

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

FROM: Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders on Sulfanilic Acid from India and the People's Republic of China ("China")

Summary

We have analyzed the substantive responses of the interested parties in the second sunset reviews of the antidumping duty orders covering sulfanilic acid from India and China. 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 these sunset reviews 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 Orders

In 1992, the Department of Commerce ("Department") issued an antidumping duty order on imports of sulfanilic acid from China. Respondent China National Chemicals Import & Export Corporation (Hebei Branch) received a margin of 19.14 percent, and the Department determined the country-wide rate to be 85.20 percent. *See Antidumping Duty Order: Sulfanilic Acid from the People's Republic from China*, 57 FR 37524 (August 19, 1992). In 1993, the Department published an antidumping duty order on sulfanilic acid from India with an all others

rate of 114.8 percent.¹ *See Antidumping Duty Order: Sulfanilic Acid from India*, 58 FR 12025 (March 2, 1993). Since the orders were issued, the Department has conducted several administrative reviews with respect to sulfanilic acid from China; however, there have been only two administrative reviews with periods of review falling within the five-year period of this second sunset review.² The Department has conducted no administrative reviews with respect to sulfanilic acid from India since the issuance of the order. The orders remain in effect for all manufacturers and exporters of the subject merchandise from India and China.

The Department has not conducted any changed circumstances reviews for these orders. The Department conducted a scope ruling regarding 3V Corporation and determined that sodium sulfanilate processed in Italy from sulfanilic acid from India was within the scope of the order on sulfanilic acid from India. *See Notice of Scope Rulings and Anticircumvention Inquiries*, 65 FR 41957 (July 7, 2000).

The Department published its notice of initiation of the first sunset reviews on October 1, 1999, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”). *See Initiation of Five-Year Reviews*, 64 FR 53320 (October 1, 1999). As a result of those reviews, the Department found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. *See Final Results of Expedited Sunset Reviews: Sulfanilic Acid from India and China*, 65 FR 6156 (February 8, 2000) (“First Sunset Reviews”). On May 26, 2000, the International Trade Commission (“ITC”) determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on sulfanilic acid from India and China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Sulfanilic Acid from India and China*, 65 FR 34232 and USITC Pub. 3301, Inv. Nos. 701-TA-318 (Review) and 731-TA-538 and 561 (Review) (May 2000). On June 8, 2000, the Department published the notice of continuation of the antidumping orders on sulfanilic acid. *See Continuation of Antidumping Duty Orders: Sulfanilic Acid from India and China; and Countervailing Duty Order: Sulfanilic Acid from India*, 65 FR 36404 (amended by 65 FR 37758 (June 16, 2000)).

Background:

On May 2, 2005, the Department published the notice of initiation of the second sunset reviews of the antidumping duty orders on sulfanilic acid from India and China pursuant to section 751(c) of the Act. *See Initiation of Five-Year (“Sunset”) Reviews*, 70 FR 22632 (May 2,

¹In the final determination, the Department published a weighted-average dumping margin for all manufacturers/producers/exporters of 114.8 percent. However, consistent with section 772(d)(1)(D) of the Act, which prohibits assessing antidumping duties on the portion of the margin attributable to an export subsidy, we established, for duty deposit purposes, an estimated antidumping duty deposit rate of 71.09 percent.

²*See Sulfanilic Acid from the People's Republic of China: Final Results of Administrative Review*, 61 FR 53711 (October 15, 1996) (POR 1993-94); 61 FR 53702 (October 15, 1996) (POR 1994-95); 62 FR 48597 (September 16, 1997) (POR 1995-96); 63 FR 63834 (November 17, 1998) (POR 1996-97); 65 FR 13366 (March 13, 2000) (amended by 65 FR 18300 (April 7, 2000)) (POR 1997-98); 66 FR 15837 (March 21, 2001) (POR 1998-99); 67 FR 1962 (January 15, 2002)(with partial rescission) (POR 1999-2000); 67 FR 70404 (November 22, 2002) (with partial rescission) (POR 2000-01).

2005). The Department received the Notice of Intent to Participate from Nation Ford Chemical Company (“NFC”), within the deadline specified in section 351.218(d)(1)(i) of the Department’s regulations. NFC claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of sulfanilic acid. We received a complete substantive response from NFC within the 30-day deadline specified in section 351.218(d)(3)(i) of the Department’s regulations. We received no response from the respondent interested parties. As a result, pursuant to section 751(c)(5)(A) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department’s regulations, the Department conducted expedited (120-day) sunset reviews of these orders.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of these 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 investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

NFC argues that revocation of these orders would likely lead to the recurrence of dumping because imports from China have declined significantly since the issuance of the order, as shown in a table in the domestic interested parties’ submission. *See* Substantive Response of the Domestic Interested Parties Regarding Sulfanilic Acid from the People’s Republic of China, Sunset Review No. A-570-815: NFC’s Substantive Response (“China Substantive Response”) (May 31, 2005) at 7. NFC notes that dumping was found in the original investigation and subsequent administrative reviews. *See* China Substantive Response at 6. Regarding imports from India, NFC states that sulfanilic acid from India is still subject to the antidumping rate of 71.09 percent, established in the original investigation, which is well above the *de minimis* level, and those imports ceased since the issuance of the order. *See* Substantive Response of the Domestic Interested Parties Regarding Sulfanilic Acid from India, Sunset Review No. A-533-806: NFC’s Substantive Response (“India Substantive Response”) (May 31, 2005) at 7. According to NFC, the cessation of imports accompanied by the above *de minimis* levels is highly probative of the likelihood of the recurrence of dumping. *Id.* and China Substantive Response at 7.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”), specifically the Statement of Administrative Action, H.R. Doc. No. 103-316, vol. 1 (1994) (“SAA”), 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 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. With respect to the antidumping duty order on sulfanilic acid from China, the Department has conducted a number of reviews since the issuance of the order in which it found that dumping continued at levels above *de minimis*. See Footnote 2 of this Memorandum and the attached margin history.

In addition, 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 antidumping duty orders. The Department notes that NFC states that the Indian imports ceased and Chinese imports declined significantly based on the former Harmonized Tariff Schedule of the United States subheadings for sulfanilic acid and sodium salts. See India Substantive Response at 7. However, the subheadings for sulfanilic acid and sodium salts changed since the issuance of these orders, as discussed in the last sunset review. The subheadings for sulfanilic acid and sodium salts should be 2921.42.22 and 2921.42.24.20. Using statistics provided by the ITC Dataweb, the Department finds that imports of sulfanilic acid from India and China have fluctuated since the issuance of the continuation of the orders. See attached import statistics. For example, imports from China fluctuated from 1.67 million kilograms in 2000 to 513,656 kilograms in 2001 to 2.04 million kilograms in 2004. *Id.* However, imports from India increased from 228,366 kilograms in 2000 to 1.46 million kilograms in 2004. *Id.* Although the import volumes of sulfanilic acid have fluctuated, the existence of dumping margins above *de minimis* after 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 order were removed. See SAA at 890. In this case, the Department found dumping at above *de minimis* levels in the original antidumping duty investigations against Chinese and Indian manufacturers and exporters. The cash deposit rates established in the original investigations remain in effect for Indian and Chinese imports, and there have been no administrative reviews of the antidumping duty order on Indian imports. Therefore, given the existence of dumping margins above *de minimis* levels, the Department determines that dumping would likely continue or recur if the orders were revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

In its substantive response, NFC states that the dumping margins from the original

investigation are likely to prevail if the orders were revoked. Indeed, they argue that the dumping margin likely to prevail in the Indian sunset review is 71.09 percent because this rate was determined in the original investigation, and the Department conducted no administrative reviews. *See* India Substantive Response at 8. Regarding sulfanilic acid from China, NFC states that the dumping margin of 85.20 percent found in the investigation for most Chinese manufacturers and exporters should be the rate that the Department reports to the ITC because it represents the last level at which Chinese exporters shipped sulfanilic acid without an order in place. *See* China Substantive Response at 8. Therefore, NFC requests that the Department report the margins from the original investigations to the ITC as the likely behavior of the Indian and Chinese manufacturers and exporters of sulfanilic acid if these orders were revoked. *Id.* and China Substantive Response at 8.

Department's Position

The Department will provide to the ITC the company-specific margin from the investigation for each company that was investigated. 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. 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 exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC.

NFC requests that the Department report to the ITC the margins found in the investigations of sulfanilic acid from India and China. In the first sunset reviews, the Department reported to the ITC margins from the original investigations. *See* First Sunset Reviews. For the final results of these expedited sunset reviews, the Department has again determined to report to the ITC the margins from the original investigations because these dumping margins are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place. The Department notes that in the original investigation regarding Indian sulfanilic acid, the Department determined the dumping margin for all Indian manufacturers, producers, and exporters of the subject merchandise to be 114.80 percent and established an antidumping duty deposit rate of 71.09 percent after taking into account the 43.71 percent export subsidy rate. *See Final Determination of Sales at Less than Fair Value: Sulfanilic Acid from India*, 58 FR 3251 (January 8, 1993). Therefore, the Department will report to the ITC the margins from the original investigations as contained in the Final Results of Reviews section of this notice.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on sulfanilic acid from India and China would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

| Manufacturers/Exporters/Producers | Weighted-Average Margin (percent) |
|-----------------------------------|-----------------------------------|
|-----------------------------------|-----------------------------------|

India

| | |
|--|---------|
| All Indian Manufacturers and Exporters | 114.80* |
|--|---------|

China

| | |
|--|-------|
| China National Chemicals I&E Corporation, Hebei Branch | 19.14 |
|--|-------|

| | |
|--|-------|
| China-wide Manufacturers and Exporters | 85.20 |
|--|-------|

*with the antidumping duty deposit rate at 71.09 percent

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 these sunset reviews in the *Federal Register*.

AGREE ___ JAS _____

DISAGREE _____

ORIGINAL SIGNED

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

8/30/05

(Date)

Margin Rate History of Sulfanilic Acid
since First Sunset Review

China

| Company | Order | First Sunset Review | Administrative Review 1998-1999 | Administrative Review 1999-2000 | Administrative Review 2000-2001 |
|---|------------------------|----------------------|---------------------------------|-------------------------------------|-------------------------------------|
| | 57 FR 37524 8/19/92 | 65 FR 6156 2/8/00 | 66 FR 15837 3/21/01 | 67 FR 1962 1/15/02 | 67 FR 70404 11/22/02 |
| China National Chemicals I&E Corporation, Hebei | 19.14 | 19.14 | | | |
| Xinyu Chemical Plant | | | 85.20 (AFA) | Did not export during review period | Did not export during review period |
| Zhenxing Chemical Industry Company | | | 85.20 (AFA) | 54.40 | 64.22 |
| PRC-wide | 85.20 | 85.20 | | | |

The Department did not conduct any administrative reviews regarding sulfanilic acid from India.