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Sunset Review
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January 27, 2011

TO: Christian Marsh
Acting Deputy Assistant Secretary
for Import Administration

FROM: Gary Taverman
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Order on Porcelain-on-Steel Cooking Ware from the People's Republic of China

SUMMARY

We have analyzed the substantive response of the domestic interested party in the sunset review of the antidumping duty order on porcelain-on-steel cooking ware ("POS cookware") from the People's Republic of China ("PRC").[1] We recommend that you approve the positions we describe in this memorandum. Below is a complete list of issues in this sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping; and
2. Magnitude of the dumping margin likely to prevail.

HISTORY OF THE ORDER

On October 10, 1986, the Department of Commerce ("Department") published the final determination in the investigation of POS cookware from the PRC. *See Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Determination of Sales at Less Than Fair Value*, 51 FR 36419 (October 10, 1986). On November 26, 1986, the United States International Trade Commission ("ITC") issued its affirmative injury determination in the investigation. *See Porcelain-on-Steel Cooking Ware From Mexico, the People's Republic of China, and Taiwan*, 51 FR 42946 (November 26, 1986).

[1] The domestic interested party in this sunset review is Columbian Home Products, LLC (formerly General Housewares Corporation) ("Columbian"), the sole producer of POS cookware in the United States and the petitioner in the antidumping duty investigation concerning imports of POS cookware from the PRC. *See Porcelain-on-Steel Cooking Ware From the People's Republic of China; Initiation of Antidumping Duty Investigation*, 50 FR 53352 (December 31, 1985).

Thereafter, the Department issued the antidumping duty order on POS cookware from the PRC. *See Antidumping Duty Order; Porcelain-on-Steel Cooking Ware from the People's Republic of China*, 51 FR 43414 (December 2, 1986) ("*Order*"). The calculated margins set forth in the *Order* were 66.65 percent for China National Light Industrial Products Import and Export Corporation ("CNL") and the PRC-wide rate. There have been ten administrative reviews, one new shipper review, and two sunset reviews since issuance of the *Order*. There has been one changed circumstances review since issuance of the *Order*, finding that changed circumstances did not exist with respect to tea kettles. There have been five scope rulings since the issuance of the *Order*, finding grill sets with aluminum grill plates and Target's specific model of beverage holder and dispenser are outside the scope of the order; certain items including basins, colanders, bowls, and ashtrays are kitchenware outside the scope of the order; and certain items including camping sets, coffee pots, pans, popcorn poppers are within the scope of the order. There have been no other related findings or rulings (*e.g.*, duty absorption review, *etc*.) since issuance of the *Order*. *See* Attachment 2. The *Order* remains in effect for all exporters and exporters/producers of subject merchandise.

BACKGROUND

On October 1, 2010, the Department initiated a sunset review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended ("Act"). *See Initiation of Five-Year ("Sunset") Review*, 75 FR 60731 (October 1, 2010) ("*Sunset Initiation*"). On October 18, 2010, the Department received a timely notice of intent to participate in the sunset review from Columbian, pursuant to 19 C.F.R. 351.218(d)(1)(i). In accordance with 19 CFR 351.218(d)(1)(ii)(A), Columbian claimed interested party status under section 771(9)(C) of the Act as a producer of the domestic like product. On November 1, 2010, Columbian filed a substantive response in the sunset review within the 30-day deadline, as specified in 19 CFR 351.218(d)(3)(i). The Department did not receive a substantive response from any respondent interested party in the sunset review. On November 22, 2010, the Department made its adequacy determination in the sunset review finding that the Department did not receive a substantive response from any respondent interested party. *See* the Department's Memorandum regarding: Conduct of Expedited Sunset Reviews, dated November 22, 2010. Specifically, based on the lack of an adequate response in the sunset review from any respondent party, the Department is conducting an expedited (120-day) sunset review consistent with section 751(c)(3)(B) of the Act and 19 C.F.R. 351.218(e)(1)(ii)(C)(2). *See also Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516, 13519 (March 20, 1998) (the Department normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response). Our analysis of Columbian's comments submitted in their substantive response is set forth in the "Discussion of the Issues" section, *infra*.

DISCUSSION OF THE ISSUES

In accordance with section 751(c)(1) of the Act, the Department conducted a sunset review to determine whether revocation of the antidumping duty order 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 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. In addition, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments made by the domestic interested parties in this proceeding.

1. Likelihood of continuation or recurrence of dumping

Columbian's Comments

- The Department has consistently found margins above *de minimis* in the ten administrative reviews conducted since the issuance of the *Order*.
- The record of this proceeding demonstrates that following the issuance of the *Order*, POS cookware import volumes declined significantly, demonstrating that Chinese producers have not shipped to the United States since the issuance of the *Order*, even though there is capacity to produce POS cookware in the PRC, because these PRC producers cannot do so without dumping.
- Since 2000, import volumes of POS cookware from the PRC have increased, but Columbian argues that increasing import volumes coupled with margins continually above *de minimis*, indicate that dumping is likely to continue if the *Order* is revoked.[2] Additionally, Columbian argues that official import statistics include non-subject merchandise, skewing the import statistics upward from the true importation levels of POS cookware from the PRC.
- The output of the POS cookware industry in the PRC and Chinese exports to other markets dwarfs the domestic industry, indicating that, while imports have increased since 2000, imports of POS cookware would be much greater without the discipline of an antidumping duty order.

Department's Position:

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"),[3] the Department normally determines 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

[2] *See, e.g., Tapered Roller Bearings from the People's Republic of China: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 70 FR 58383 (October 6, 2005), and *Polychloroprene Rubber From Japan: Final Results of the Expedited Sunset Review of the Antidumping Duty Finding*, 69 FR 64276 (November 4, 2004).

[3] *See, e.g.*, Statement of Administrative Action ("SAA") accompanying the URAA, H.R. Doc. No. 103-316, vol. 1, 889 (1994); House Report, H. Rep. No. 103-826, pt. 1 (1994); and Senate Report, S. Rep. No. 103-412 (1994).

declined significantly.[4] In this case, the Department found dumping at above *de minimis* levels in the original antidumping duty investigation of POS cookware from the PRC, and we continued to find above *de minimis* margins during this sunset review period in the 2003-2004 New Shipper and Administrative Reviews and 2006-2007 Administrative Review. *See* Attachment 2. Thus, dumping margins and cash deposit rates at or above *de minimis* levels remain in effect for PRC companies. *See* "Final Results of Review" section, *infra*. These margins provide the best evidence of dumping behavior of these companies and there is no evidence that indicates dumping has ceased. Accordingly, revocation of this *Order* is likely to lead to continuation or recurrence of dumping.

Separately, pursuant to section 752(c)(1)(B) of the Act, the Department considered the volume of imports of the subject merchandise for the period before and after the issuance of the *Order*. Import statistics on the subject merchandise cited by Columbian and those examined by the Department show an increase in imports above the pre-*Order* levels of imports in this five-year review period.[5] *See* Attachment 1. With regard to the increase in imports since the most recent continuation of the *Order*, if companies continue to dump with the discipline of the *Order* in place, it is reasonable to assume that dumping would continue if the *Order* were removed.[6] In this case, the Department found dumping above *de minimis* levels in the subsequent administrative and new shipper reviews of Chinese manufacturers and exporters after the continuation of the *Order* was published. Therefore, given the existence of dumping margins above *de minimis* levels accompanied by increased imports, the Department determines that dumping would likely continue or recur if the *Order* were revoked.

2. Magnitude of the Margins Likely to Prevail

Columbian's Comments

- Consistent with the Department's normal practice, the Department should find that the magnitude of the margin of dumping that is likely to prevail is identical to the margin determined to exist in the original investigation.

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[4] *See, e.g., Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 10239 (March 10, 2009), and accompanying Issues and Decision Memorandum at Comment 1; *see also Pure Magnesium in Granular Form from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 5417 (February 6, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

[5] *See* Columbian Response at Attachment 1; *see also* Global Trade Atlas ("GTA") statistics at Attachment I of this memorandum. We note that, because GTA statistics are not available for periods before 1990, we have used data submitted by Columbian for years prior to 1990, after confirming the accuracy of Columbian's data using the ITC's Trade and Tariff Dataweb. Consistent with our practice in sunset reviews involving non-market economy countries, the Department has used GTA data for periods after 1990. *See, e.g., Magnesium Metal From the People's Republic of China and the Russian Federation: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 75 FR 38983 (July 7, 2010) and accompanying Issues and Decision Memorandum at Comment 1; and *Chlorinated Isocyanurates from Spain and the People's Republic of China: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 75 FR 49464 (August 13, 2010) and accompanying Issues and Decision Memorandum at Comment 1.

[6] *See* SAA at 890.

Department's Position:

Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Normally, the Department will select a margin from the final determination in the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.[7] The Department continues to find that the margin calculated in the original investigation is the best indication of the margins likely to prevail if the order were revoked, because it is the only calculated rate without the discipline of an order in place.

Therefore, consistent with section 752(c)(3) and section 752(c)(4)(A) of the Act, the Department will report to the ITC the corresponding individual company rates and the PRC-wide rate from the original investigation as noted in the "Final Results of Review" section, below.

Final Results of Review

The Department determines that revocation of the *Order* on POS cookware from the PRC would be likely to lead to continuation or recurrence of dumping. The Department also determines that the dumping margins likely to prevail if the *Order* was revoked are as follows:

Manufacturers/Exporters/Producers	Weighted-Average Margin (Percent)
China National Light Industrial Products Import and Export Corporation	66.65
PRC-Wide Entity	66.65

[7] *See, e.g., Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2; *Magnesium Metal From the People's Republic of China and the Russian Federation: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 75 FR 38983 (July 7, 2010), and accompanying Issues and Decision Memorandum at Comment 2.

Recommendation:

Based on our analysis of the substantive response received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this sunset review in the *Federal Register*.

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Christian Marsh
Acting Deputy Assistant Secretary
for Import Administration

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Date

Attachments

Attachment I

U.S. Import Volumes for POS Cookware From the PRC

Attachment 2

History of the Order

Investigation	
Citation	*Margins*
Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Determination of Sales at Less Than Fair Value, 51 FR 36419 (October 10, 1986)	• CNL: 66.65% • PRC-Wide Rate: 66.65%

Administrative and New Shipper Reviews		
Segment	*Citation*	*Margins*
1986-1987 Administrative Review	*Porcelain-on-Steel Cooking Ware From the People's Republic of China, Final Results of Antidumping Duty Administrative Review*, 55 FR 46850 (November 7, 1990)	• CNL: 66.65% • Amerport (H.K.): 13.76% • PRC-Wide Rate: 66.65%
1987-1988 Administrative Review	*Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 55 FR 11632 (March 29, 1990)	• Clover Enamelware Enterprise Ltd./Lucky Enamelware Factory Ltd., Hong Kong ("Clover/Lucky"): 66.65% • PRC-Wide Rate: 66.65%
1989-1990 Administrative Review	*Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 56 FR 55891 (October 30, 1991)	• Clover/Lucky: 66.65% • PRC-Wide Rate: 66.65%
1990-1991 Administrative Review	*Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 57 FR 30717 (July 10, 1992)	• Clover/Lucky: 66.65%; • PRC-Wide Rate: 66.65%
1993-1994 Administrative Review	*Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 54825 (October 22, 1997)	• Clover/Lucky: 66.65%; • PRC-Wide Rate: 66.65%
1994-1995 Administrative Review	*Porcelain-on-Steel Cooking Ware From the People's*	• Clover/Lucky: 57.56%; • PRC-Wide Rate: 66.65%

	Republic of China; Final Results of Antidumping Duty Administrative Review, 62 FR 32757 (June 17, 1997)	
1995-1996 Administrative Review	*Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 63 FR 27262 (May 18, 1998)	• Clover/Lucky: .81% • PRC-Wide Rate: 66.65%
1997-1998 Administrative Review	*Porcelain-on-Steel Cooking Ware From China; Final Results of Antidumping Duty Administrative Review*, 65 FR 31144 (May 16, 2000)	• Clover/Lucky: 0%; • PRC-Wide Rate: 66.65%
2003-2004 New Shipper Review	*Porcelain-on-Steel Cooking Ware from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review*, 70 FR 1868 (January 11, 2005)	Rescinded
2003-2004 Administrative Review	*Porcelain-on-Steel Cooking Ware from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 24641 (April 26, 2006)	• PRC-Wide Entity: 66.65%
2006-2007 Administrative Review	*Porcelain-on-Steel Cooking Ware from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 75081 (December 10, 2008)	• PRC-Wide Entity: 66.65%

Changed Circumstances Review

Changed Circumstances Review. *See Porcelain-on-Steel Cooking Ware From the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review and Intent Not To Revoke Antidumping Duty Order, In Part*, 63 FR 27261 (May 18, 1998).

Sunset Reviews

First Sunset Review. *See Continuation of Antidumping Duty Orders: Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan*, 65 FR 20136 (April 14, 2000).

Second Sunset Review. *See Porcelain-on-Steel Cooking Ware from the People's Republic of China and Taiwan; Continuation of Antidumping Duty Orders*, 70 FR 70581 (November 22, 2005).

Scope Rulings

Camping Sets Scope Ruling. *See Scope Rulings*, 55 FR 43020 (October 25, 1990).

Kitchenware Scope Ruling. *See Scope Rulings*, 56 FR 19833 (April 30, 1991).

Grill Sets Scope Ruling. *See Notice of Scope Rulings*, 65 FR 41957 (July 7, 2000).

Target Scope Ruling. *See Notice of Scope Rulings*, 70 FR 24533 (May 10, 2005).

Popcorn Popper Scope Ruling. *See Notice of Scope Rulings*, 70 FR 41374 (July 19, 2005).