

MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: Edward C. Yang
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset
Reviews of the Antidumping Duty Orders on Certain Iron
Construction Castings From Brazil, Canada, and the People's
Republic of China

SUMMARY:

We have analyzed the substantive responses of the interested parties in the sunset reviews of the antidumping duty orders on certain iron construction castings from Brazil, Canada, and the People's Republic of China (PRC). We recommend that you approve the positions developed in the *Discussion of the Issues* section of this memorandum. Below is a complete list of the issues in these sunset reviews for which we received substantive responses:

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

History of the Orders

On January 16, 1986, 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 certain iron construction castings from Canada.¹ Subsequently, the Department published a notice amending its final determination.² On March 19, 1986, the Department published its affirmative determination of sales at LTFV with respect to imports of certain iron construction castings from Brazil and the PRC.³

¹ *Certain Iron Construction Castings From Canada; Final Determination of Sales at Less Than Fair Value*, 51 FR 2412 (January 16, 1986).

² *Iron Construction Castings From Canada; Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order*, 51 FR 34110 (September 25, 1986).

³ *Certain Iron Construction Castings From Brazil; Final Determination of Sales at Less Than Fair Value*, 51 FR 9477 (March 19, 1986); *Certain Iron Construction Castings From the People's Republic of China; Final Determination of Sales at Less Than Fair Value*, 51 FR 9483 (March 19, 1986).

In the final determinations, the Department found the following antidumping duty margins:

<u>Country</u>	<u>Company</u>	<u>Weighted-Average Margin (Percent)</u>
<i>Brazil</i>	Fundicao Aldebara Ltda.	58.74
	Sociedade de Metalurgia E Processos, Ltda.	16.61
	Usina Siderurgica Paraensa S.A.	5.95
	All other manufacturers/producers/exporters	26.16
<i>Canada</i> <i>(as amended)</i>	Mueller Canada, Inc.	9.80
	LaPerle Foundry, Ltd.	4.40
	Bibby Ste. Croix Foundries, Ltd.	8.60
	All Others	7.50
<i>PRC</i>	All Producers, Manufacturers, and Exporters	11.66

Following the publication of the Department's final determinations, the International Trade Commission (ITC) found that the U.S. industry was materially injured or threatened with material injury by reason of the imports of subject merchandise.⁴ On March 5, 1986, the Department published the antidumping duty order on certain iron construction castings from Canada.⁵ On May 9, 1986, the Department published the antidumping duty orders on certain iron construction castings from Brazil and the PRC.⁶

Brazil

Since the publication of the antidumping duty order, the Department has completed two administrative reviews of the antidumping duty order on certain iron construction castings from Brazil.⁷ In the completed administrative reviews, the Department found that the producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.

⁴ *Iron Construction Castings From Brazil, India, and the People's Republic of China*, 51 FR 16906 (May 7, 1986); *Iron Construction Castings from Brazil, India, and the People's Republic of China: Determination of the Commission in Investigations Nos. 701-TA-249 and 731-TA-262, 264, and 265 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations*, USITC Publication No. 1838 (April 1986); *Iron Construction Castings from Canada, Inv. No. 731-TA-263 (Final)*, USITC Publication No. 1811 (February 1986).

⁵ *Antidumping Duty Order; Certain Iron Construction Castings From Canada*, 51 FR 7600 (March 5, 1986).

⁶ *Antidumping Duty Order; Iron Construction Castings From Brazil*, 51 FR 17220 (May 9, 1986); *Antidumping Duty Order; Iron Construction Castings From the People's Republic of China (the PRC)*, 51 FR 17222 (May 9, 1986).

⁷ *Certain Iron Construction Castings From Brazil; Final Results of Antidumping Duty Administrative Review*, 55 FR 43019 (October 25, 1990); *Certain Iron Construction Castings From Brazil; Final Results of Antidumping Duty Administrative Review*, 55 FR 26238 (June 27, 1990), as amended in *Certain Iron Construction Castings From Brazil; Amendment to Final Results of Antidumping Duty Administrative Review*, 55 FR 41262 (October 10, 1990).

Canada

Since the publication of the antidumping duty order, the Department initiated eight administrative reviews of the antidumping duty order on certain iron construction castings from Canada, completing six reviews and rescinding two reviews.⁸ In the completed administrative reviews, the Department found that the producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.

PRC

Since the publication of the antidumping duty order, the Department has completed four administrative reviews of the antidumping duty order on certain iron construction castings from the PRC.⁹ In each administrative review, the Department found that the producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.

Deposit rates remain in effect for imports of subject merchandise from Brazil, Canada, and the PRC.

Duty-Absorption Findings, Changed-Circumstances Reviews, Scope Inquiries

There have been no duty-absorption findings with respect to certain iron construction castings from Brazil, Canada, and the PRC.

Brazil

There have been no changed-circumstances reviews with respect to the order on certain iron construction castings from Brazil.

There have been two scope rulings with respect to certain iron construction castings from Brazil:

- April 28, 1995 – Certain iron frames and grates are outside the scope of the order. See *Notice of Scope Rulings*, 60 FR 36782 (July 18, 1995).

⁸ *Iron Construction Castings From Canada: Notice of Final Results of Antidumping Duty Administrative Review*, 67 FR 53564 (August 16, 2002); *Iron Construction Castings from Canada; Final Results of Antidumping Duty Administrative Review*, 66 FR 18900 (April 12, 2001); *Certain Iron Construction Castings From Canada; Final Results of Antidumping Duty Administrative Review*, 60 FR 9009 (February 16, 1995); *Final Results of Antidumping Duty Administrative Review; Iron Construction Castings From Canada*, 59 FR 25603 (May 17, 1994); *Iron Construction Castings From Canada; Final Results of Antidumping Duty Administrative Review*, 56 FR 23274 (May 21, 1991); *Certain Iron Construction Castings From Canada; Final Results of Antidumping Duty Administrative Review*, 55 FR 460 (January 5, 1990).

⁹ *Iron Construction Castings From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 60 FR 51454 (October 2, 1995); *Certain Iron Construction Castings From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 57 FR 24245 (June 8, 1992); *Final Results of Antidumping Duty Administrative Review; Certain Iron Construction Castings From the People's Republic of China*, 57 FR 10644 (March 27, 1992), amended in *Iron Construction Castings from the People's Republic of China; Amended Final Results of Antidumping Duty Administrative Reviews in Accordance with Court Decision*, 67 FR 57211 (September 9, 2002) (*Amended Final Results*); *Iron Construction Castings From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 56 FR 2742 (January 24, 1991), amended by *Amended Final Results*.

- May 3, 2007 – Iron construction castings made of gray and ductile cast iron are within the scope of the order. See *Notice of Scope Rulings*, 72 FR 43245 (August 3, 2007).

Canada

The Department conducted a changed-circumstances review of the order on certain iron construction castings from Canada in 1988, which resulted in the revocation of the antidumping duty order with respect to “light” castings. See *Iron Construction Castings From Canada: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order*, 63 FR 49687 (September 17, 1998), amended by *Iron Construction Castings From Canada: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order: Correction*, 63 FR 50881 (September 23, 1998). The Department conducted a changed-circumstances review in 2002 with respect to the order on subject merchandise from Canada, where the Department determined that Bibby Ste. Croix, LaPerle, and GrandMere were owned by the same company, Canada Pipe Ltd., during the 1999-2000 administrative review. Therefore, the Department assigned these companies the same cash deposit, 3.89 percent, which was calculated in the 1999-2000 administrative review of Canada Pipe, Ltd. See *Iron Construction Castings from Canada: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 67 FR 53562 (August 16, 2002).

There has been one scope ruling with respect to certain iron construction castings from Canada:

- May 3, 2007 – Iron construction castings made of gray and ductile cast iron are within the scope of the order. See *Notice of Scope Rulings*, 72 FR 43245.

PRC

There have been no changed-circumstances reviews with respect to the order on certain iron construction castings from the PRC.

There have been several scope rulings with respect to certain iron construction castings from the PRC:

- June 15, 1992 – Certain light-weight iron rings, not suitable for use with manhole covers, are not covered by the order. See *Scope Rulings*, 57 FR 32973 (July 24, 1992).
- August 28, 1995 – Certain cast iron, floor area drains are not covered by the order. See *Notice of Scope Rulings*, 60 FR 54213 (October 20, 1995).
- August 13, 1997 – Certain “Y” pipe strainers are not covered by the order. See *Notice of Scope Rulings*, 62 FR 62288 (November 21, 1997).
- October 17, 2003 – Certain manhole frames and covers are covered by the order. See *Notice of Scope Rulings*, 70 FR 24533 (May 10, 2005).
- October 17, 2003 – Certain cast iron full-flanged rings and cast iron gas lids are not covered by the order. See *Notice of Scope Rulings*, 70 FR 24533.
- September 7, 2005 – Iron cast bases, upper bodies, and lids are covered by the order and meter box frames, covers, and extension rings are not covered by the order. See *Notice of Scope Rulings*, 70 FR 70785 (November 23, 2005).

- August 8, 2006 – Certain iron frame and grate are not covered by the order. See *Notice of Scope Rulings*, 71 FR 66167 (November 13, 2006).
- January 18, 2007 – Certain cast iron bases and upper bodies for meter boxes are not covered by the order. See *Notice of Scope Rulings*, 72 FR 23802 (May 1, 2007).
- May 3, 2007 – Iron construction casting made of gray and ductile cast iron are covered by the order. See *Notice of Scope Rulings*, 72 FR 43245.
- July 21, 2008 – Certain cast iron lids and bases for curb boxes are not covered by the order. See *Notice of Scope Rulings*, 73 FR 72771 (December 1, 2008).
- April 16, 2010 – Six grates, frame, and flapper are not covered by the order. See memorandum dated April 16, 2010, Certain Iron Construction Castings from the People’s Republic of China: “NDS” Final Scope Ruling.

Sunset Reviews

On November 2, 1998, the Department published a notice of initiation of the first five-year sunset reviews of the antidumping duty orders on certain iron construction castings from Brazil, Canada, and the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See *Notice of Initiation of Five-Year (“Sunset”) Reviews*, 63 FR 58709 (November 2, 1998). The Department published the final results of the first sunset review on June 7, 1999. See *Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada and the People’s Republic of China*, 64 FR 30310 (June 7, 1999). In the final results of those reviews, the Department determined that, in each proceeding, revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. As a result and pursuant to section 751(d)(2) of the Act, the Department published a notice of continuation following the ITC’s determination that revocation of the orders would likely lead to a continuation or recurrence of material injury to the domestic industry within the foreseeable time. See *Notice of Continuation of Antidumping Duty Orders: Certain Iron Construction Castings From Brazil, Canada, and the People’s Republic of China*, 64 FR 61590 (November 12, 1999).

On October 1, 2004, the Department initiated a second sunset review of the antidumping duty orders on certain iron construction castings from Brazil, Canada, and the PRC, pursuant to section 751(c) of the Act. See *Initiation of Five-Year (“Sunset”) Reviews*, 69 FR 58890 (October 1, 2004). The Department published the final results of the second sunset reviews on May 10, 2005. See *Certain Iron Construction Castings From Brazil; Final Results of Five-Year (“Sunset”) Review of Antidumping Duty Order*, 70 FR 24513 (May 10, 2005), *Certain Iron Construction Castings from Canada; Five-year (“Sunset”) Review of Antidumping Duty Order; Final Results*, 70 FR 24512 (May 10, 2005), and *Certain Iron Construction Castings From The People’s Republic of China; Five-year (“Sunset”) Review of Antidumping Duty Order; Final Results*, 70 FR 24511 (May 10, 2005) (*Second PRC Sunset*). In the final results of those reviews, the Department determined that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. As a result and pursuant to section 751(d)(2) of the Act, the Department published a notice of continuation. See *Continuation of Antidumping Duty Orders on Certain Iron Construction Castings from Brazil, Canada, and the People’s Republic of China, and the Countervailing Duty Order on Heavy Iron Construction Castings from Brazil*, 70 FR 37326 (June 29, 2005).

On May 3, 2010, the Department published a notice of initiation of the third sunset reviews of the antidumping duty orders on certain iron construction castings from Brazil, Canada, and the PRC pursuant to section 751(c) of the Act. See *Initiation of Five-Year (“Sunset”) Review*, 75 FR 23240 (May 3, 2010) (*Notice of Initiation*). The Department invited parties to comment.

On May 18, 2010, the Department received requests for recognition as an interested party from the domestic interested parties, East Jordan Iron Works, Inc., Neenah Foundry Company, and U.S. Foundry & Manufacturing Co. (collectively, the petitioners).

On May 18, 2010, the Department received notices of intent to participate from the petitioners within the deadline specified in 19 CFR 351.218(d)(1)(i). The petitioners claimed interested-party status under section 771(9)(C) of the Act as manufacturers of a domestic like product for each proceeding.

On June 2, 2010, the Department received complete substantive responses to the *Notice of Initiation* from the petitioners within the 30-day period specified in 19 CFR 351.218(d)(3)(i). The petitioners were a part of the original investigations and have participated in all of the segments that have occurred since publication of the antidumping duty orders on subject merchandise from Brazil, Canada, and the PRC. The Department received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act, the Department is conducting expedited (120-day) sunset reviews of the antidumping duty orders on certain iron construction castings from Brazil, Canada, and the PRC.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting these sunset reviews to determine whether revocation of the antidumping duty orders 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 investigations and subsequent reviews and the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the interested parties, which were submitted in the June 2, 2010, substantive responses.

1. Likelihood of Continuation or Recurrence of Dumping

Interested-Party Comments

We received comments only from the petitioners with respect to each country-specific order.

Brazil

The petitioners argue that revocation of the antidumping duty order on certain iron construction castings from Brazil would likely lead to continued dumping by the producers/exporters of subject merchandise.

The petitioners state that, since the imposition of the order, respondents have reduced their sales dramatically, indicating that Brazilian producers/exporters need to dump to sell at pre-order volumes. The petitioners allege that, since the imposition of the order in 1986, Brazilian respondents reacted to the imposition of the order with a steady and almost complete retraction from the U.S. market. The petitioners provide import data in support of this claim. Table 1 of the attachment to the petitioners' June 2, 2010, substantive response depicts import levels for manhole covers, rings, and frames (manhole assemblies). According to the petitioners, this table demonstrates that the overall decline of import volumes of manhole assemblies, which the petitioners claim are the only subject product for which discrete data are available from the date of the original order. The petitioners assert that, prior to the imposition of the order, the import levels of these manhole assemblies were substantial. In 1986, the year of the imposition of the order, imports reached 10.4 million pounds, according to the petitioners. In 1987, following the imposition of the order, the petitioners explain, import levels declined substantially to 5.2 million pounds and dropped further each year. The petitioners calculate an average of 270,000 pounds of imports per year between 1993 through 2005. In 2006, the petitioners explain, manhole assemblies increased sharply to 2.4 million pounds before returning to minimal levels the following three years. Between 2005 through 2009, manhole assembly imports averaged 804,000 pounds per year, according to the petitioners' calculations; the petitioners assert this volume is four percent of the imports from Brazil in 1985, the year immediately preceding the imposition of the order.

According to the petitioners, discrete import data is not available with respect to imports of heavy construction castings other than manhole assemblies and light construction castings. Petitioners assert that heavy construction castings entered the United States under a different HTS classification number than manhole assemblies which was a "basket category" encompassing a wide variety of both subject and non-subject cast-iron articles until July 1999. Therefore, the petitioners claim, it was not possible until July 1999 to determine what portion of the imports falling under this HTS classification was subject merchandise and what portion was non-subject merchandise.

Tables 2 and 3 of the petitioners' response provide the volume and value of subject imports of certain iron construction castings other than manhole assemblies and light construction castings, respectively, from 1999 to 2009. Table 4 of the substantive response provides the total import volumes for subject heavy and light construction castings for 1999-2009. The petitioners compare Tables 1 and 4 to argue that, since 1999, imports of all types of certain iron construction castings from Brazil never exceeded 3 million pounds per year and that these imports averaged 1.2 million pounds, or 9 percent of pre-order levels of manhole cover assemblies, in the most recent five-year period.

The petitioners assert that these trends demonstrate the inability of Brazilian producers to export to the United States at pre-order levels without the benefit of unfair pricing. Therefore, the petitioners conclude, the Department should find that Brazilian producers/exporters would continue or resume dumping were the order revoked in accordance with 752(c)(1)(B) of the Act.

The petitioners contend that, in every administrative review of certain iron construction castings from Brazil since the inception of the order, the Department has determined that respondents continued to sell at LTFV with levels exceeding the original calculated margins at times. The petitioners cite the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H.R. Doc. 103-316, Vol. 1 (1994), at 890 and *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (*Policy Bulletin*), to argue that the Department will normally determine that revocation of an antidumping duty order would likely lead to a continuation or recurrence of dumping where dumping continued at any level above *de minimis* after the issuance of the order. The petitioners contend that this was the conclusion in prior sunset reviews. Therefore, the petitioners argue, the Department should determine that, because dumping has continued over the life of the order, dumping is likely to continue if revocation occurs.

Canada

The petitioners argue that revocation of the antidumping duty order on certain iron construction castings from Canada would likely lead to a continuation or recurrence of dumping by the manufacturers/producers and exporters of the subject merchandise.

The petitioners explain that the available import data indicate that the antidumping duty order has had a direct effect on the Canadian respondents' behavior. Specifically, the petitioners assert that there has been a substantial decline in the volume of imports of certain iron construction castings from Canada following the imposition of the order, demonstrating the inability of Canadian producers and exporters to sell subject merchandise in the United States without dumping. The petitioners provide import data in support of this claim. Table 1 of their June 2, 2010, submission illustrates that the overall decline of import volumes of manhole assemblies, which the petitioners claim are by far the largest selling certain iron construction castings product in the U.S. market and the only subject product for which discrete data are available from the date of the original order because of the transition to the new tariff classifications discussed above. The petitioners assert that, prior to the imposition of the order, the import levels of these manhole assemblies were substantial. The petitioners allege that, in 1986, the year of publication of the order, imports of manhole assemblies reached 20.4 million pounds. Following the publication of the order, the petitioners contend, imports declined steadily each year, reaching a low of 6.7 million pounds in 1992. During the most recent five-year period of 2005-2009, the petitioners explain, imports averaged 4.9 million pounds per year, which is one-fourth of the volume of imports from Canada in 1985.

Although the petitioners do not have discrete data on imports from the original investigation, they provide in Tables 2 and 3 the volume and value of subject imports of certain iron construction castings other than manhole assemblies and light construction castings, respectively,

from 1999 to 2009. The petitioners argue that import volumes are slightly higher for Canada than from other subject countries because Canadian imports are subject to more moderate duties and because of Canadian suppliers' proximity to the U.S. market. Regardless, the petitioners argue, imports of these other heavy construction castings have decreased over the past ten years, from 6.0 million pounds to 2.5 million pounds. The petitioners conclude that, in accordance with the SAA at 889 and the *Policy Bulletin*, the Department should find that Canadian producers/exporters would continue or resume dumping were the order revoked.

The petitioners assert that the Department has conducted six administrative reviews and found that respondents have continued to sell at LTFV, at times at levels exceeding the original calculated margins. The petitioners cite the SAA at 890 and the Department's *Policy Bulletin* to argue that the Department will normally determine that revocation of an antidumping duty order would likely lead to a continuation or recurrence of dumping where dumping continued at any level above *de minimis* after the issuance of the order. The petitioners assert that this was the conclusion in prior sunset reviews. Therefore, the petitioners argue, the Department should determine that, because dumping has continued over the life of the order, dumping is likely to continue if revocation occurs.

PRC

The petitioners argue that revocation of the antidumping duty order on certain iron construction castings from the PRC would likely lead to a continuation or recurrence of dumping by the manufacturers/ producers and exporters of the subject merchandise.

The petitioners explain that the available import data indicate that the antidumping duty order has had a direct effect on the Chinese respondents' behavior. Specifically, the petitioners assert, there has been a substantial decline in the volume of imports of certain iron construction castings from the PRC following the imposition of the order, demonstrating the inability of Chinese producers and exporters to sell subject merchandise in the United States without dumping. The petitioners provide import data in support of this claim. Table 1 of their June 2, 2010, submission illustrates that the overall decline of import volumes of manhole assemblies, which the petitioners claim are by far the largest selling certain iron construction castings product in the U.S. market and the only subject product for which discrete data are available from the date of the original order because of the transition to the new tariff classifications discussed above. The petitioners assert that, prior to the imposition of the order, the import levels of these manhole assemblies were substantial. The petitioners allege that, in 1986, the year of publication of the order, imports of manhole assemblies reached 13.8 million pounds. Following the publication of the order, the petitioners contend, import volumes increased initially to a high of 27.6 million pounds in 1989 but then declined dramatically to a low of 226,000 pounds in 1993 and have not gone above 3.7 million pounds in any year since imposition of the order. The petitioners explain that the trend in Chinese imports differs from the trends of Brazil and Canada in that the decline in Chinese imports did not occur immediately upon issuance of the antidumping duty order. The petitioners allege that this is attributable to the 11.66 rate from the original investigation as being an insufficient deterrent to importers at the time. Only after the rate increased in subsequent review periods, the petitioners explain, did imports from the PRC plummet, declining steadily

each year to a low of 238,000 pounds in 1992. During the most recent five-year period of 2005-2009, the petitioners explain, imports averaged 1.3 million pounds per year.

Although the petitioners do not have discrete data on imports from the original investigation, they provide in Tables 2 and 3 the volume and value of subject imports of certain iron construction castings other than manhole assemblies and light construction castings, respectively, from 1999 to 2009. The petitioners explain that these data provide a comparison between the volumes of these several categories of products versus those volumes for manhole assemblies alone for the periods immediately preceding the order. The petitioners contend that the comparison of the two periods show imports of manhole assemblies from the PRC alone averaged 17.0 million pounds annually from 1984 to 1990 when the increased duties began to have an impact on shipments. In the 2005-2009 period, the petitioners continue, imports of all heavy and light construction castings, including manhole assemblies, averaged only 5.8 million pounds, which is only 34 percent of former levels. The petitioners argue that these trends demonstrate the impact of the duties and the inability of Chinese producers to export to the United States without the benefit of unfair pricing. The petitioners conclude that, in accordance with the SAA at 889 and the *Policy Bulletin*, the Department should find that Chinese producers/exporters would continue or resume dumping were the order revoked.

The petitioners assert that the Department has conducted several administrative reviews and found that respondents have continued to sell at LTFV, at times at levels exceeding the original calculated margins. The petitioners cite the SAA at 890 and the Department's *Policy Bulletin* to argue that the Department will normally determine that revocation of an antidumping duty order would likely lead to a continuation or recurrence of dumping where dumping continued at any level above *de minimis* after the issuance of the order. The petitioners assert that this was the conclusion in prior sunset reviews. Therefore, the petitioners argue, the Department should determine that, because dumping has continued over the life of the order, dumping is likely to continue if revocation occurs.

Department's Position:

Drawing on the guidance provided in the legislative history accompanying the SAA, specifically 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's determinations of likelihood will be made on an order-wide basis for each case.¹⁰ In addition, the Department will normally determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping if one or more of the following factors are met: (a) dumping continued at any level above *de minimis* after the issuance of the orders; (b) imports of the subject merchandise ceased after the issuance of the orders; (c) dumping was eliminated after the

¹⁰ See SAA at 879 and House Report at 56. See also *Refined Brown Aluminum Oxide from the People's Republic of China: Final Results of Expedited Sunset Review*, 74 FR 4138 (January 23, 2009), and the accompanying Issues and Decision Memorandum (I&D Memo) at Comment 3, and *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 73 FR 65832 (November 5, 2008), and the accompanying I&D Memo at 3 (*Crawfish Tail Meat – PRC*).

issuance of the orders and import volumes for the subject merchandise declined significantly.¹¹ In addition, pursuant to section 752(c)(1)(B) of the Act, in order to determine whether revocation of an antidumping duty order would be likely to lead to a continuation of dumping, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

The records of the three proceedings show that dumping has persisted since the issuance of these orders. Since the publication of the orders, the Department has conducted several administrative reviews for subject merchandise from Brazil, Canada, and the PRC. In those reviews, the Department found that dumping has continued at margins exceeding *de minimis*. See *supra* footnotes 7-9. Because the HTS subheading for subject merchandise did not come into existence until July 2005, it is not feasible to determine the aggregate trend in import volumes from the period before through the period after issuance of the orders. While import data for certain manhole assemblies are available, as provided by the petitioners, it is not feasible to make an unequivocal determination on the import volumes pre- and post-order for all scope products covered by the orders, as the data are not available. Despite this, because dumping of the subject merchandise continues at margins above *de minimis* and because no party argued or submitted any evidence to the contrary, the Department determines that dumping is likely to continue if the orders are revoked.

2. Magnitude of the Margin Likely to Prevail

Interested-Party Comments

We received comments only from the petitioners with respect to each country-specific order.

Brazil and Canada – The petitioners cite the SAA and the *Policy Bulletin* to explain that, in determining the magnitude of the margins of dumping likely to prevail in the event of a revocation of an order, the Department will normally select the company-specific rate(s) from the investigation, as this is the only calculated rate reflecting the behavior of exporters without the discipline of an order in place. Therefore, the petitioners argue, the Department should rely upon the company-specific margins from the original investigations as the margins of dumping that are likely to prevail were the orders revoked.

PRC – The petitioners cite the SAA at 890 and the *Policy Bulletin* to explain that, in determining the magnitude of the margins of dumping likely to prevail in the event of a revocation of an order, the Department will normally select the company-specific rate(s) from the investigation, as this is the only calculated rate reflecting the behavior of exporters without the discipline of an order in place. In the case of the PRC, however, the petitioners argue it would be more appropriate for the Department to provide to the ITC one of the rates that was applied to those

¹¹ See SAA at 889-890, House Report at 63-64, and Senate Report at 52. See also *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 5819 (February 2, 2009), and the accompanying I&D Memo at 3, *Crawfish Tail Meat – PRC* and the accompanying I&D Memo at 3, and *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), and the accompanying I&D Memo at 5.

imports after 1990, since it was in 1991 that the antidumping duty rate increased from 11.66 percent to almost 13 percent. The petitioners assert that the margin continued increasing through subsequent administrative reviews and, in 1995, the Department found a margin of 92.74 percent for all PRC exporters. According to the petitioners, the dumping margins did not have any effect on the behavior of producers and/or exporters of certain iron construction castings from the PRC until 1991, at which point the import volumes declined dramatically and have remained at very low levels. Because of this, the petitioners argue, the Department relied on the 25.52 percent rate calculated in the 1990-1991 period of review for the second sunset review. Thus, the petitioners argue, this rate should be used in this third sunset review as well.

In conclusion, the domestic interested parties recommend that the Department report the antidumping duty margins for certain iron construction castings from Brazil, Canada, and the PRC as follows:

<u>Country</u>	<u>Company</u>	<u>Recommended Weighted-Average Margin (Percent)</u>
<i>Brazil</i>	Fundicao Aldebara Ltda.	58.74
	Sociedade de Metalurgia E. Processos, Ltda.	16.61
	Usina Siderurgica Paraensa S.A.	5.95
	All other manufacturers/producers/exporters	26.16
<i>Canada</i>	Mueller Canada, Inc.	9.80
	LaPerle Foundry, Ltd.	4.40
	Bibby Ste. Croix Foundries, Ltd.	8.60
	All Others	7.50
<i>PRC</i>	PRC-wide Rate	25.52

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 orders were revoked. The Department will normally provide to the ITC the company-specific margin from the investigation for each company. See SAA at 890 and *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999). The Department's preference for selecting a margin from the investigation is based on the fact that 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. *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, et al.; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006), and the accompanying I&D Memo at 20-21 (*Carbon Steel Products*); see SAA at 890 and House Report at 64. Under certain circumstances, the Department may select a more recently calculated margin to report to the ITC. See section 752(c)(3) of the Act and *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands*, 65 FR 65294 (November 1, 2000), and the accompanying I&D Memo at "Magnitude of the Margin Likely to Prevail," Comment 3 (citing SAA at 890-91 and House

Report at 64). For companies not investigated specifically 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. See *Carbon Steel Products* and the accompanying I&D Memo at 20. In certain instances, a company may choose to increase dumping in order to maintain or increase market share. As a result, increasing margins may be more representative of a company's behavior in the absence of an order.

The Department does not find any indication that the margins calculated in subsequent reviews of the orders on certain iron construction castings from Brazil and Canada are more probative of behaviors of manufacturers, producers, and exporters without the discipline of the orders. All administrative reviews of the orders on certain iron construction castings from Brazil and Canada have demonstrated that dumping has continued at levels above *de minimis*. Given that dumping continued following the issuance of the orders and given the absence of argument and evidence to the contrary, the Department finds that the margins calculated in the original investigations are probative of the behavior of producers and exporters of subject merchandise from the Brazil and Canada if these orders were revoked. Consistent with section 752(c) of the Act, the Department will report to the ITC the company-specific and all-others rates from the investigations concerning subject merchandise from Brazil and Canada as indicated in the "Final Results of Reviews" section of this memorandum.

With respect to the sunset review of the order on certain iron construction castings from the PRC, the Department finds that, in light of the correlation between the increase in the dumping margin and the decrease in imports over the life of the order, a more recently calculated rate is the most probative of the behavior of PRC producers/exporters of certain iron construction castings than the rate calculated in the original investigation. During the first sunset review, we determined that 92.47 percent was the antidumping duty margin most likely to prevail were the order revoked. That rate was later amended to 25.52 percent, pursuant to litigation at the Court of International Trade. See *D & L Supply Co. v. United States*, 6 F. Supp. 2d 914 (CIT 1998), *aff'd Guangdong Metals & Minerals Import and Export Corporation v. United States*, 217 F.3d 851 (Fed. Cir. 1999) (unpublished opinion). This percentage is the highest calculated PRC-wide rate that was not judicially invalidated and the rate determined in the second sunset review to be likely to prevail were the order revoked. See *Certain Iron Construction Castings from the People's Republic of China; Amended Final Results of Antidumping Duty Administrative Review in Accordance with Court Decision*, 67 FR 57213 (September 9, 2002) (*Amended Final Results II*); see *Second PRC Sunset*. Given that dumping continued following the issuance of the order and given the absence of argument and evidence to the contrary, the Department finds that the margins announced in the September 9, 2002, *Amended Final Results II* are probative of the behavior of producers and exporters of subject merchandise from the PRC if the order were revoked.

Consistent with the previous sunset reviews on certain iron construction castings from the PRC and pursuant to section 752(c)(3) of the Act, the Department will report to the ITC the PRC country wide-rate from the *Amended Final Results II* as indicated in the "Final Results of Reviews" section of this memorandum. The Department will also report to the ITC the rates for Brazil and Canada as indicated in the "Final Results of Reviews" section of this memorandum.

Final Results of Reviews

The Department determines that revocation of the antidumping duty orders on certain iron construction castings from Brazil, Canada, and the PRC would be likely to lead to a continuation or recurrence of dumping at the following weighted-average percentage margins:

<u>Country</u>	<u>Company</u>	<u>Weighted-Average Margin (Percent)</u>
<i>Brazil</i>	Fundicao Aldebara Ltda.	58.74
	Sociedade de Metalurgia E. Processos, Ltda.	16.61
	Usina Siderurgica Paraensa S.A.	5.95
	All other manufacturers/producers/exporters	26.16
<i>Canada</i>	Mueller Canada, Inc.	9.80
	LaPerle Foundry, Ltd.	4.40
	Bibby Ste. Croix Foundries, Ltd.	8.60
	All Others	7.50
<i>PRC</i>	PRC-wide Rate	25.52

Recommendation

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

Agree X

Disagree _____

 /S/ RKL
Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

 08/31/2010
Date