

MEMORANDUM TO: Faryar Shirzad
Assistant Secretary
Import Administration

FROM: Jeffrey A. May
Director, Office of Policy
Import Administration

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset
Review of the Antidumping Duty Order on Persulfates from the
People's Republic of China; Final Results

Summary:

We have analyzed the substantive response of the domestic interested parties, which are the only parties participating in the expedited sunset review of the antidumping duty order on persulfates from the People's Republic of China ("PRC"). We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of issues in this expedited sunset review for which we received substantive comments from the domestic interested parties:

1. Likelihood of continuation or recurrence of dumping
 - A. Weighted-average dumping margin
 - B. Volume of imports
2. Magnitude of the margin likely to prevail
 - Margin from investigation

History of the Order

On July 22, 1997, the Department of Commerce (“the Department”) published the amended antidumping duty order on persulfates from the People’s Republic of China.¹ In the order, the Department published individual weighted-average dumping margins for manufacturers, producers, and exporters of persulfates, and a PRC-wide rate of 119.02 percent. Since the issuance of the order, the Department has completed three administrative reviews.² The Department is currently conducting the fourth administrative review of the order. The final results of this administrative review are scheduled to be completed by November 28, 2002. The Department has not conducted any duty-absorption investigation in this proceeding. The order remains in effect for all manufacturers, producers, and exporters of persulfates from the PRC.

Background:

On June 3, 2002, the Department published the notice of initiation of the five-year sunset review of the antidumping duty order on persulfates from the PRC, in accordance with section 751 (c) of the Tariff Act of 1930, as amended (“the Act”).³ On June 11, 2002, the Department received a Notice of Intent to Participate on behalf of FMC Corporation (“domestic interested parties”) as specified in section 351.218(d)(1)(i) of the *Sunset Regulations*.

On July 3, 2002, we received a complete substantive response from the domestic

¹ Notice of Amended Antidumping Duty Order: Persulfates From The People’s Republic of China, 62 FR 39212 (July 22, 1997).

² Persulfates From The People’s Republic of China; Amended Final Results of Antidumping Duty Administrative Review, 64 FR 69494 (January 10, 2000), Persulfates From The People’s Republic of China; Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review, 65 FR 46691 (July 31, 2000), Persulfates From The People’s Republic of China; Final Results of Antidumping Duty Administrative Review, 66 FR 42628 (August 14, 2001)

³ Notice of Initiation of Five Year “Sunset” Reviews, 67 FR 38332 (June 3, 2002).

interested parties, as specified in the *Sunset Regulations* under 19 CFR 351.218(d)(3)(1).

We did not receive a response from any respondent interested party in this proceeding. Consequently, pursuant to section 751(c)(3)(B) of the Act, and 19 CFR 351.218.(e)(1)(ii)(C), the Department is conducting an expedited (120-day) sunset review of this order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping. Section 751(c) of the Act provides that, in making this determination, the Department shall consider 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 751(c) provides that the Department should consider whether respondent interested parties have waived participation in the review. Section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (“the Commission”) the magnitude of the margin of dumping likely to prevail if the order were revoked.

Below we address the domestic interested parties’ comments with respect to continuation or recurrence of dumping and the magnitude of the margin.

1. Likelihood of Continuation or Recurrence of Dumping:

Interested Party Comments

The domestic interested parties assert that revocation of the antidumping duty order on persulfates from the PRC would likely lead to increased dumping in the United States.

With respect to weighted-average dumping margins, the domestic interested parties note

that in the original investigation the Department established dumping margins above a level of *de minimis* for Chinese producers and exporters of persulfates, including a “PRC-wide” rate of 119.02 percent.

With respect to import volumes, the domestic interested parties note that shipments of persulfates have declined significantly as a result of the antidumping duty order and have never returned to pre-order levels. The domestic interested parties demonstrate that since the year in which the antidumping duty order was issued, import volumes from China have consistently stayed below the level of pre-order imports seen in 1996, the year the petition was filed. Persulfates imports from the PRC amounted to 5,203,831 pounds in 1996. In 1997, the year the order was issued, imports had dropped to 1,911,317 pounds, and in 1998, imports increased to 2,856,202 pounds. In 1999, imports rose to 3,702,088 pounds. In 2000, imports reached 4,114,578 pounds and dropped again to 3,180,731 pounds in 2001.

To support their assertion that revocation of the order would lead to the continuation or recurrence of dumping, the domestic interested parties argue that two of the three investigated respondents, “Wuxi” and “Guangdong Petroleum,” have ceased exports of persulfates completely. The domestic interested parties argue that, if the order were revoked, these companies would resume dumping persulfates in the United States. In addition, the domestic interested parties assert that the decisions by “Guangdong Petroleum” and “Wuxi” to accept a dumping margin in excess of 100 percent, rather than participate in the administrative review process is compelling evidence that the companies have abandoned the U.S. market. The cessation of imports by both Wuxi and Guangdong Petroleum demonstrates that the companies are unable to ship to the United States without dumping.

For these reasons, the domestic interested parties believe that revocation of the antidumping order would result in the continuation or recurrence of dumping.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreement Act ("URAA"), specifically the Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), 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 order-wide basis (see section II.A.2 of the *Sunset Policy Bulletin*). In addition, the Department indicated that it will normally determine that revocation of an antidumping 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 (see section II.A.3).

In addition to the guidance on likelihood cited above, 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 parties waives its participation in the sunset review. In this review, the Department did not receive a substantive response from any respondent interested party.

As discussed above, in the Discussion of the Issues section, in conducting its sunset review, the Department considers (1) the weighted-average dumping margins determined in the

investigation and subsequent reviews and (2) the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order when determining whether revocation of the order would lead to continuation or recurrence of dumping. In the original investigation, the Department calculated weighted-average dumping margins that range between 32.22 percent and 34.97 percent for several Chinese manufacturers, producers, and exporters of persulfates. Moreover, in the subsequent administrative reviews of this order, margins above levels of *de minimis* continued for Chinese companies, including a PRC-wide rate.⁴

In addition, import statistics data provided by the domestic interested parties and confirmed by the Department indicate that imports declined significantly after the order was issued, particularly for two of the Chinese producers that have ceased shipments. See Memorandum to File, Import Volumes in the Sunset Review of the Antidumping Duty Order on Persulfates from the People's Republic of China, August 15, 2002.

Based on this analysis, the Department finds that the existence of dumping margins above *de minimis* levels and decreases in export volumes after the issuance of the order are highly probative of the likelihood of continuation or recurrence of dumping.⁵ Moreover, respondent interested parties waived their right to participate in this review. Therefore, given that (1) dumping has continued and import volumes declined significantly after the issuance of the order,

⁴ Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 64 FR 69494 (December 12, 1999).

⁵ As discussed in Section II.A.3 of the *Sunset Policy Bulletin* the SAA at 890, and the House Report at 63-64, if companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed.

(2) respondent interested parties waived their right to participate in this review, and (3) the absence of argument and evidence to the contrary, we find that dumping is likely to continue or recur if the order were revoked.

2. Magnitude of the Margin Likely to Prevail:

Interested Party Comments

In their substantive response, the domestic interested parties recommend that, consistent with the *Sunset Policy Bulletin*, the Department should provide to the Commission the company-specific margins from the original investigation. Moreover, regarding companies not reviewed in the original investigation, the domestic interested parties suggest that the Department report the “China-wide” rate of 119.02 percent from the original investigation, noting that it is the Department’s policy to do so.

Department’s Position

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination of the original investigation. Further, 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. *See* section II.B.1 of the *Sunset Policy Bulletin*. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.

In the original investigation, the Department calculated dumping margins for Chinese persulfates producers and exporters, including a “China-wide” rate of 119.02 percent. No

interested party has argued that the Department should report to the Commission rates other than those calculated for purposes of the original investigation; nor is there any information on the record of this proceeding that would compel the Department to do so. Consequently, consistent with section II.B.1 of the *Sunset Policy Bulletin*, the Department will report to the Commission the company-specific and “China-wide” rate from the investigation as contained in the Final Results of Review section of this decision memorandum.

Final Results of Review

We determine that revocation of the antidumping duty order on persulfates from the People’s Republic of China would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/producers/exporter	Weighted-Average Margin (percent)
Sinochem Jiangsu Wuxi Import & Export Corporation (Wuxi)	32.22
Shanghai Ai Jian Import & Export Corporation (Ai Jian)	34.41
Guangdong Petroleum Chemical Import and Export Trade (Guangdong)	34.97
PRC-wide	119.02

Recommendation

Based on our analysis of the comments 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*.

Faryar Shirzad
Assistant Secretary
for Import Administration

(Date)