

70 FR 24513, May 10, 2005

A-351-503
Sunset Review
Public Document

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director, Office of Policy

SUBJECT: Issues and Decision Memorandum for the Five-Year (“Sunset”) Review of the Antidumping Duty Order on Iron Construction Castings from Brazil; Final Results

Summary

We have analyzed the substantive responses of interested parties in the expedited five-year sunset review of the antidumping duty order on iron construction castings (“iron castings”) from Brazil. We recommend that you approve the positions we have developed 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 comments by parties:

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

History of the Order

The antidumping duty order on iron castings from Brazil was published in the Federal Register on May 9, 1986. See Antidumping Duty Order; Certain Iron Construction Castings From Brazil: Antidumping Duty Order, 51 FR 9477 (May 9, 1986). In the order the Department established weighted-average dumping margins of 58.74 percent for Fundicao Aldebara Ltda. (Aldebara), 16.61 percent for Sociedade de Metalurgia E. Processors Ltda. (SOMEPE), 5.95 percent for Usina Siderurgica Paraensa S.A. (USIPA), and 26.16 percent for “All Others.”

Following the imposition of the order, the Department completed two administrative reviews.¹ In the final results of the reviews, the Department found that Brazilian producers/exporters continued to sell iron castings at less than fair value.

On November 2, 1998, the Department published a notice of initiation of the first five-year

¹ Certain Iron Construction Castings From Brazil; Final Results of Antidumping Duty Administrative Review, 55 FR 26238 (June 27, 1990), Certain Iron Construction Castings From Brazil; Amendment to Final Results of Antidumping Duty Administrative Review, 55 FR 41262 (October 10, 1990), Certain Iron Construction Castings From Brazil; Final Results of Antidumping Duty Administrative Review, 55 FR 43019 (October 25, 1990).

sunset review. See Notice of Initiation of Five-Year Review, 64 FR 10985 (November 2, 1998).² The Department published the final results of the first sunset review on June 7, 1999. See Final Results of Expedited Sunset Review: Certain Iron Construction Castings from Brazil, Canada, and the People's Republic of China, 64 FR 30310 (June 7, 1999). In that review, the Department determined that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping. Pursuant to section 751(d)(2) of the Act, the Department published in the Federal Register the notice of continuation of the antidumping duty order on certain iron castings from Brazil. See Notice of Continuation of Antidumping Duty Orders; Certain Iron Constructing from Brazil, Canada, and the People's Republic of China, 64 FR 61580 (November 12, 1999). Since that time, no further administrative reviews have been conducted by the Department.

Background

On October 1, 2004, the Department initiated a sunset review of the antidumping duty order on iron castings from Brazil pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). See Initiation of Five-Year ("Sunset") Reviews 69 FR 58890 (October 1, 2004). The Department received a Notices of Intent to Participate on behalf of Deeter Foundry, Inc., East Jordan Iron Works, Inc., LeBaron Foundry, Inc., Leed Foundry, Inc., Municipal Castings, Inc., Neenah Foundry Company, Tyler Pipe Company, and U.S. Foundry & Manufacturing Co. (collectively, "the domestic interested parties"), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of the subject merchandise.

On November 1, 2004, the Department received a timely substantive response from the domestic interested parties. However, we did not receive substantive responses from any respondent interested party. Pursuant to section 351.218 (e)(1)(ii)(C) of the Department's regulations, we conducted an expedited sunset review of this order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject

² The Uruguay Round Agreements Act ("URRA") requires that the Department begin initiating sunset reviews in July 1998, and that all sunset reviews of "transition orders" – those antidumping and countervailing duty orders and suspended investigations in effect on January 1, 1995, the effective date of the URRA – be initiated by December 31, 1999. The URRA further requires that the Department initiate a sunset review of each order that is not a "transition order" not later than 30 days before the fifth anniversary of publication of the order in the Federal Register. Pursuant to section 751(c)(1) of the Act, initiation of sunset reviews is automatic.

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 International Trade Commission (“ITC”) the magnitude of the margin of dumping likely to prevail if the order were revoked.

Below we address the comments of the interested parties.

1. Likelihood of continuation or recurrence of dumping

Interested Parties’ Comments

Domestic interested parties argue that because import volumes of iron castings from Brazil have declined dramatically, if the order were revoked, it is likely that dumping would continue or recur, because evidence demonstrates that foreign producers/exporters need to dump to sell in any significant quantities in the United States. Specifically, the domestic interested parties argue that volume and value data on imports of heavy castings demonstrate that once the order was imposed, imports began to decline. See Substantive response of domestic interested parties, November 1, 2004, p 7-9.

In their substantive response, domestic interested parties provided a historical summary of weighted-average dumping margins found in the investigation and subsequent reviews to demonstrate that dumping continued to exist. Id. at 32.

With respect to import volumes, domestic interested parties argue that import volumes to the United States were substantial prior to the imposition of the antidumping duty order. Id. at 34-35. However, imports began to decline and have remained at low levels since the issuance of the order. Id.

Thus, the domestic interested parties contend that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping. Id. at 39.

Department’s Position

The Department believes that the existence of dumping margins after the issuance of the order, or the cessation of imports after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping. See SAA at 890.

In the investigation of this order, we found levels of dumping above de minimis for Brazilian producers/exporters of the subject merchandise. Following the imposition of the order, we

continued to find high levels of dumping for Brazilian producers/exporters of iron castings through the process of administrative reviews. Official import statistics confirm that imports declined after the issuance of the order and have not reached pre-order volumes. In the first sunset review, we determined that revocation of the order would likely lead to the continuation or recurrence of dumping. Since the completion of the first sunset review, there have been no reviews of this order. Therefore, we find that revocation of this order would likely lead to the continuation or recurrence of dumping.

2. Magnitude of the margin likely to prevail

Interested Parties' Comments

The domestic interested parties assert that the magnitude of the margin likely to prevail if the order were revoked should be the margin rates found in the original investigation. See Domestic interested parties' substantive response, November 1, 2004, at 42.

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 order is revoked. The Department normally will select a margin from the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. See SAA at 890, and the House Report at 64.

The Department agrees with the domestic interested parties concerning the rates to report to the ITC. Based on information on the record and comments provided by domestic interested parties, we determine that the rates from the original investigation are the rates likely to prevail if the order were revoked. Pursuant to section 752(c) of the Act, the Department will report to the ITC the company-specific and "All Others" rates at levels indicated in the "Final Results of Review" section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the margins listed below.

<u>Manufacturer/Producer/Exporter</u>	<u>Weighted-Average Margin (%)</u>
Fundicao Aldebara, Ltda. Aldebara	58.74
Sociedade de Metalurgia E Processos, Ltda. SOMEP	16.61
Companhia Siderurgica da Guanabara COSIGUA (formerly Usina Siderurgica Paraende)	5.95
All Others	26.16

Recommendation

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

Agree _____

Disagree _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

(Date)