

December 12, 2011

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

FROM: Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Furfuryl Alcohol from the People's Republic of China

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## SUMMARY

We have analyzed the responses of the interested party in the third sunset review of the antidumping duty order covering furfuryl alcohol from the People's Republic of China ("PRC"). We received no response from any respondent interested party in the review. 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 this sunset review for which we received substantive responses:

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

## HISTORY OF THE ORDER

On May 8, 1995, 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 furfuryl alcohol from the PRC at the following rates<sup>1</sup>:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
Qingdao Chemicals & Medicines & Health Products Import & Export Company	50.43
Sinochem Shandong Import and Export Company	43.54

<sup>1</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544 (May 8, 1995) ("*Investigation Final*").

PRC-Wide Entity	45.27
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The Department later published in the *Federal Register* the antidumping duty order on furfuryl alcohol from the PRC.<sup>2</sup>

In the first sunset review on imports of furfuryl alcohol from the PRC, pursuant to section 751(c) or the Tariff Act of 1930, as amended (“Act”), the Department found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the same rates as found in the original investigation.<sup>3</sup> The International Trade Commission (“ITC”) determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>4</sup> On May 4, 2001, the Department published the notice of continuation of the antidumping duty order.<sup>5</sup>

On April 3, 2006, the Department published the notice of initiation of the second sunset review of the antidumping duty order on furfuryl alcohol from the PRC, pursuant to section 751(c) of the Act.<sup>6</sup> As a result of its second review, the Department again found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping by the PRC-wide entity at a rate of 45.27 percent, the same rate as found in the investigation.<sup>7</sup> On September 25, 2006, pursuant to section 751(c) of the Act, the ITC published its determination that revocation of the order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>8</sup> On October 6, 2006, the Department published the notice of continuation of the antidumping duty order.<sup>9</sup>

Since the issuance of the antidumping duty order, the Department has conducted no administrative reviews with respect to imports of furfuryl alcohol from the PRC. There have also been no changed circumstances determinations, scope clarifications, circumvention determinations, or duty absorption findings concerning the *Order*.

## BACKGROUND

On June 1, 2011, the Department published the notice of initiation of the third sunset review of the antidumping duty order on furfuryl alcohol from the PRC, pursuant to section 751(c) of the

<sup>2</sup> See *Notice of Antidumping Duty Order: Furfuryl Alcohol From the People’s Republic of China (“PRC”)*, 60 FR 32302 (June 21, 1995) (“*Order*”).

<sup>3</sup> See *Furfuryl Alcohol From the People’s Republic of China and Thailand; Final Results of Antidumping Duty Sunset Reviews*, 65 FR 53701 (September 5, 2000).

<sup>4</sup> See *Furfuryl Alcohol From China and Thailand*, 66 FR 21015 (April 26, 2001).

<sup>5</sup> See *Continuation of Antidumping Duty Orders: Furfuryl Alcohol From the People’s Republic of China and Thailand*, 66 FR 22519 (May 4, 2001).

<sup>6</sup> See *Initiation of Five-year (“Sunset”) Reviews*, 71 FR 16551 (April 3, 2006).

<sup>7</sup> See *Furfuryl Alcohol from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 71 FR 35412 (June 20, 2006).

<sup>8</sup> See *Furfuryl Alcohol From China and Thailand*, 71 FR 55804 (September 25, 2006).

<sup>9</sup> See *Furfuryl Alcohol from the People’s Republic of China: Continuation of Antidumping Duty Order*, 71 FR 59072 (October 6, 2006).

Act.<sup>10</sup> The Department received a notice of intent to participate from Penn A Kem LLC (“Penn A Kem” or “the domestic interested party”) within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested party claimed interested party status under section 771(9)(C) of the Act, as a domestic manufacturer of a domestic like product in the United States. The Department also received a complete substantive response from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department received no response from any respondent interested party. 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 conducted an expedited (120-day) sunset review of the *Order*.

## **DISCUSSION OF THE ISSUES**

In accordance with section 751(c)(1) of the Act, the Department conducted this 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 this determination, 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 provides 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 of the interested party.

### **1. Likelihood of Continuation or Recurrence of Dumping**

Penn A Kem argues that revocation of the *Order* would likely lead to the continuation or recurrence of dumping based on: (1) its belief that there is a significant overcapacity to produce furfuryl alcohol in the PRC; (2) that Chinese producers have not shipped measurable quantities to the United States during the 2005-2010 period of review because they cannot do so without dumping; and (3) the lack of requests for administrative reviews on exports of furfuryl alcohol from the PRC indicates that exporters are unable to ship furfuryl alcohol to the United States without dumping.<sup>11</sup> Specifically, Penn A Kem states that the quantity of Chinese furfuryl alcohol imported into the United States during the 2005-2010 period of review and the lack of evidence from a Chinese exporter in an administrative review indicating that they can export furfuryl alcohol to the United States without dumping indicates that dumping likely will continue or recur if the *Order* is revoked.<sup>12</sup>

#### **Department Position:**

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, 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

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<sup>10</sup> See *Initiation of Five-Year (“Sunset”) Review*, 76 FR 54430 (September 1, 2011); see also *Order*.

<sup>11</sup> See Penn A Kem’s September 30, 2011 submission to the Department entitled “Third Sunset Review of the Antidumping Duty Order on Furfuryl Alcohol from the People’s Republic of China; Domestic Interested Party Substantive Response to Notice of Initiation” at pages 3 and 5-6.

<sup>12</sup> See *id.*

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.<sup>13</sup> Based on pre-order import statistics from the ITC's DataWeb system and current period of review import statistics from the Global Trade Atlas, the Department finds that import volumes of furfuryl alcohol from the PRC have declined significantly from pre-*Order* levels, ceased during 2005-2006 and returned in smaller quantities through the end of 2010 as compared to pre-*Order* levels.<sup>14</sup> Given that no administrative reviews have been conducted since the last sunset review, imports have declined significantly from pre-*Order* levels, and that no respondent party is has placed any information on the record of this proceeding, the Department determines that dumping is likely to continue or recur if the *Order* were revoked.

### **Magnitude of the Margins Likely to Prevail**

Penn A Kem states that the Department determined a 50.43 percent margin for Qingdao Chemicals & Medicines & Health Products Import & Export Company, a 43.54 percent margin for Sinochem Shandong Import and Export Company and a 45.27 percent margin for all other exporters of furfuryl alcohol from the PRC in the original investigation and that these continue to be the current dumping margins.<sup>15</sup> Penn A Kem adds that no administrative reviews of the *Order* have been requested since the last continuation of the *Order*. In the last sunset review of the *Order*, the Department reported the dumping margins found in the investigation as the margins likely to prevail if the *Order* was revoked. Penn A Kem argues that the Department should provide to the ITC the dumping margins found in the original investigation as the margins most likely to prevail because they are the only margins available.

### **Department 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.<sup>16</sup> Furthermore, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of "zero or *de minimis* shall not by itself require" that the Department determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at less than fair value. The Department continues to find that the margins calculated in the original investigation are the best indication of the margins likely to prevail if the *Order* were revoked, because they are the only calculated rates without the discipline of an order in place.

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<sup>13</sup> See the Statement of Administrative Action, H.R. Doc. No. 103-316, vol. 1 (1994); House Report, H. Rep. No. 103-826m pt. 1 (1994); Senate Report, S. Rep. No. 103-412 (1994); *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998).

<sup>14</sup> See Attachment 1.

<sup>15</sup> See *Investigation Final*.

<sup>16</sup> See *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.

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 all other rates from the original investigation as noted in the “Final Results of Review” section, below.

**FINAL RESULTS OF REVIEW**

For the reasons stated above, we determine that revocation of the antidumping duty order on furfuryl alcohol from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
Qingdao Chemicals & Medicines & Health Products Import & Export Company	50.43
Sinochem Shandong Import and Export Company	43.54
PRC-Wide Entity	45.27

**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 in the *Federal Register* and notify the ITC of our determinations.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_

\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Import Administration

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Date

## **Attachment I**