

MEMORANDUM TO: Carole A. Showers
Acting Deputy Assistant Secretary
for Import Administration

FROM: John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset
Reviews of the Antidumping Duty Orders on Carbazole Violet
Pigment 23 from India and the People's Republic of China

SUMMARY:

We have analyzed the substantive responses of the interested parties in the sunset reviews of the antidumping duty orders on carbazole violet pigment 23 (CVP 23) from India and the People's Republic of China (PRC). We recommend that you approve the positions developed in the Discussion of the Issues section of this memorandum. Below is a 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

On November 17, 2004, the Department of Commerce (the Department) published its final affirmative determinations of sales at less than fair value (LTFV) in the *Federal Register* with respect to imports of CVP 23 from the PRC and India.¹ On November 26, 2004, the Department published a correction notice to address a typographical error in the molecular formula in the description of the Scope of Investigation section of the final affirmative determination of sales at LTFV with respect to the PRC.² On December 29, 2004, the Department published its amended final determination for the investigation concerning CVP 23 from India in response to the petitioners' allegations of ministerial errors in the calculations of dumping margins.³ On March

¹ *Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment from the People's Republic of China*, 69 FR 67304 (November 17, 2004); *Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment From India*, 69 FR 67306 (November 17, 2004).

² *Notice of Correction to the Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From the People's Republic of China*, 69 FR 68876 (November 26, 2004).

³ *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbazole Violet Pigment From India*, 69 FR 77988 (December 29, 2004).

30, 2007, the Department published its amended final determination for the investigation concerning CVP 23 from the PRC in accordance with a remand from the Court of International Trade (CIT). In accordance with the CIT remand, the Department applied partial adverse facts available to Tianjin Hanchem International Trading Co., Ltd., explained how the subsidies Pidilite Industries Ltd. (Pidilite) received did not distort Pidilite's financial ratios, re-calculated the surrogate values for benzene sulfonyl chloride, calcium chloride and steam, explained why it is not appropriate to include terminal charges and brokerage fees in movement costs, and calculated a surrogate value for steam.⁴ In the final determinations, as amended, the Department found the following antidumping duty margins:

<u>Country</u>	<u>Company</u>	<u>Weighted-Average Margin (Percent)</u>
<i>India</i>	Alpanil Industries Ltd.	27.23
	Pidilite Industries Ltd.	66.59
	All Others	44.80
<i>PRC</i>	GoldLink Industries Co., Ltd.	12.46
	Nantong Haidi Chemical Co., Ltd.	57.07
	Trust Chem Co., Ltd.	39.29
	Tianjin Hanchem International Trading Co., Ltd.	85.41
	PRC-wide	241.32

Following the publication of the Department's final determinations, the International Trade Commission (ITC) found that the U.S. industry was materially injured by reason of the imports of subject merchandise.⁵ On December 29, 2004, the Department published the antidumping duty orders on CVP 23 from the PRC and India.⁶

Administrative Reviews

India

Since the publication of the antidumping duty order, the Department has completed two administrative reviews of the antidumping duty order on CVP 23 from India with respect to Alpanil Industries Ltd.⁷ and one administrative review of the antidumping duty order on CVP 23 from India with respect to Pidilite Industries Ltd.⁸ The Department is currently conducting the

⁴ *Carbazole Violet Pigment 23 from the People's Republic of China: Notice of Amended Final Determination in Accordance With Court Decision*, 72 FR 15101 (March 30, 2007).

⁵ *Carbazole Violet Pigment 23 From China and India*, Invs. 701-TA-437 and 731-TA-1060 and 1061 Publication No. 3744 (Final) (December 2004); *Carbazole Violet Pigment 23 From China and India*, 69 FR 77776 (December 28, 2004).

⁶ *Antidumping Duty Order: Carbazole Violet Pigment 23 From the People's Republic of China*, 69 FR 77987 (December 29, 2004); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbazole Violet Pigment From India*, 69 FR 77988.

⁷ *Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 73 FR 19811 (April 11, 2008); *Carbazole Violet Pigment 23 From India: Final Results of Antidumping Duty Administrative Review*, 73 FR 74141 (December 5, 2008).

⁸ *Carbazole Violet Pigment 23 From India: Final Results of Antidumping Duty Administrative Review*, 73 FR 74141.

2007-2008 administrative review.⁹ In the completed administrative reviews, the Department found that the producers/exporters continued to dump subject merchandise from India with the order in place.

PRC

Since the publication of the antidumping duty order, the Department has completed one administrative review of the antidumping duty order on CVP 23 from the PRC with respect to Tianjin Hanchem International Trading Co., Ltd., and assigned it a rate of zero.¹⁰ The Department initiated the 2006-2007 review, but the sole respondent selected for individual examination, GoldLink Industries Co. Ltd. (GoldLink), and ten other companies covered by the review were non-responsive and lost their separate-rate status. The Department assigned an adverse facts-available rate to all eleven companies.¹¹ The Department is conducting the 2007-2008 administrative review.¹² As such, in the completed administrative reviews, the Department found that all but one producer/exporter continued to dump subject merchandise from the PRC with the order in place.

Duty-Absorption Findings, Changed-Circumstances Reviews, Scope Inquiries

There have been no duty-absorption findings, changed-circumstances reviews, or scope rulings with respect to CVP 23 from India or the PRC.

Sunset Reviews

On November 2, 2009, the Department initiated sunset reviews of the antidumping duty orders on CVP 23 from India and the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See *Initiation of Five-Year (“Sunset”) Review*, 74 FR 56593 (November 2, 2009) (*Notice of Initiation*). The Department invited interested parties to participate.

On November 10, 2009, the Department received a notice of intent to participate from Nation Ford Chemical Company (NFC) and Sun Chemical Corporation (Sun) (collectively, the domestic interested parties) within the 15-day period specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as producers of a domestic like product in the United States.

On December 2, 2009, the Department received complete substantive responses to the *Notice of Initiation* from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i). The domestic interested parties were petitioners in the original investigation and participated actively in each administrative review of the orders on subject merchandise

⁹ *Carbazole Violet Pigment 23 from India: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 68038 (December 22, 2009).

¹⁰ *Carbazole Violet Pigment 23 from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 26589 (May 10, 2007).

¹¹ *Carbazole Violet Pigment 23 from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 883 (January 9, 2009).

¹² *Carbazole Violet Pigment 23 From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 68780 (December 29, 2009).

from India and the PRC. The Department received no substantive responses from any of the respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act, the Department is conducting expedited (120-day) sunset reviews of the antidumping duty orders on CVP 23 from India and the PRC.

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 be likely to lead to 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 investigations and subsequent reviews and the volume of imports of the subject merchandise for the period before and 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 ITC the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the domestic interested parties which were submitted in their December 2, 2009, substantive responses.

1. Likelihood of Continuation or Recurrence of Dumping

Interested-Party Comments

India

The domestic interested parties argue that revocation of the antidumping duty order on CVP 23 from India would likely lead to a continuation or recurrence of dumping by the producers and exporters of the subject merchandise.

The domestic interested parties state that dumping has continued at levels above *de minimis* since the order was issued for subject merchandise from India. According to the domestic interested parties, the Department has consistently found high margins of dumping of CVP 23 from India. Specifically, the domestic interested parties continue, the Department has found that every company in every review period engaged in dumping at margins exceeding the *de minimis* threshold.

In addition, the domestic interested parties present data for the period 2002-2008 and state that imports of subject merchandise generally declined since the imposition of the order. Although they acknowledge that, in 2006 and 2007, imports of subject merchandise increased, the parties assert that certain circumstances led to the increase. They assert that Sun had to supplement its requirement for CVP 23 crude, traditionally sourced from Sumitomo Chemical Company, Ltd. (Sumitomo), in Japan and NFC, with CVP 23 crude from the PRC, India, and Germany. The parties contend that Sumitomo halted production in 2007 due to alleged environmental problems and NFC reduced its production capacity significantly while it transitioned to a new pigment-production process in the latter part of 2006, all of 2007, and part of 2008. In April 2008, the parties explain, NFC returned to supplying most of Sun's requirement for crude pigment and

since May 2009 has had the capacity to supply Sun's entire CVP 23 crude requirement. As such, they state, imports of subject merchandise declined again in 2008.

Therefore, the domestic interested parties conclude, the Department should determine that revocation of the order on CVP 23 from India would likely result in a continuation or recurrence of dumping, pursuant to the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, Vol. 1 (1994), at 890 and the Department's normal practice.

PRC

The domestic interested parties argue that revocation of the antidumping duty order on CVP 23 from the PRC would likely lead to a continuation or recurrence of dumping by the producers and exporters of the subject merchandise.

The domestic interested parties assert that, in the Department's most recent final results of review, the rate the Department determined for all eleven companies subject to the review was the PRC-wide rate, which is well above the *de minimis* level. Thus, they assert, the original mandatory respondents as well as most other Chinese producers and exporters are subject to an antidumping duty rate well above the *de minimis* threshold.¹³

In addition, the domestic interested parties present data for the period 2002-2008 and state that imports of subject merchandise generally declined since the imposition of the order. Although they acknowledge that, in 2006 and 2007, imports of subject merchandise increased, the parties assert that certain circumstances led to the increase. They assert that Sun had to supplement its requirement for CVP 23 crude, traditionally sourced from Sumitomo, in Japan and NFC, with CVP 23 crude from the PRC, India, and Germany. The parties contend that Sumitomo halted production in 2007 due to alleged environmental problems and NFC reduced its production capacity significantly while it transitioned to a new pigment-production process in the latter part of 2006, all of 2007, and part of 2008. In April 2008, the parties explain, NFC returned to supplying most of Sun's requirement for crude pigment and since May 2009 has had the capacity to supply Sun's entire CVP 23 crude requirement. As such, they state, imports of subject merchandise declined again in 2008.

Therefore, the domestic interested parties conclude, the Department should determine that revocation of the order on CVP 23 from the PRC would likely result in a continuation or recurrence of dumping, pursuant to the SAA at 890 and the Department's normal practice.

Department's Position:

Drawing on the guidance provided in the legislative history accompanying the SAA, 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 will be made on an order-wide

¹³ The petitioners are not clear in their comments as to who they mean when referring to "the original mandatory respondents" when discussing the Department's findings since imposition of the order. We assume they are referring to the companies we selected for individual examination in the 2004 investigation leading to the order.

basis for each case.¹⁴ In addition, the Department will normally determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping if one or more of the following factors are met: (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; (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.¹⁵ In addition, pursuant to section 752(c)(1)(B) of the Act, in order to determine whether revocation of an antidumping duty order would be likely to lead to a continuation of dumping, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

Although no respondent interested party filed a statement of waiver pursuant to 19 CFR 351.218(d)(2) in these sunset reviews, the Department did not receive any substantive response from any respondent interested party pursuant to 19 CFR 351.218(d)(3). Accordingly, the Department finds that respondent interested parties have decided not to participate in the Department's sunset reviews. Section 751(c)(4)(B) of the Act provides that, in a sunset review in which an interested party declines to participate, the Department shall conclude that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping with respect to that interested party. Pursuant to section 752(c)(1)(A) of the Act, the Department has considered the weighted-average dumping margins determined in the respective investigations and subsequent reviews.

The records of the orders show that dumping has persisted since the issuance of the orders. Since the publication of the orders, the Department has conducted several administrative reviews for subject merchandise from India and the PRC. In the case of India, the Department found that dumping has continued at margins exceeding *de minimis*. In the case of the PRC, dumping has continued at margins exceeding *de minimis* in all but one instance. See *supra* footnotes 7-11. Because dumping of the subject merchandise continues at margins above *de minimis* and because no party argued or submitted any evidence to the contrary, the Department determines that dumping is likely to continue if the orders are revoked.

2. Magnitude of the Margins Likely to Prevail

Interested-Party Comments

Citing *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18771, 18873 (April 16, 1998), section II.B.1, and the SAA at 890, the domestic interested parties request that the Department report to

¹⁴ See SAA at 879 and House Report at 56. See also *Refined Brown Aluminum Oxide from the People's Republic of China: Final Results of Expedited Sunset Review*, 74 FR 4138 (January 23, 2009), and the accompanying Issues and Decision Memo (Decision Memo) at 3 and *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 73 FR 65832 (November 5, 2008), and the accompanying Decision Memo at 3 (*Crawfish Tail Meat 2008*).

¹⁵ See SAA at 889-890, House Report at 63-64, and Senate Report at 52. See also *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 5819 (February 2, 2009), and the accompanying Decision Memo at 3, *Crawfish Tail Meat 2008*, and *Folding Gift Boxes from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and the accompanying Decision Memo at 5.

the ITC the antidumping duty margins that were determined in the respective original investigations, as amended, because, they argue, those margins best represent the behavior of these producers and exporters in the absence of an antidumping duty order. Thus, the domestic interested parties recommend that the Department report the antidumping duty margins for CVP 23 from India and the PRC as follows:

<u>Country</u>	<u>Company</u>	<u>Weighted-Average Margin (Percent)</u>
<i>India</i>	Alpanil Industries Ltd.	27.23
	Pidilite Industries Ltd.	66.59
	All Others	44.80
<i>PRC</i>	GoldLink Industries Co., Ltd.	12.46
	Nantong Haidi Chemical Co., Ltd.	57.07
	Trust Chem Co., Ltd.	39.29
	Tianjin Hanchem International Trading Co., Ltd.	85.41
	PRC-wide	241.32

Department’s Position:

Section 752(c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin of dumping that is likely to prevail if the orders were revoked. The Department will normally provide to the ITC the company-specific margin from the investigation for each company. See SAA at 890 and *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999). 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. See *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, et al.: Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006), and the accompanying Decision Memo at 20.

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. *Id.* at 20-21; see SAA at 890 and House Report at 64. Under certain circumstances, the Department may select a more recently calculated margin to report to the ITC. See section 752(c)(3) of the Act and *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands*, 65 FR 65294 (November 1, 2000), and the accompanying Decision Memo at “Magnitude of the Margin Likely to Prevail,” Comment 3 (citing SAA at 890-91 and House Report at 64).

All companies in every administrative review of the order on CVP 23 from India and all but one company in every administrative review of the order on CVP 23 from the PRC have demonstrated that dumping has continued at levels above *de minimis*. Given that dumping continued in all but one instance following the issuance of the orders and given the absence of argument and evidence to the contrary, the Department finds that the margins calculated in the original investigations are probative of the behavior of producers and exporters of subject merchandise from India and the PRC if these orders were revoked. Consistent with section

752(c) of the Act, the Department will report to the ITC company-specific and all-others rates from the investigations, as amended, as indicated in the “Final Results of Reviews” section of this memorandum.

Final Results of Reviews

The Department determines that revocation of the antidumping duty orders on CVP 23 from India and the PRC would be likely to lead to a continuation or recurrence of dumping at the following weighted-average percentage margins:

<u>Country</u>	<u>Company</u>	<u>Weighted-Average Margin (Percent)</u>
<i>India</i>	Alpanil Industries Ltd.	27.23
	Pidilite Industries Ltd.	66.59
	All Others	44.80
<i>PRC</i>	GoldLink Industries Co., Ltd.	12.46
	Nantong Haidi Chemical Co., Ltd.	57.07
	Trust Chem Co., Ltd.	39.29
	Tianjin Hanchem International Trading Co., Ltd.	85.41
	PRC-wide	241.32

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 the final results of reviews in the *Federal Register*.

Agree_____

Disagree_____

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

Date