

Dated: October 21, 1999.

**Bernard T. Carreau,**

*Deputy Assistant Secretary, Import Administration, Group II.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-803]

#### Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Germany

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of expedited sunset review: industrial nitrocellulose from Germany.

**SUMMARY:** On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from Germany (64 FR 29261) 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 adequate substantive response filed on behalf of a domestic interested party 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 duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice. **FOR FURTHER INFORMATION CONTACT:** Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** October 27, 1999.

#### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) 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") and 19 CFR Part 351 (1998) in general. 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 product covered by this order is industrial nitrocellulose ("nitrocellulose") from Germany. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

#### History of the Order

The antidumping duty order on nitrocellulose from Germany was published in the **Federal Register** on July 10, 1990 (55 FR 28270).<sup>1</sup> In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 3.84 percent.<sup>2</sup> Since that time, the Department has completed one administrative review.<sup>3</sup> We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

#### Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Germany (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of

<sup>1</sup> See Antidumping Duty Order: Industrial Nitrocellulose from Germany, 55 FR 28271 (July 10, 1990).

<sup>2</sup> However, the underlying investigation and the subsequent review dealt with only one German company, Wolff Walsrode AG ("Wolff").

<sup>3</sup> See Industrial Nitrocellulose From Germany: Final Results of Antidumping Duty Administrative Review, 63 FR 43372 (August 13, 1998).

the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. producer of nitrocellulose, was the petitioner in the original investigation, and has participated in the administrative review proceeding. (See Hercules' July 1, 1999 Substantive Response at 1-2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Germany is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.<sup>4</sup>

#### 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

<sup>4</sup> See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins 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 bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it 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).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3-5). In support of its assertion,

Hercules stresses that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order. *Id.* Citing the Sunset Policy Bulletin, 63 FR at 18872, Hercules argues that continued dumping at any level above *de minimis* after the issuance of the order is highly probative of a likelihood of future dumping. *Id.* Furthermore, Hercules argues that an increase of weighted-average dumping margins of the subject merchandise in the most recent review clearly manifests Wolff's willingness to dump at an increasing rate in order to hold onto its U.S. market share.<sup>5</sup> *Id.*

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined slightly.<sup>6</sup> Therefore, the Department determines that the import volumes of the subject merchandise were reduced slightly after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63-64, the Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative review,<sup>7</sup> the Department determines that, since the issuance of the order, weighted-average dumping margins for the subject

merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

#### Magnitude of the Margin

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 in 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.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Wolff and all-others: 3.84 percent.<sup>8</sup> We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, while acknowledging that the Department normally will provide the Commission with the dumping margins from the original investigation, Hercules argues that, in the instant review, the Department, nevertheless, should report to the Commission a more recently calculated margin because Wolff increased its dumping in order to hold onto its market share in the United States. (See the July 1, 1999 Substantive Response of Hercules at 5-6.) Hercules urges, the Department, therefore, should provide to the Commission the more recent, increased margin, because that margin is the better indicator of the Wolff's likely behavior in the event the order is revoked.

The Department disagrees with Hercules' suggestion pertaining to the margin that is likely to prevail were the order revoked. In the Sunset Policy Bulletin, the Department indicated that when a company chooses to increase dumping in order to maintain or

<sup>5</sup> See footnote 1 and 3, *supra*. The rate from the antidumping duty order was 3.84 percent; the rate from the final results of the only administrative review, covering the period July 1996 through June 1997, was 7.18 percent for Wolff, which was the only company reviewed.

<sup>6</sup> The import volumes of the subject merchandise are as follows (the order was issued in June of 1990): 1989—2,331; 1990—2,576; 1991—1,800; 1992—2,824; 1993—2,357; 1994—1,787; 1995—2,298; 1996—2,173; 1997—2,021; 1998—2,095. These numbers correspond exactly with the U.S. International Trade Commission Data. Although the imports volumes remained relatively steady throughout the period, they declined immediately after the issuance of the order: 2,331 in 1989 compared to 1,800 in 1991. Also, the average volume of imports during the period 1994 through 1998 (2,074.8) is slightly less than that of 1989 (2,331).

<sup>7</sup> See footnote 6, *supra*.

<sup>8</sup> See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Germany, 55 FR 21058 (May 22, 1990).

increase its market share, the Department may report a more recently calculated margin to the Commission if dumping margins increased after the issuance of the order. (See section II.B.2 of the Sunset Policy Bulletin.) In the instant case, however, the Department's latest finding of an increased weighted-average dumping margin did not coincide with increased import volumes of the subject merchandise. Nor was the increased dumping associated with steady market share. On the contrary, our review of imports shows that the higher margin was associated with decreased volumes of imports and slightly declined market share.<sup>9</sup> Therefore, the Department determines that it is inappropriate for the Department to report a more recently calculated rate to the Commission. Instead, because the margins from the original investigation reflect the behavior of German producers and exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. We will report to the Commission the company-specific and all-others rate contained 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 order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Wolff Walsrode AG .....	3.84
All Others .....	3.84

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.

<sup>9</sup>The only review in which the Department found a higher weighted-average dumping margin covered the period between July 1996 and June 1997. See footnote 3, supra. Both the import volumes and market shares of the subject merchandise between 1996 and 1998 are lower than those of 1995, and lower than the five-year averages of the import volumes and market shares between 1991-1995. See Hercules' July 1, 1999 Substantive Response Attachment 2.

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

Dated: October 21, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-812]

#### Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Japan

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of expedited sunset review: industrial nitrocellulose from Japan.

**SUMMARY:** On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from Japan (64 FR 29261) 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 adequate substantive response filed on behalf of a domestic interested party 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 duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** October 27, 1999.

#### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) 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") and 19 CFR Part 351 (1998) in general. 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 product covered by this order is industrial nitrocellulose ("nitrocellulose") from Japan. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

#### History of the Order

The antidumping duty order on nitrocellulose from Japan was published in the **Federal Register** on July 10, 1990 (55 FR 28268).<sup>1</sup> In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 66.0 percent.<sup>2</sup> Since that time, the Department has not conducted any administrative reviews. We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

#### Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Japan (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline

<sup>1</sup> See Antidumping Duty Order: Industrial Nitrocellulose from Japan, 55 FR 28268 (July 10, 1990).

<sup>2</sup> However, the underlying investigation dealt with only one Japanese company, Asahi Chemical Industry Co., Ltd. ("Asahi").