



A-570-506
Sunset Review
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June 1, 2016

TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
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 ("the Department") published the final determination in the investigation of POS cookware from the PRC.² On November 26, 1986, the United States International Trade Commission ("ITC") issued its affirmative injury determination in the investigation.³ Thereafter, the Department issued the antidumping duty

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).

² 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).

³ See *Porcelain-on-Steel Cooking Ware from Mexico, the People's Republic of China, and Taiwan*, 51 FR 42946 (November 26, 1986).



order on POS cookware from the PRC.⁴ 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. The subsequent history of the *Order* is summarized in Attachment I to the memorandum.

BACKGROUND

On February 2, 2016, the Department initiated the fourth sunset review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”).⁵ On February 16, 2016, the Department received a timely notice of intent to participate in the sunset review from Columbian Home Products LLC (formerly General Housewares Corporation) (“Columbian”), pursuant to 19 CFR 351.218(d)(1)(i).⁶ In accordance with 19 CFR 351.218(d)(1)(ii)(A), Columbian is an interested party under section 771(9)(C) of the Act as a producer of the domestic like product. On March 3, 2016, Columbian filed a substantive response in the sunset review within the 30-day deadline, as specified in 19 CFR 351.218(d)(3)(i).⁷ The Department did not receive a substantive response from any respondent interested party in the sunset review. On April 4, 2016, 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.⁸ Our analysis of Columbian’s comments submitted in their substantive response is set forth in the “Discussion of the Issues” section, *infra*.

SCOPE OF THE ORDER

The subject merchandise is porcelain-on-steel cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the Harmonized Tariff Schedule (“HTSUS”) subheading 7323.94.00.⁹

⁴ See *Antidumping Duty Order; Porcelain-on-Steel Cooking Ware from the People's Republic of China*, 51 FR 43414 (December 2, 1986) (“*Order*”).

⁵ See *Initiation of Five-Year (“Sunset”) Review*, 80 FR 45945 (August 3, 2015) (“*Sunset Initiation*”).

⁶ See Letter to the Secretary from Columbian, “Five-Year Sunset Review of Antidumping Duty Order on Porcelain-On-Steel Cooking Ware from the People’s Republic of China: Notice of Intent to Participate in Sunset Review,” (February 16, 2016).

⁷ See Letter to the Secretary from Columbian, “Five-Year (“Sunset”) Review Of Antidumping Duty Order On Porcelain-On-Steel Cooking Ware from The People’s Republic Of China: Columbian’s Response To Notice Of Initiation,” (March 3, 2016) (“*Substantive Response*”).

⁸ See Letter to the ITC from the Department, “Sunset Reviews Initiated on February 2, 2016,” (April 4, 2016); 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 CFR 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).

⁹ See *Porcelain-on-Steel Cooking Ware from the People's Republic of China*, 76 FR 7534 (February 10, 2011).

DISCUSSION OF THE ISSUES

Legal Framework

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the *Order* would likely 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 order.

Consistent with guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (*i.e.*, the Statement of Administrative Action, H.R. Rep. No. 103-316, Vol. 1 (1994) (“SAA”);¹⁰ House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”);¹¹ and Senate Report, S. Rep. No. 103-412 (1994) (“Senate Report”)), the Department will make its likelihood determination on an order-wide, rather than company-specific, basis.¹² The Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when, among other scenarios: (a) dumping continued at any level above *de minimis* after issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.¹³ Alternatively, the Department normally will determine that revocation of an AD order is not likely to lead to continuation or recurrence of dumping where dumping was eliminated after issuance of the order and import volumes remained steady or increased.¹⁴

Further, 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. Generally, the Department selects the margin(s) from the final determination in the investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.¹⁵ However, in certain circumstances, a more recently calculated rate may be more appropriate (*e.g.*, “if dumping margins have declined over the life of an order and imports have remained steady or increased, {the Department} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review”).¹⁶ Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of “zero or *de minimis* shall

¹⁰ Reprinted at 1994 U.S.C.C.A.N. 4040.

¹¹ Reprinted at 1994 U.S.C.C.A.N. 3773.

¹² See SAA at 879, and House Report at 56.

¹³ See SAA at 889-90, House Report at 63-64, and Senate Report at 52.

¹⁴ See SAA at 889-90, and House Report at 63.

¹⁵ See SAA at 890; see also *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.

¹⁶ See SAA at 890-91.

not by itself require” the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at less than fair value.¹⁷

In the *Final Modification for Reviews*, the Department announced that in five-year (*i.e.*, sunset) reviews, it will not rely on weighted-average dumping margins that were calculated using the methodology determined by the Appellate Body to be World Trade Organization (“WTO”)-inconsistent, *i.e.* zeroing/the denial of offsets.¹⁸ The Department also noted that “*only in the most extraordinary circumstances* will the Department rely on margins other than those calculated and published in prior determinations.”¹⁹ The Department further stated that apart from the “most extraordinary circumstances,” it would “limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”²⁰

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*. While there have been no administrative reviews since the previous sunset review, in the most recent 2006-2007 review, the Department found a dumping margin significantly above *de minimis*, at 66.65%. This 66.65% margin is reliable despite the change in the Department’s zeroing policy because it is based on the use of total adverse facts available (“AFA”).
- The record of this proceeding demonstrates that following the issuance of the *Order* to 1990, 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.
- While import volumes of POS cookware from the PRC have increased since 1990, 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.²¹

¹⁷ See *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) (“*Folding Gift Boxes*”), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁸ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings: Final Modification*, 77 FR 8101, 8109 (February 14, 2012) (“*Final Modification for Reviews*”).

¹⁹ *Id.* (emphasis added); see also 19 CFR 351.218(e)(2).

²⁰ *Final Modification for Reviews*, 77 FR at 8109.

²¹ See *Substantive Response* at 19, citing *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 79 FR 60452 (October 7, 2014), and accompanying Issues and Decision Memorandum, and citing *Chlorinated Isocyanurates from Spain and the People’s Republic of China*, 81 FR 461 (January 6, 2016), and accompanying

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. Furthermore, Columbian underscores the fact that import volumes have fallen significantly since the order was last continued, in 2011.

- 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"),²² 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 declined significantly.²³ 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 in the most recently completed reviews, specifically the 2003-2004 New Shipper and Administrative Reviews and 2006-2007 Administrative Review. See Attachment 1.

In this sunset review, the Department has relied on weighted-average dumping margins that were not affected by the methodology (*i.e.*, "zeroing") addressed in the *Final Modification for Reviews*. The 66.65 percent rate was determined in the 1986 investigation, based on the "best information available" provision in the statute at that time. Respondents did not provide complete US sales data, thus the Department relied on verified import price data and the Department's own import statistics as the best information available.²⁴ The Department's positive dumping margin calculation was not impacted by zeroing.

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.

Issues and Decision Memorandum.

²² See, e.g., SAA at 889-90, House Report at 63-64, and Senate Report at 52.

²³ 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.

²⁴ 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), and accompanying Issues and Decision Memorandum, at "United States Price" section.

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 a decrease in imports below the pre-*Order* levels of imports in this five-year review period.²⁵ With regard to the decrease in imports since the most recent continuation of the *Order*, it is reasonable to assume that a decrease in imports accompanied by continued existence of dumping margins indicates that Chinese exporters must dump in order to sell subject merchandise in the US market.²⁶ If companies continue to dump with the discipline of the *Order* in place, it is also reasonable to assume that dumping would continue if the *Order* were removed.²⁷ Therefore, 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.

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.²⁸ 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.

²⁵ See *Substantive Response* at Attachment 1.

²⁶ See SAA at 889.

²⁷ See SAA at 890.

²⁸ 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.

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 magnitude of the dumping margins likely to prevail would be weighted-average margins up to 66.65 percent.

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*.



Paul Piquado
Assistant Secretary
for Enforcement and Compliance



Date

Attachment

Attachment I

History of the Order

Investigation	
<i>Citation</i>	<i>Margins</i>
<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Determination of Sales at Less Than Fair Value</i> , 51 FR 36419 (October 10, 1986)	<ul style="list-style-type: none"> • CNL: 66.65% • PRC-Wide Rate: 66.65%

Administrative and New Shipper Reviews		
<i>Segment</i>	<i>Citation</i>	<i>Margins</i>
1986-1987 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China, Final Results of Antidumping Duty Administrative Review</i> , 55 FR 46850 (November 7, 1990)	<ul style="list-style-type: none"> • CNL: 66.65% • Amerport (H.K.): 13.76% • PRC-Wide Rate: 66.65%
1987-1988 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review</i> , 55 FR 11632 (March 29, 1990)	<ul style="list-style-type: none"> • Clover Enamelware Enterprise Ltd./Lucky Enamelware Factory Ltd., Hong Kong ("Clover/Lucky"): 66.65% • PRC-Wide Rate: 66.65%
1989-1990 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review</i> , 56 FR 55891 (October 30, 1991)	<ul style="list-style-type: none"> • Clover/Lucky: 66.65% • PRC-Wide Rate: 66.65%
1990-1991 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review</i> , 57 FR 30717 (July 10, 1992)	<ul style="list-style-type: none"> • Clover/Lucky: 66.65%; • PRC-Wide Rate: 66.65%
1993-1994 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China; Final Results of Antidumping Duty Administrative Review</i> , 62 FR 54825 (October 22, 1997)	<ul style="list-style-type: none"> • Clover/Lucky: 66.65%; • PRC-Wide Rate: 66.65%
1994-1995 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic</i>	<ul style="list-style-type: none"> • Clover/Lucky: 57.56%; • PRC-Wide Rate: 66.65%

	<i>of China: Final Results of Antidumping Duty Administrative Review</i> , 62 FR 32757 (June 17, 1997)	
1995-1996 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 63 FR 27262 (May 18, 1998)	<ul style="list-style-type: none"> • Clover/Lucky: .81% • PRC-Wide Rate: 66.65%
1997-1998 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from China: Final Results of Antidumping Duty Administrative Review</i> , 65 FR 31144 (May 16, 2000)	<ul style="list-style-type: none"> • Clover/Lucky: 0%; • PRC-Wide Rate: 66.65%
2003-2004 New Shipper Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review</i> , 70 FR 1868 (January 11, 2005)	Rescinded
2003-2004 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review</i> , 71 FR 24641 (April 26, 2006)	<ul style="list-style-type: none"> • PRC-Wide Entity: 66.65%
2006-2007 Administrative Review	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 73 FR 75081 (December 10, 2008)	<ul style="list-style-type: none"> • 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).

Third Sunset Review. *See Porcelain-on-Steel Cooking Ware from the People's Republic of China: Continuation of Antidumping Duty Order*, 76 FR 13602 March 14, 2011).

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).

Signature Series Scope Ruling. *See Notice of Scope Rulings*, 77 FR 52313 (August 29, 2012).

Round Drip Pans Scope Ruling. *See Notice of Scope Rulings*, 79 FR 22969 (April 24, 2015).