

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 Department's final determination of sales at less than fair value on ASM from France, the Department established an antidumping margin of 60.00 percent (see *Anhydrous Sodium Metasilicate From France—Final Determination of Sales at Less Than Fair Value*, 45 FR 77498 (November 24, 1980) and *Anhydrous Sodium Metasilicate From France; Antidumping Duty Order*, 46 FR 1667 (January 7, 1981)).

In its substantive response, PQ asserted that because of the high cost of freight for ASM, no French producer could compete in the U.S. market without having sales at less than fair value. Although PQ did not specify the magnitude of the margin likely to prevail if the order were revoked, it submitted information for "computations of export price or constructed export price and normal value, based on realistic assumption." (See Substantive Response of PQ, November 2, 1998, at 2 and attachment.)

The SAA at 891, House Report at 64, and section 351.218(e)(2)(i) of the *Sunset Regulations* provide that, only in the context of a full sunset review and only under the most extraordinary circumstances will the Department rely on a countervailing duty rate or dumping margin other than those it calculated and published in its prior determinations. The Department, on the basis of inadequate responses (in this case, no response), determined to conduct an expedited review of this duty order. Only in full reviews will the Department consider the calculation of new margins. Further, even if the Department had determined to conduct a full review of this order, it is not persuaded by the evidence presented by PQ that such extraordinary circumstances exist in this case as to warrant the calculation of a new dumping margin.

Therefore, consistent with the *Sunset Policy Bulletin*, we determine that the original margin we calculated, which reflects the behavior of exporters without the discipline of the order, is probative of the behavior of the French producers and exporters of ASM. The Department will report to the Commission the company-specific and "all others" rate at the levels indicated in the Final Results of Review section of this notice.

Final Results of Review: As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated below.

Manufacturers/exporters	Margin (percent)
Rhone-Poulenc	60.00
All Others	60.00

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 29, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-007]

Final Results of Expedited Sunset Review: Barium Chloride From the People's Republic of China (PRC)

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of final results of expedited sunset review: Barium Chloride from the People's Republic of China (PRC).

SUMMARY: On October 1, 1998, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on barium chloride from China (PRC) (63 FR 52683) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and a complete substantive response filed on behalf of the domestic industry, and inadequate response (in this case no response) from respondent interested parties, the Department determined to conduct an

expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section to this notice.

FOR FURTHER INFORMATION CONTACT:

Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, D.C. 20230; telephone (202) 482-3207 or (202) 482-1560, respectively.

EFFECTIVE DATE: February 4, 1999.

Statute and Regulations: This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope: The merchandise covered by this order is barium chloride, a chemical compound having the formula BaCl₂ or BaCl₂ 2H₂O, currently classifiable under item 2827.38.00 of the Harmonized Tariff Schedules (HTS). The HTS item number is provided for convenience and for Customs purposes. The written descriptions remain dispositive.

This review covers all manufacturers and exporters of barium chloride from China.

Background: On October 1, 1998, the Department initiated a sunset review of the antidumping order on barium chloride from China (63 FR 52683) pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate from Chemical Products Corporation ("CPC") on October 15, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. CPC claimed interested party status under section 771(9)(C) of the Act, as a United States producer of barium chloride. In its substantive response, CPC stated that it was the petitioner in the original antidumping investigation that led to the issuance of the antidumping duty order on barium chloride from China.

Further, CPC stated that it has participated in all of the administrative reviews that have been conducted by the Department on barium chloride from China. On October 28, 1998, the Department received a substantive response from CPC, within the 30-day deadline specified in *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act, and our regulations (19 C.F.R. § 351.218(e)(1)(ii)(C)(2)), we determined to conduct an expedited review.

Determination: In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(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 finding, and it shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the finding is revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of the margin are discussed below. In addition, parties' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping: Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the 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 basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (see section II.A.3. of the *Sunset Policy Bulletin*). Additionally, the Department normally will 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. of the *Sunset Policy Bulletin*).

The antidumping duty order on barium chloride from China was issued on October 17, 1984.¹ Since that time, the Department has conducted several administrative reviews.² The antidumping duty order remains in effect for all imports of barium chloride from China.

In its substantive response, CPC argued that revocation of the antidumping duty order would result in the resumption of export shipments of barium chloride from China on a large scale and at prices well below fair value. CPC based its conclusion on a number of factors, including historical experience, Chinese productive capacity, the Asian economic crisis, and Chinese export policy. CPC argued that the Department should determine that dumping will continue or resume on the basis that dumping continued at levels above de minimis while the order has been in effect and imports of the subject merchandise ceased after the issuance of the order.

With respect to continuation of dumping after the issuance of the order, CPC referred to the final results of administrative reviews issued by the Department³ and stated that historical experience clearly demonstrates that the subject merchandise has been dumped at margins greater than de minimis since the issuance of the order. CPC stated that the 60.84 percent duty deposit margin currently in effect for Sinochem (the Chinese manufacturer/exporter reviewed) was first imposed in the final results of administrative review issued on January 3, 1989.⁴ CPC suggested that, as a result of the 60.84 percent deposit rate, there was a significant decrease in exports and ultimately a cessation of exports. CPC noted that for the October

1, 1990 through September 30, 1991, review period, the Department found that there were no shipments. CPC supports its assertion that the order resulted in the decrease, and ultimate cessation, of exports of barium chloride from China with reference to import statistics.⁵ CPC asserts that the Department's issuance of preliminary and final determinations of sales at less than fair value in April and August of 1984, resulted in the decrease of imports from China from 5.3 million pounds in 1983 to 3.2 million pounds in 1984. CPC also noted that with the 1989 issuance on a 60.84 percent duty deposit rate, imports decreased from 1.5 million pounds in 1988 to 0.2 million pounds in 1989, and ultimately to zero by 1991.

CPC acknowledged that imports reappeared in 1994, but at levels significantly below pre-order levels. CPC argued, therefore, that the continuation of dumping combined with the cessation of exports demonstrates that Chinese barium chloride cannot be sold in the U.S. market except through dumping. CPC also asserted that, in addition to the original three Chinese factories producing barium chloride (as identified in the ITC's report), it had obtained information that an additional seven factories (with capacity of 73,400 MT/annum) produce barium chloride in China. Noting that barium chloride is a commodity chemical product with a number of industrial uses and applications, CPC argued that as economic and industrial activity slows in China's traditional Asian markets, the demand for barium chloride will decrease and Chinese exports will decline. Therefore, asserts CPC, without an antidumping order in place, the Chinese producers of barium chloride can be expected to turn their attention to the U.S. market for their excess production. Finally, CPC argues that, as supported by statements of U.S. government officials, China has an aggressive export policy in place that, with the revocation of the order, could be expected to result in the resumption of large-scale shipments to the United States.

In conclusion, CPC stated that for each of the above discussed reasons, without an order in place, dumping from China would likely overwhelm CPC and eliminate the lone remaining U.S. producer of barium chloride.

As discussed in Section II.A.3. of the *Sunset Policy Bulletin*, the SAA at 890,

¹ See *Barium Chloride from the People's Republic of China, Antidumping Duty Order*, 49 FR 40635 (October 17, 1984).

² See *Barium Chloride from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 52 FR 313 (January 5, 1987); *Barium Chloride from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 54 FR 52 (January 3, 1989); and *Barium Chloride from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 57 FR 29467 (July 2, 1992).

³ *Id.*

⁴ The review covered the period October 1, 1985 through September 30, 1986, and set the duty deposit rates for entries on or after the publication date of the notice.

⁵ CPC provided data collected from the U.S. Census Bureau and published on Form IM 145 (from 1980 through 1988 the data were reported under TSUS 417.70.00 and for 1989 through 1997 under HTSUS 287.38.0000).

and the House Report at 63-64, "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. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping." Deposit rates above *de minimis* continue in effect for exports of barium chloride from China. Additionally, exports of barium chloride from China ceased between 1991 and 1993, and although since resumed, have never reached higher than six percent of their pre-order level. Therefore, given that dumping above *de minimis* has continued over the life of the order and imports ceased at least temporarily, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the order were revoked.

Magnitude of the Margin: In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, the Department will provide to the Commission the company-specific margins from the investigation for each company because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. 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 its substantive response, CPC urged the Department to determine that the magnitude of the margin likely to prevail if the order were revoked is 60.84 percent, the margin determined in the final results of the second administrative review and the current duty deposit rate. CPC asserted that the Department has recognized that dumping margins can increase after the issuance of an order and that a more current and higher margin, even if based

on the best information available, may well be a more appropriate indicator of the magnitude of the margin likely to prevail if the order were revoked. CPC argued that the dumping margin and cash deposit rate for barium chloride from China increased significantly after the issuance of the antidumping duty order—from 14.5 percent to 60.84 percent. CPC stated that the 14.5 percent rate from the original investigation was never actually used as the basis of assessing duties, as it was replaced by a rate of 7.82 percent in the first administrative review. Given that the margin of 60.84 percent has applied to all imports since October 1, 1986, CPC argues that this is the only appropriate and realistic measure of the magnitude of dumping.

In the *Sunset Policy Bulletin*, the Department stated that "a company may choose to increase dumping in order to maintain or increase market share" and that "the Department may, in response to argument from an interested party, provide the Commission a more recently calculated margin for a particular company, where for that particular company, dumping margins increased after the issuance of the order." (See section II.B.2 of the *Sunset Policy Bulletin*.) As detailed in *Final Results of Expedited Sunset Review: Stainless Steel Plate From Sweden* (63 FR 67658, December 8, 1998) the Department's intent was to establish a policy of using the original investigation margin as a starting point, thus providing interested parties the opportunity and incentive to come forward with data which would support a different estimate. In this case, CPC merely argued that the margin from the original determination was never actually used to assess duties and that, by the second review, the margin had increased to a level where it remains today. The import statistics provided by CPC demonstrate that, after steadily increasing from 1980 to 1983, imports of barium chloride from China began decreasing with the issuance of the preliminary and final determinations of sales at less than fair value. We note that the margin from the original investigation served as the duty deposit rate until January 1987, when the final results of the first administrative review were issued. Further, the final results (the 60.84 percent) of the administrative review covering imports from October 1985 through September 1986, were issued in January 1989, five years after the issuance of the order and, at a time when imports had already decreased to

less than 30 percent of the pre-investigation level of imports. Although the statistics provided by CPC demonstrate a slight increase in the volume of imports between 1984 and 1985, import volumes decreased every year thereafter until 1995. Therefore, because there was no increase in imports of barium chloride from China corresponding to the increase in the dumping margin, we find CPC's argument of choosing the rate from the second administrative review (and current deposit rate) unconvincing. Therefore, we find no reason to deviate from our *Sunset Policy Bulletin* in this review. We determine that the original margin calculated by the Department, which reflects the behavior of exporters without the discipline of the order, is probative of the behavior of the Chinese producers/exporters of barium chloride. The Department will report to the Commission the company-specific and "all others" rate at the levels indicated in the Final Results of the Review section of this notice.

Final Results of Review: As a result of this review, the Department finds that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping at the margins listed below.

Manufacturer/exporter	Margin (percent)
China National Chemicals Import and Export Corporation (SINO-CHEM)	14.50
All Others	14.50

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752(i)(1) of the Act.

Dated: January 29, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

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