherlands: The Department examined the data for the relevant periods which show that, subsequent to the imposition of the antidumping duty order, imports of CMC from the Netherlands have decreased. *See* Import Volumes Memo. We reviewed public U.S. import data as reported by the U.S. ITC Dataweb for 2003-2009, which includes the five-year sunset period (2005-2009). *Id.* We compared the public import data to Aqualon's reported data and found that these data are comparable, once the data reported by Aqualon were converted into kilograms.

Additionally, Aqualon only reported imports for 2005 through 2009, which were classified in the HTSUS at the 10-digit subheading 3912.31.00.10.²⁷ When comparing imports of subject merchandise for the five-year sunset review period, the Department's practice is to look at the full year prior to initiation of the investigation (as opposed to prior to issuance of the order).²⁸ Because our practice is to analyze data from the full year prior to the investigation (*i.e.*, 2003) and the new 10-digit HTSUS number (3912.31.00.10) was not created until 2005, we have used import data that entered the United States under HTSUS number 3912.31.00 for the entire 2003 through 2009 period, as they are more comparable. *See* Import Volumes Memo.

The Department notes that in the full year prior to initiation of the investigation, *i.e.*, 2003, the import volume of CMC from the Netherlands was 6.848 million kilograms. *Id.* During the 2005-2009 period, imports of CMC from the Netherlands averaged 5.126 million kilograms, indicating an overall decline in imports from the pre-order period.

62583 (October 26, 2006) and accompanying Issues and Decision Memorandum at Comment 1 (unchanged in *Furfuryl Alcohol from Thailand; Final Results of the Second Sunset Review of the Antidumping Duty Order and Revocation of the Order*, 72 FR 9729 (March 5, 2007)); *Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and Mexico; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 53159 (September 7, 2005) and accompanying Issues and Decision Memorandum at Comment 1.

²⁷ At page 12 of the Appendix of Aqualon's Substantive Response, dated July 1, 2010, Aqualon referenced HTSUS number 3913.31.00.10. Aqualon stated on September 15, 2010, that it had mistakenly referenced the wrong HTSUS number in its substantive response and intended to reference HTSUS number 3912.31.00.10. See Correction Memo.

²⁸ *See, e.g.*, Footnote 26.

The results of the administrative reviews conducted as part of this proceeding demonstrate that Dutch producers and exporters have continued to dump when selling their product in the U.S. market during the post-order period.

Based on data on the record of the sunset review imports of subject merchandise from the Netherlands have continued—although they have declined from 2007 through 2009. The SAA provides that declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, dumping would be likely to continue because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes. *See* SAA at 890. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the order were removed. *See* SAA at 889-890. On the basis of the information on the record, we find that dumping would be likely to continue or recur if the antidumping duty order on CMC from the Netherlands were revoked.

Regarding Akzo Nobel's arguments about the recent changes in the Dutch marketplace (*e.g.*, that CP Kelco ceased production in late 2009), we note that during the sunset review period, *i.e.*, 2005 through 2009, CP Kelco has never been the sole producer/exporter of subject merchandise. Additionally, Akzo Nobel argues that the primary producer of subject merchandise will most likely no longer produce subject merchandise after 2009, and this will result in decreased imports to the United States. We find that this argument is not on point because to the extent that a Dutch CMC producer or exporter, whether CP Kelco, Akzo Nobel or other, sells to the United States, the existence of dumping margins and the decline in subject imports during the sunset review period indicate that dumping is likely to continue.

Sweden: The Department examined the data for the relevant periods which show that imports of CMC from Sweden decreased after the imposition of the order. *See* Import Volumes Memo. We reviewed public U.S. import data as reported by the U.S. ITC Dataweb for 2003-2009, which includes the five-year sunset period (2005-2009). *See* Import Volumes Memo. We compared the public import data to Aqualon's reported data and found that these data are comparable, once the data reported by Aqualon were converted into kilograms.

Additionally, Aqualon only reported imports for 2005 through 2009, which were classified in the HTSUS at the 10-digit subheading 3912.31.00.10.²⁹ When comparing imports of subject merchandise for the five-year sunset review period, the Department's practice is to look at the full year prior to initiation of the investigation (as opposed to prior to issuance of the order).³⁰ Because our practice is to analyze data from the full year prior to the investigation (*i.e.*, 2003) and the new 10-digit HTSUS number (3912.31.00.10) was not created until 2005, we have used import data that entered the United States under HTSUS number 3912.31.00 for the entire 2003 through 2009 period, as they are more comparable. *See* Import Volumes Memo.

²⁹ *See* Correction Memo.

³⁰ *See, e.g.*, Footnote 26.

The Department notes that in the full year prior to initiation of the investigation, *i.e.* 2003, the import volume of CMC from Sweden was 1.878 million kilograms. *Id.* During the 2005-2009 period imports of CMC from Sweden averaged 718,496.80 kilograms, indicating an overall decline in imports from the pre-order period.³¹

The results of the administrative reviews conducted as part of this proceeding indicate that Swedish producers have continued to dump when selling their product in the U.S. market during the post-order period. Accordingly, based on the continued existence of dumping margins and the significant decline in subject imports from Sweden as a result of the order, the Department determines that dumping is likely to continue if the order is revoked.

2. Magnitude of the Margins Likely to Prevail

Interested Party Comments

Finland: Aqualon states that the Department should advise the Commission that a dumping margin of at least 6.65 percent, the final antidumping duty rate in the underlying investigation for CP Kelco Oy/all others, is the rate most likely to prevail if the Secretary revokes the subject order.³² Additionally, Aqualon states that this rate reflects the Department's evaluation of respondents' behavior when not constrained by an antidumping duty order and thus most closely approximates what can be expected if the order were to be revoked.³³

The Netherlands: Aqualon states that the Department should advise the Commission that a dumping margin of at least 14.57 percent (*i.e.*, the "all others" rate), the final antidumping duty rate in the underlying investigation, is the rate most likely to prevail if the Secretary revokes the subject order.³⁴ Additionally, Aqualon states that this rate reflects the Department's evaluation of respondent's behavior when not constrained by an antidumping duty order and thus most closely approximates what can be expected if the order were to be revoked.³⁵

Akzo Nobel states that its rate for the first, second, and third administrative reviews was the "all others" rate of 14.57 percent.³⁶ Akzo Nobel further states that it believes that its dumping margin for the current administrative review will be significantly lower than the "all others" rate and most likely will be at a *de minimis* level.³⁷ Therefore, according to Akzo Nobel, the Department should determine that a dumping margin of zero percent for the Netherlands, where Akzo Nobel is the only producer of subject merchandise, is the dumping margin likely to prevail if the order were revoked.³⁸

³¹ We note that there were no imports of subject merchandise from Sweden in 2009. *See* Import Volumes Memo.

³² *See* Aqualon's Substantive Response for CMC from Finland, dated July 1, 2010, at 4.

³³ *Id.*

³⁴ *See* Aqualon's Substantive Response for CMC from the Netherlands, dated July 1, 2010, at 4.

³⁵ *Id.*

³⁶ *See* Akzo Nobel's Substantive Response, dated July 2, 2010, at 11, where Akzo Nobel explains that several administrative reviews were rescinded with respect to Akzo Nobel and then it was subject to the "all others" rate.

³⁷ *See* Akzo Nobel's Substantive Response, dated July 2, 2010, at 10.

³⁸ *Id.*

Sweden: Aqualon states that the Department should advise the Commission that a dumping margin of at least 25.29 percent, the final antidumping duty rate in the underlying investigation for CP Kelco AB/all others, is the rate most likely to prevail if the Secretary revokes the subject order.³⁹ Additionally, Aqualon states that this rate reflects the Department's evaluation of respondent's behavior when not constrained by an antidumping duty order and thus most closely approximates what can be expected if the order were to be revoked.⁴⁰

Department's Position:

Normally, the Department will provide to the Commission the company-specific margin from the investigation for each company.⁴¹ For companies not investigated specifically, 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.⁴² The Department's preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.⁴³ Under certain circumstances, however, the Department may select a more recently calculated margin to report to the Commission. See section 752(c)(3) of the Act.⁴⁴

We find it appropriate to provide the Commission with the final determination rates from the LTFV investigations of CMC from Finland, the Netherlands, and Sweden because these margins best reflect the behavior of producers/exporters of CMC from Finland, the Netherlands, and Sweden without the discipline of an order in place. The Department notes that although administrative reviews have been conducted, exports from Finland, the Netherlands, and Sweden are significantly below pre-order levels. These results indicate that the orders have imposed a discipline on exports. Additionally, the decrease in imports since the imposition of the orders, and the existence of continued dumping margins throughout the life of the orders, demonstrate that if the orders are revoked, it is likely that the Finnish, Dutch, and Swedish producers/exporters would continue dumping and selling in significant volumes. Thus, the final determination rates from the LTFV investigations reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. The Department will, therefore, report to the Commission the margins listed in the "Final Results of Reviews" section, below.

With regard to Akzo Nobel's contention that the rates established at the investigation do not accurately reflect the margin likely to prevail, we do not find Akzo Nobel's belief that its rate in the ongoing administrative review will be *de minimis* to be probative of what would be the

³⁹ See Aqualon's Substantive Response for CMC from Sweden, dated July 1, 2010, at 4.

⁴⁰ *Id.*

⁴¹ See *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

⁴² See *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People's Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006) (*Hot-Rolled*), and accompanying Issues and Decision Memorandum at Comment 2.

⁴³ See *Hot-Rolled* and accompanying Issues and Decision Memorandum at Comment 2.

⁴⁴ See also *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying Issues and Decision Memorandum at Comment 3.

margin likely to prevail if the order were revoked. First, the Department has not calculated a *de minimis* rate for Akzo Nobel.⁴⁵ Moreover, it is the Department’s responsibility in making its likelihood determination and in determining rates, to evaluate both criteria of the sunset review on an order-wide basis, not a company-specific basis. During the sunset review period, the Department found dumping margins for two producers. Thus, regardless of Akzo Nobel’s belief that it will be the sole producer in the future, the Department continues to find that the margins calculated in the original investigation are probative of the behavior of all Dutch producers and exporters because these are the only rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Thus, the Department finds that the margins from the original investigation are the appropriate margins to report to the Commission. Consistent with section 752(c) of the Act, the Department will, therefore, report to the Commission the company-specific and “all others” rates from the investigation as indicated in the “Final Results of Review” section, below.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on CMC from Finland, the Netherlands, and Sweden would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
<u>Finland</u>	
CP Kelco Oy	6.65
All Others Rate	6.65
<u>The Netherlands</u>	
Akzo Nobel Functional Chemicals, B.V.	13.39
CP Kelco B.V.	14.88
All Others Rate	14.57
<u>Sweden</u>	
CP Kelco AB	25.29
All Others Rate	25.29

⁴⁵ The Department has completed three administrative reviews, which resulted in the following margins for CP Kelco: 4.59 percent (2004-2006 review), 7.02 percent (2006-2007 review), and 24.23 percent (2007-2008 review). See *2004-2006 CMC Netherlands Final Results*, *2006-2007 CMC Netherlands Final Results*, and *2007-2008 CMC Netherlands Final Results*. As Akzo Nobel noted, it was rescinded from these three administrative reviews. However, in the recently completed preliminary results, the Department calculated a margin of 13.71 percent for Akzo Nobel and 2.77 percent for CP Kelco. See *CMC Netherlands Fourth Administrative Review (2008-2009) Preliminary Results*. The Department intends to issue the final results of the fourth administrative review on December 8, 2010 (this deadline may be extended).

Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish these final results of sunset reviews in the *Federal Register*.

Agree_____

Disagree_____

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

Date