

DATE: August 7, 2009

MEMORANDUM TO: Ronald K. Lorentzen  
Acting 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 Final Results of the Expedited Sunset Review of the Antidumping Duty Finding on Pressure Sensitive Plastic Tape from Italy

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### Summary

We have analyzed the response of the domestic interested party in the sunset review of the antidumping duty finding covering pressure sensitive plastic tape (PSP Tape) from Italy. We recommend that you approve the positions we 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 a substantive response:

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Margin Likely to Prevail

### History of the Finding

On May 31, 1977, the U.S. Department of Treasury (Treasury) published its final affirmative determination of sales at less than fair value (LTFV) in the Federal Register with respect to imports of PSP Tape from Italy. See Less Than Fair Value Determination-Pressure Sensitive Plastic Tape Measuring Over One and Three-Eighths Inches in Width and Not Exceeding Four Millimeters in Thickness from Italy, 42 FR 27705 (May 31, 1977). In the LTFV determination, Treasury found a range of margins for the following companies: Boston S.p.A (Boston) – 0 percent to 17 percent, Comet S.p.A (Comet) – 2 percent to 19 percent, and Manuli Autoadhesivis S.p.A. (Manuli) - 1% to 26%, and Plasturopa-SIPA S.a.S (Plasturopa) – 0 percent. Id. at 42 FR 27706. Treasury did not publish company-specific weighted-average dumping margins, nor did it establish an “all-others” rate. However, the U.S. International Trade Commission (ITC) identified an overall, weighted-average margin for Boston, Comet, and Manuli at about 10

percent. See Pressure Sensitive Plastic Tape From Italy; Determination of Injury or Likelihood Thereof; 42 FR 44853 (September 7, 1977) (PSP Tape from Italy ITC Determination). Treasury published its antidumping finding in the Federal Register on October 21, 1977. See Treasury Decision 77-258, Antidumping-Pressure Sensitive Plastic Tape Measuring Over One and Three-Eighths Inches in Width and Not Exceeding Four Millimeters in Thickness from Italy, 42 FR 56110 (October 21, 1977). Treasury determined that Plausturopa should be excluded from the finding. In the 1980s, the Department of Commerce (the Department) assumed the responsibility of administering antidumping proceedings from Treasury.<sup>1</sup> Since the antidumping finding by Treasury, the Department has conducted numerous administrative reviews with respect to imports of PSP Tape from Italy: Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Administrative Review, 48 FR 35686 (August 5, 1983); Pressure Sensitive Plastic Tape from Italy: Final Results of Antidumping Duty Administrative Review, 51 FR 43955 (December 5, 1986); Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Administrative Review and Revocation in Part, 53 FR 16444 (May 9, 1988);<sup>2</sup> Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Administrative Review, 54 FR 13091 (March 30, 1989); Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Administrative Review and Revocation in Part, 55 FR 6031 (February 21, 1990);<sup>3</sup> Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Administrative Review, 55 FR 49670 (November 30, 1990); Pressure Sensitive Plastic Tape from Italy: Final Results of Antidumping Duty Administrative Review, 56 FR 56630 (November 6, 1991); Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Administrative Review, 58 FR 51616 (October 4, 1993); Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Administrative Review, 59 FR 36162 (July 13, 1994); Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Administrative Review, 60 FR 55362 (October 31, 1995); Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Administrative Review, 63 FR 50882 (September 23, 1998).

The Department initiated the first sunset review of the finding on PSP Tape from Italy on September 1, 1998, pursuant to Section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-Year Reviews, 63 FR 46410 (September 1, 1998). As a result of that review, the Department found that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping. See Final Results of Expedited Sunset Review: Pressure Sensitive Plastic Tape from Italy, 64 FR 853 (January 6, 1999). In the first sunset review, the Department also reported to the ITC, as the likely dumping margin for all Italian manufacturers or exporters, a rate of 10 percent. There have been no administrative reviews since the completion of the first sunset review in 1999. However, on March 25, 2004, the Department published a notice of final results of changed circumstances review of the antidumping duty finding on PSP Tape from Italy in which the Department determined that Tyco Adhesives Italia S.p.A. (Tyco) is a successor-in-interest company to Manuli Tapes S.p.A.

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<sup>1</sup> Prior to the Trade Agreements Act of 1979 (1979 Act), Pub. L. 96-39, the Treasury Department issued antidumping “findings.” Section 106(a) of the 1979 Act expressly preserved the existing antidumping “findings” in the new law, but provided that after January 1, 1980, the Tariff Act of 1930 would be amended to require the Department to issue antidumping “orders” instead of “findings.”

<sup>2</sup> The Department revoked the finding with respect to Autodesivitalia S.p.A.

<sup>3</sup> The Department revoked the finding with respect to Boston S.p.A.

(Manuli).<sup>4</sup> See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Pressure Sensitive Plastic Tape from Italy, 69 FR 15297 (March 25, 2004).

The Department initiated the second sunset review of PSP Tape from Italy on January 2, 2004, pursuant to Section 751(c) of the Act. See Initiation of Five-Year (Sunset) Reviews, 69 FR 50 (January 2, 2004). As a result of that review, the Department found that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping. See Pressure Sensitive Plastic Tape From Italy: Final Results of the Second Sunset Review of Antidumping Duty Finding, 69 FR 26068 (May 11, 2004) (Second Sunset Review).<sup>5</sup> In that final results, the Department also reported to the ITC, as the likely dumping margin for all Italian manufacturers or exporters, a rate of 10 percent. There have been no administrative reviews since the completion of the second sunset review in 2004.

The Department has issued two scope rulings under this finding: the first on March 18, 1992, in which the Department determined that highlighting “Note Tape” was not within the scope of the finding (see Notice of Scope Rulings, 57 FR 19602 (May 7, 1992)) and the second on December 8, 2006, in which the Department determined that Ritrama Inc.’s dual-adhesive products (3-8699, 3-8700 3-8701 and 3-8702) were not within the scope of the finding, and that its single-adhesive products (3-7464, 3-7597, 3-7600, 3-7604, 3-7701, 3-8094, 3-8545) were within the scope of the finding (see Notice of Scope Rulings, 72 FR 5677 (February 7, 2007)).

The finding remains in effect for all manufacturers and exporters of the subject merchandise from Italy except for Plausturopa, excluded from the investigation, and Autodesivitalia, S.p.A, and Boston S.p.A., companies for whom the Department subsequently revoked the finding.

### Background

On May 1, 2009, the Department published the notice of initiation of the third sunset review of the antidumping duty finding on PSP Tape from Italy. See Initiation of Five-Year Sunset Review, 74 FR 20286 (May 1, 2009). The Department received a Notice of Intent to Participate on behalf of a domestic interested party, 3M Company (3M), 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 U.S. producer of PSP Tape.

The Department received a complete substantive response from 3M on June 1, 2009, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). See June 1, 2009, Pressure Sensitive Plastic Tape from Italy: Substantive Response (Substantive Response). In its substantive response, 3M states that it has been an active participant in the PSP Tape from Italy proceeding since the investigation.

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<sup>4</sup> On December 31, 1999, Manuli Autoadhesivi S.p.A. changed its name to Manuli Tapes S.p.A.

<sup>5</sup> See also Continuation of Antidumping Duty Findings: Prestressed Concrete Wire Strand from Japan and Pressure Sensitive Plastic Tape From Italy, 69 FR 35584 (June 25, 2004).

The Department received no substantive responses from any respondent interested parties. 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 this finding.

### 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 finding 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 finding. 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 finding were revoked. Below we address the comments of the interested parties.

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

### Interested Party Comments

3M maintains that revocation of the antidumping duty finding on PSP Tape from Italy would result in the continuation of dumping, which has been persistent since the LTFV investigation, despite the existence of the dumping finding. Without the discipline imposed by the dumping finding, 3M asserts that: 1) the magnitude of the dumping margins would likely increase above the current and preceding margins; and 2) that the volume of dumped merchandise would sharply increase. 3M points out that although some Italian producers have had zero or de minimis margins, the subject merchandise has been dumped at margins greater than de minimis (ranging from 1.19 percent to 12.66 percent) throughout the history of the finding. Therefore, 3M concludes that revocation of the order would inevitably lead to a continuation of dumping. See Substantive Response at 3.

### Department's Position

Consistent with guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the Statement of Administrative Action (SAA), H. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis.<sup>6</sup> In determining whether revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping, the Department shall consider (a) the weighted-average dumping margin for the investigation that continued at any level above de minimis after the issuance of the order, and (b) the volume of imports of the subject merchandise for the period before and after the issuance of the order, in

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<sup>6</sup> See SAA at 879 and House Report at 56.

accordance with section 752(c)(1)(B) of the Act. For example, “declining import volumes accompanied by the continued existence of dumping margins after the issuance of an order may provide a strong indication that, absent an order, dumping would be likely to continue because the evidence would indicate that the exporter needs to dump in order to sell at pre-order volumes.” See SAA at 889. In addition, “the existence of dumping margins after the order, or the cessation of imports after the order, is highly probative of the likelihood of continuation or recurrence of dumping.” See SAA at 890.

Although no respondent interested party filed a notice of waiver pursuant to 19 CFR 351.218(d)(2) in this review, the Department did not receive a 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 review of the PSP Tape from Italy finding. Section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of dumping where a respondent interested party declines to participate in the sunset review. Moreover, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where dumping continued at any level above de minimis after the issuance of the order. As noted above, the Department has conducted a number of reviews since the issuance of this finding, and found that dumping has continued. Furthermore, the Department made an affirmative likelihood determination in its first and second sunset reviews of this finding. No party has challenged those determinations. The finding, therefore, continues to exist and U.S. Customs and Border Protection (CPB) continues to collect and assess dumping duties on entries of subject merchandise.

In its comments, 3M did not argue likelihood of the continuation of dumping on the basis of declining imports. However, the Department notes in general, that since the implementation of the finding, import volumes have fluctuated. In particular, from 2004, the end of the second sunset review period, through first quarter 2009, the current sunset review period, USITC Dataweb statistics indicate that import volumes have steadily decreased, and that the yearly volumes for this sunset review period are significantly lower than the yearly volumes for the second sunset review period.

## 2. Magnitude of the Margin Likely to Prevail

### Interested Party Comments

3M argues that the 10 percent figure reported to the ITC in the first and second sunset reviews is no longer an acceptable approximation of the likely dumping margin if the finding were revoked, and requests that the Department use a figure that represents the most likely current dumping margin. 3M asserts that the prevailing magnitude of the antidumping duty margin should be higher than 10 percent because exchange rates have increased over 15.25 percent since

the May 11, 2004, final results of the second sunset review. Based on its analysis of the exchange rate difference between May 11, 2004, and May 11, 2009, 3M believes that the current likely dumping margin for all Italian manufacturers or exporters should be about 27 percent if the finding were revoked. Therefore, in determining the likely dumping margin for the final results of this sunset review, 3M requests that the Department consider the exchange rate difference.

### Department's Position

Pursuant to section 752(c)(3) of the Act and the SAA at 890, the Department normally will provide to the ITC the company-specific margin from the investigation for each company. For companies not specifically investigated 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. The Department's preference is to select a margin from the LTFV investigation because 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. Exceptions to this preference include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations.

For sunset reviews of antidumping findings, the Department normally will provide the company-specific or all-others rate included in the Treasury finding published in the Federal Register. Additionally, if no company-specific margin or all-others rate is included in the Treasury finding, the Department will normally provide to the ITC the company-specific margin from the first final results of administrative review published in the Federal Register by the Department. However, if the first final results do not contain a margin for a particular company, the Department will normally provide the ITC, as the margin for that company, the "first new shipper" rate established by the Department for that finding. See Second Sunset Review, and accompanying Issues and Decision Memorandum.

Regarding the PSP Tape from Italy finding, the Department notes that in its final affirmative determination of injury, the ITC identified the weighted-average margin found by Treasury in its investigation. See PSP Tape from Italy ITC Determination. Specifically, the ITC reported that the weighted-average margin for Boston, Comet, and Manuli LTFV sales was about 10 percent.<sup>7</sup> As noted above, in the final results of the first and second sunset reviews, the Department reported to the ITC a rate of 10 percent as the dumping margin likely to prevail for all Italian manufacturers or exporters if the finding were revoked. The Department believes it is appropriate to again report the 10 percent rate as the magnitude of the margin likely to prevail if the finding were revoked, because it is the only calculated rate that reflects the behavior of exporters without the discipline of a finding in place.

With respect to 3M's request that the Department adjust the 10 percent figure to account for the exchange rate differences between 2004 and 2009, the Department disagrees. As discussed above, it is the Department's normal practice to provide company-specific margins or the all-

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<sup>7</sup> As previously discussed, one of the original three investigated firms, Boston, was subsequently revoked from the finding.

others rate calculated in the investigation to the ITC because they are the only calculated rates that reflect the behavior of exporters without the discipline of a finding in place. The only exceptions to this practice include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. Furthermore, neither the statute nor the Department's regulations give the Department authority to adjust calculated antidumping margins to reflect exchange rate differences in the context of a sunset review. In addition, 3M has not provided an example of where the Department has adjusted calculated antidumping margins based on changes in exchange rates in this context. Therefore, for the final results of this sunset review, the Department has no basis to deviate from its standard practice as requested by 3M.

The Department notes that the antidumping duty finding on PSP Tape from Italy remains in effect for all manufacturers, producers, and exporters of the subject merchandise, except for Autoadesivitali S.p.A and Boston S.p.A which were revoked from the finding and Plausturopa, which was excluded from the original finding.

Final Results of Review

The Department determines that revocation of the antidumping duty finding on PSP Tape from Italy would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

- Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
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Comet SARA, S.p.A.....	10
Tyco Adhesives Italia, S.p.A <sup>8</sup> .....	10
All Others.....	10

Recommendation

Based on our analysis of the response 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 \_\_\_\_\_

<sup>8</sup> Successor-in-interest to Manuli Tapes S.p.A.

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Import Administration

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(Date)