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DATE: September 27, 2005

MEMORANDUM TO: Holly A. Kuga  
Acting Assistant Secretary  
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for Sunset Reviews of the  
Antidumping Duty Orders on Porcelain-on-Steel Cooking Ware  
from the People's Republic of China and Taiwan; Final Results

SUMMARY:

We have analyzed the substantive responses of the interested parties in the second sunset reviews of the antidumping duty orders on porcelain-on-steel ("POS") cooking ware from the People's Republic of China ("PRC") and Taiwan. 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 substantive responses:

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

History of the Orders

PRC

On October 10, 1986, the Department published its affirmative determination of sales at less-than-fair value ("LTFV") with respect to POS cooking ware from the PRC. See Final Determination of Sales at Less Than Fair Value: Porcelain-on-Steel Cooking Ware from the People's Republic of China, 51 FR 36419 (October 10, 1986). The antidumping duty order was published on December 2, 1986. See Antidumping Duty Order; Porcelain-on-Steel Cooking Ware from the People's Republic of China, 51 FR 43414 (December 2, 1986). The Department established a weighted-average margin of 66.65 percent for China National Light Industrial Products Import and Export Corporation ("China Light") and 66.65 percent for the PRC-wide

margin. Following the investigation and prior to the first sunset review, the Department conducted seven administrative reviews. In the first sunset review, the Department determined that revocation of the antidumping order would likely lead to continuation or recurrence of dumping. See Final Results of Expedited Sunset Review: Porcelain-on-Steel Cooking Ware from the People's Republic of China, 64 FR 50271 (September 16, 1999). Following the first sunset review, two subsequent administrative reviews and a new shipper review were initiated and later rescinded. See Notice of Rescission of Antidumping Administrative Review: Porcelain-on-Steel Cooking Ware from the People's Republic of China, 66 FR 16904 (March 28, 2001); Notice of Rescission of Antidumping Duty Administrative Review: Porcelain-on-Steel Cooking Ware from the People's Republic of China, 68 FR 19781 (April 22, 2003); and Notice of Rescission of New Shipper Review: Porcelain-on-Steel Cooking Ware from the People's Republic of China, 70 FR 1868 (January 11, 2005).

On January 31, 2005, the Department published a notice of initiation for the eighteenth administrative review period of POS cooking ware from the PRC covering one respondent, Shanghai Watex Metal Products Co. Ltd., for the period 12/1/2003-11/30/2004. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 70 FR 4818 (January 31, 2005). The preliminary results of this ongoing review are currently due December 1, 2005.

### Taiwan

On October 10, 1986, the Department published its affirmative determination of sales at LTFV with respect to POS cooking ware from Taiwan. See Final Determination of Sales at Less Than Fair Value: Porcelain-on-Steel Cooking Ware from Taiwan, 51 FR 36425 (October 10, 1986). The antidumping duty order was published on December 2, 1986. See Antidumping Duty Order: Porcelain-on-Steel Cooking Ware from Taiwan, 51 FR 43416 (December 2, 1986). The Department established a weighted-average margin of 9.04 percent for First Enamel Industrial Corp., 1.99 percent for Tian Shine Enterprise Co. Ltd., 2.57 percent for Tou Tien Metal (Taiwan) Co. Ltd., 2.63 percent for Li-Fong Industrial Co., Ltd., 6.48 percent for Li-Mow Enameling Co. Ltd., 23.12 percent for Receive Will Industry Co., and 6.82 percent for "All Others." No administrative reviews have been conducted on this order to date. The first sunset review was published on September 17, 1999. In the first sunset review, the Department determined that revocation of the antidumping order would likely lead to continuation or recurrence of dumping. See Final Results of Expedited Sunset Review: Porcelain-on-Steel Cooking Ware from Taiwan, 64 FR 50487 (September 17, 1999).

On February 1, 1999, the Department of Commerce ("the Department") initiated the first sunset review of the antidumping duty orders on POS cooking ware from the PRC and Taiwan pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). See Initiation of Five-Year ("Sunset") Reviews, 64 FR 4840 (February 1, 1999). As a result of the first sunset reviews, pursuant to sections 751(c) and 752 of the Act, the Department determined that revocation of the antidumping duty orders on POS cooking ware from PRC and Taiwan would likely lead to

continuation or recurrence of dumping. See Final Results of Expedited Sunset Reviews; Porcelain-on-Steel Cooking Ware from the People's Republic of China, 64 FR 50271 (September 16, 1999); and Final Results of Expedited Sunset Reviews; Porcelain-on-Steel Cooking Ware from Taiwan, 64 FR 50487 (September 17, 1999). On March 17, 2000, the International Trade Commission ("ITC"), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty orders on POS cooking ware from the PRC and Taiwan would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Porcelain-on-Steel Cooking Ware from China, Mexico and Taiwan, 65 FR 17902 (April 5, 2000); see also Porcelain-on-Steel Cooking Ware from China, Mexico and Taiwan: Investigations Nos. 701-TA-267-268 (Review), USITC Publication 3286 (March 2000). Accordingly, the Department published a notice of the continuation of the antidumping duty orders on POS cooking ware from the PRC and Taiwan, pursuant to 19 CFR §351.218(f)(4). See Continuation of Antidumping Duty Orders; Porcelain-on-Steel Cooking Ware from China, Mexico and Taiwan, 65 FR 20136 (April 14, 2000).

### Background

On March 1, 2005, the Department initiated the second sunset reviews of the antidumping duty orders on POS cooking ware from the PRC and Taiwan pursuant to section 751(c) of the Act. See Initiation of Five-Year ("Sunset") Reviews, 70 FR 9919 (March 1, 2005). The Department invited parties to comment, and received notices of intent to participate from a domestic interested party, Columbian Home Products, LLC ("Columbian") pursuant to sections 351.218(d)(1)(i) and 351.218(d)(3)(i) of the Department's regulations.<sup>1</sup> Columbian claimed interested party status under section 771(9)(C) of the Act as a U.S. producer of the domestic like product. The Department did not receive responses to the notice of initiation from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department conducted expedited 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 likely lead to a 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 subject merchandise for the period before and 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

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<sup>1</sup> The Porcelain-On-Steel Committee of the Cookware Manufacturers Association and General Housewares Corporation, the predecessors of Columbian, were the petitioners in the original investigation and have participated in these proceedings since that time under the Columbian name.

address the comments of the interested party.

## 1. Likelihood of Continuation or Recurrence of Dumping

### Interested Party Comments

#### PRC

Columbian argues that revocation of the order on POS cooking ware from the PRC is likely to lead to continued dumping because dumping has continued at levels above de minimis, and import volumes declined significantly after the issuance of the order. See Substantive Response of Columbian: Porcelain-on-Steel Cooking Ware from the People’s Republic of China, March 31, 2005, at 13-14 (“Substantive Response for the PRC”). Columbian notes that in the seven administrative reviews conducted by the Department, dumping margins have consistently been above de minimis. Further, Columbian notes that, with few exceptions, the dumping margins have been equal to the margin found in the original investigation, 66.65 percent. Id. With respect to import volumes, Columbian asserts that import volumes declined by 76 percent immediately following the issuance of the order. Columbian provided import volumes of the subject merchandise under the Tariff Schedule of the United States item numbers 654.0224 and 654.0227 for 1983-1984, 654.0824 and 654.0827 for 1984-1986, 654.0818 for 1987-1988, and Harmonized Tariff Schedule item number 7323.94.00 for the periods 1989 through 2004. Id. at Attachment 1. Although Columbian notes that subject imports have increased since 2000, it claims that an increase in the quantity of imports, coupled with margins continuously above de minimis, indicates that dumping is likely to continue if the order is revoked. Id. at 14. Further, Columbian notes that in the first sunset review, the ITC stated that “[t]he total output of the POS cookware industry in China dwarfs domestic production, as does the total volume of POS cookware exports from China {to all markets}.” Porcelain-on-Steel Cooking Ware from China, Mexico and Taiwan: Investigations Nos. 701-TA-267-268 (Review), USITC Publication 3286 (March 2000). Columbian asserts that Chinese exporters would continue to dump, likely at even higher margins, if the order were revoked. Id. at 15.

#### Taiwan

Columbian makes similar arguments regarding the likely effects of revocation of the order on POS cooking ware from Taiwan. See Substantive Response of Columbian: Porcelain-on-Steel Cooking Ware from Taiwan, March 31, 2005 (“Substantive Response for Taiwan”). Columbian argues that revocation of the order on POS cooking ware from Taiwan is likely to lead to continued dumping because dumping has continued at levels significantly above de minimis, and import volumes declined significantly after the issuance of the order, a 95.3 percent decline from 1987 to 2004, with a 75 percent decline during the most recent five-year period. Id. at 7-8; see also Attachment 1. Columbian further asserts that because Taiwan producers and exporters cannot export the subject merchandise to the United States without dumping, the Department should determine that dumping is likely to continue or recur if the order were revoked. Id.

## 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 (“SAA”), H.R. 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 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 an order and import volumes for the subject merchandise declined significantly.

The information on the records of the proceedings of these two orders demonstrates that dumping has persisted since the issuance of these orders. Cash deposit rates above de minimis remain in effect for all exports of POS cooking ware from the PRC and Taiwan. The Department also analyzed and considered the volume of imports of the subject merchandise for the period before issuance of the order and for the period after the issuance of these orders, and import volumes over the past five years. We note that with respect to POS cooking ware from Taiwan, import volumes continue to be well below pre-order levels while dumping margins remain at levels above de minimis. See Attachment 1. With respect to POS cooking ware from the PRC, import volumes initially decreased after the order, subsequently returned to pre-order levels, then increased significantly after the first sunset review. *Id.* However, we agree with Columbian that because dumping continued at levels significantly above de minimis after the order, the likelihood of continuing dumping at above de minimis levels warrants the continuation of these orders. Therefore, on the basis of the information on the record, we continue to find that it is likely that if the antidumping duty orders were revoked, dumping would continue or recur.

## 2. Magnitude of the Margin Likely to Prevail

### Interested Party Comments

#### PRC

Columbian asserts that in accordance with the legislative history and the Department’s policy, the Department should provide the ITC with the rates from the original investigation, 66.65 percent for China Light, and 66.65 percent for all other PRC exporters of POS cooking ware from the PRC for purposes of its final results because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. See Substantive Response for the PRC at 16.

## Taiwan

Columbian asserts that in accordance with the legislative history and the Department's policy, the Department should provide the ITC with the rates from the original investigation. These are 9.04 percent for First Enamel Industrial Corp., 1.99 percent for Tian Shine Enterprise Co., Ltd., 2.67 percent for Tou Tien Metal (Taiwan) Co., Ltd, 2.63 percent for Li-Fong Industrial Co., Ltd., 6.48 percent for Li-Mow Enameling Co. Ltd., 23.12 percent for Receive Will Industry Co., and 6.82 percent for the "all others" rate. See Substantive Response for Taiwan at 10. These rates should be reported because they are the only calculated rates that reflect the behavior of exporters without the discipline of an order.

## 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 were revoked. The Department normally will select a margin from the final determination of 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.

In the final determination of the investigation from the PRC, the Department found dumping margins of 66.65 percent for China Light and 66.65 percent for the PRC-wide rate. In the final determination of the investigation from Taiwan, the Department found dumping margins of 9.04 percent for First Enamel Industrial Corp., 1.99 percent for Tian Shine Enterprise Co., Ltd., 2.67 percent for Tou Tien Metal (Taiwan) Co., Ltd., 2.63 percent for Li-Fong Industrial Co., Ltd., 6.48 percent for Li-Mow Enameling Co. Ltd., 23.12 percent for Receive Will Industry Co., and 6.82 percent for "all others."

In the final results of subsequent administrative reviews, margins continued to be above de minimis. In the first sunset review, the Department determined that the margins calculated in the original investigation are reflective of the behavior of the Chinese and Taiwanese producers and exporters of POS cooking ware without the discipline of the order. Furthermore, for the second sunset review of POS cooking ware from the PRC, the Department does not find any indication that the margins calculated in subsequent reviews are more probative of behavior without the discipline of the order. Additionally, there have been no administrative reviews of POS cooking ware from Taiwan. Consequently, as in the first sunset review, the Department finds that the margins from the original investigation are the appropriate margins to report to the ITC with respect to the orders on POS cooking ware from the PRC and Taiwan because they are the only calculated rates that reflect the behavior of producers and exporters without the discipline of the orders. Therefore, consistent with section 752(c) of the Act, the Department will report to the ITC company-specific and "All Others" rates from the investigations as indicated in the "Final Results of Reviews" section of this memorandum.



# Attachment 1

U.S. Imports of Porcelain-on-Steel Cooking Ware  
In Units (1,000)

	1985	1986	1987	2000	2001	2002	2003	2004
<b>People's Republic of China</b>	1,886	1,050	444	1,926	2,392	3,402	3,159	3,357
<b>Taiwan</b>	5,013	5,663	6,538	1,166	637	330	643	305

NOTE: Order issued December 2, 1986

NOTE: 1st Sunset Review completed April 14, 2000

Source: USITC Dataweb