




A-533-848
Sunset Review
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DATE: March 3, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Expedited First Sunset Review of
the Antidumping Duty Order on Commodity Matchbooks from
India

Summary

We have analyzed the response of an interested party in the expedited first sunset review of the antidumping duty (AD) order covering commodity matchbooks from India. We recommend that you approve the positions described in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response:

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

Background

On November 3, 2014, the Department of Commerce (the Department) published the notice of initiation of the sunset review of the AD order¹ on commodity matchbooks from India pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² The Department received a notice of intent to participate from D.D. Bean & Sons Co. (D.D. Bean) within the deadline specified in 19 CFR 351.218(d)(1)(i). The company claimed interested party status under section 771(9)(C) of the Act as a producer of a domestic like product in the United States.

The Department received a complete substantive response to the notice of initiation from D.D. Bean within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We did not receive a

¹ See Commodity Matchbooks from India: Antidumping Duty Order, 74 FR 65737 (December 11, 2009).

² See Initiation of Five-Year ("Sunset") Review, 79 FR 65186 (November 3, 2014) (Notice of Initiation).



substantive response from respondent interested parties with respect to the order covered by this sunset review, nor was a hearing requested. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting an expedited (120-day) sunset review of the AD order on commodity matchbooks from India.

History of the Order

On April 21, 2009, the Department published its final determination in the less-than-fair-value (LTFV) investigation of commodity matchbooks from India.³ For the respondents in the LTFV investigation, the Department found the following estimated weighted-average dumping margins:

Triveni Safety Matches Pvt. Ltd. (Triveni)	66.07%
All-Others	66.07%

Administrative Reviews

There have been no AD administrative reviews conducted for commodity matchbooks from India.

Duty Absorption, Changed Circumstances Reviews, and Scope Inquiries

There have been no duty absorption findings, changed circumstances reviews, or scope inquiries concerning commodity matchbooks from India.

Scope of the Order

The merchandise covered by this order is commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.⁴ Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled, or otherwise fastened into a matchbook cover of any material, on which a striking strip composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks included in the scope of this order may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as “Thank You” or a generic image such as the American Flag, with store brands (e.g., Kroger, 7-Eleven, Shurfine or Giant); product brands for national or regional advertisers such as cigarettes or

³ See Notice of Final Determination of Sales at Less Than Fair Value: Commodity Matchbooks from India, 74 FR 54536 (October 22, 2009).

⁴ Such commodity matchbooks are also referred to as “for resale” because they always enter into retail channels, meaning businesses that sell a general variety of tangible merchandise, e.g., convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

alcoholic beverages; or with corporate brands for national or regional distributors (e.g., Penley Corp. or Diamond Brands). They all enter retail distribution channels. Regardless of the materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this order.

All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR § 1202.1 et seq.

The scope of this order excludes promotional matchbooks, often referred to as “not for resale,” or “specialty advertising” matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.⁵ Also excluded are all other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny matches, household matches, strike-anywhere matches (aka “SAW” matches), strike-on-box matches (aka “SOB” matches), fireplace matches, barbeque/grill matches, fire starters, and wax matches.

The merchandise subject to this order is properly classified under subheading 3605.00.0060 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 3605.00.0030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this first sunset review to determine whether revocation of the AD order would be likely to lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider both the weighted-average dumping margins determined in the LTFV 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 AD order.

⁵ The gross distinctions between commodity matchbooks and promotional matchbooks may be summarized as follows: (1) if it has no printing, or is printed with a generic message such as “Thank You” or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café /coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action, H.R. Doc. 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's determinations of likelihood will be made on an order-wide basis, rather than a company-specific basis.⁶ In addition, the Department normally will determine that revocation of an AD 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.⁷ Alternatively, the Department normally will determine that revocation of an AD order is not likely to lead to continuation or recurrence of dumping where dumping declined or was eliminated and import volumes remained steady or increased after the issuance of the order.⁸ In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the AD order.⁹

Further, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (ITC) the magnitude of the margins of dumping likely to prevail if the order were revoked. Generally, the Department selects the weighted-average dumping margins from the final determination in the original investigation, as these are the only rates that reflect the behavior of exporters without the discipline of an order in place.¹⁰

The Department announced in February 2012, that it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization (WTO)-inconsistent, *i.e.*, zeroing or the denial of offsets for non-dumped sales.¹¹ Instead, the Department noted that it “will limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent.”¹²

Pursuant to section 752(c)(4)(A) of the Act, a weighted-average dumping margin of zero or de minimis shall not itself require the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.

⁶ See SAA at 879 and House Report at 56.

⁷ See SAA at 889-90, House Report at 63-64, and Senate Report at 52.

⁸ See SAA at 889-90 and House Report at 63.

⁹ See Stainless Steel Bar from Germany: Final Results of the Sunset Review of the Antidumping Duty Order, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁰ See SAA at 890; see also Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

¹¹ See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101, 8103 (February 14, 2012) (Final Modification for Reviews).

¹² Id.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

D.D. Bean argues that revocation of this AD order would likely lead to a continuation or recurrence of dumping.¹³

D.D. Bean states that volumes of dumped subject merchandise decreased only after the issuance of the AD order.¹⁴ D.D. Bean notes that the Department has previously determined that decreased import volumes may provide another basis to determine that dumping is likely to continue or recur if the discipline of the order is removed.¹⁵

Further, D.D. Bean states that imports of the subject merchandise have remained below their pre-order levels.¹⁶ Regarding the only respondent in the LTFV investigation, Triveni, D.D. Bean maintains that this company still appears to produce commodity matchbooks for the home market in India.¹⁷ Consequently, according to D.D. Bean, it is reasonable to assume that if the order were to be revoked, Triveni would be positioned to produce commodity matchbooks for export to the United States using the same production line.¹⁸ Moreover, D.D. Bean states that if Triveni were able to export subject merchandise to the United States at a fair value, then it would have continued to do so after the AD order was instituted.¹⁹

Department's Position

As explained above, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department to consider: (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 after the issuance of the AD order. Thus, one consideration is whether the Department continued to find dumping at above de minimis levels in administrative reviews subsequent to the imposition of the AD order.²⁰ According to the SAA and the House Report, “[i]f 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.”²¹ The SAA continues, explaining, “declining import volumes accompanied by the continued existence of dumping

¹³ See the substantive response of D.D. Bean (December 3, 2014) (D.D. Bean’s substantive response) at page 5.

¹⁴ Id., at page 8.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id., at page 6 and at Exhibit 1.

¹⁸ Id., at page 7.

¹⁹ Id.

²⁰ See SAA at 890.

²¹ Id.; House Report at 64.

margins after the issuance of an order may provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes.”²²

There have been no administrative reviews conducted for this order since the LTFV investigation. Weighted-average dumping margins presently remain in place for producers and exporters. Consequently, affirmative weighted-average dumping margins have existed over the life of the order and assessment rates above a de minimis level continue in effect for exports of the subject merchandise for all producers and exporters. As noted above, in the LTFV investigation, the Department calculated a weighted-average dumping margin of 66.07 percent for Triveni, the only respondent in the investigation, and this rate forms the basis of the rate for all other exporters and producers (i.e., the “All-Others” rate). These rates were determined without the denial of offsets for non-dumped sales.

Consistent with section 752(c)(1)(B) of the Act, the Department also considered the import volumes before and after issuance of the order. The Department examined the U.S. Census import data from the ITC’s Dataweb for the relevant periods which show that imports of commodity matchbooks from India declined after issuance of the order and continue to remain below pre-order levels. In 2008, imports of subject merchandise were 537,196 gross containers (containers).²³ After the order was established in December 2009, imports in 2010 dropped to 1,092 containers.²⁴ In 2012 and 2013, the imports were 650 and 10,020 containers, respectively.²⁵ The import statistics demonstrate that import volumes of the subject merchandise from India declined dramatically immediately following the imposition of the order and continue to remain below pre-order levels.

Based on this analysis, the Department finds that the existence of dumping after the issuance of this order and the significant decline in imports of subject merchandise is highly probative of the likelihood of continuation or recurrence of dumping. Therefore, given that dumping has continued over the life of the order at above de minimis levels, imports are below pre-order levels, and there is no argument or evidence to the contrary, the Department determines that dumping is likely to continue if the order were revoked.

2. Magnitude of the Margins of Dumping Likely to Prevail

Interested Party Comments

D.D. Bean maintains that since the AD order was implemented, imports of subject merchandise have ceased. Consequently, according to D.D. Bean, if the order were to be revoked, the imports

²² See SAA at 889.

²³ See March 3, 2015, Memorandum to The File from David Crespo entitled, “Placing Data from the ITC Trade Dataweb on the Record of the Expedited First Sunset Review of the Antidumping Duty Order on Commodity Matchbooks from India.”

²⁴ Id.

²⁵ Id.

would likely resume at the same LTFV prices, and thus, at the same magnitude of the margins of dumping (i.e., 66.07 percent) as prior to the order.²⁶

Department's Position

As discussed above, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margins of dumping likely to prevail if the order were to be revoked. Normally, the Department will provide the ITC the weighted-average dumping margin from the LTFV investigation for each company.²⁷ For companies not investigated individually, or for companies that did not begin shipping until after the order was issued, the Department normally will provide the weighted-average dumping margin based on the "All-Others" rate from the investigation.²⁸

Therefore, the Department finds it appropriate to provide the ITC with the weighted-average dumping margins from the LTFV investigation because these are the only rates that exist that reflect the behavior of exporters without the discipline of an order or suspension agreement in place.²⁹ The Department's current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology, as articulated in the Final Modification for Reviews, which states that, with respect to sunset review determinations, "{t}he Department may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as...dumping margins where no offsets were denied because all comparison results were positive."³⁰ We note that the calculated rates from the LTFV investigation in this case were not affected by zeroing because we did not deny offsets for non-dumped sales in accordance with the Department's practice at that time.³¹

Consistent with the Department's practice, we considered the weighted-average dumping margins from the LTFV investigation to be the best evidence of the behavior of producers and exporters without the discipline of an order in place. There is no information on the record of this sunset review to indicate that other rates would be more appropriate. No administrative reviews of matchbooks from India have been conducted. As noted above, the rates calculated in the LTFV investigation do not include zeroing.

²⁶ See D.D. Bean's substantive response at page 9.

²⁷ See Eveready Battery Co., Inc. v. United States, 77 F. Supp. 2d 1327, 1333 (CIT 1999) (Eveready); see also SAA at 890.

²⁸ See Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People's Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders, 71 FR 70506 (December 5, 2006), and accompanying Issues and Decision Memorandum at Comment 2; see also Stainless Steel Wire Rod from Italy, Japan, the Republic of Korea, Spain, and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders, 74 FR 56179 (October 30, 2009), and accompanying Issues and Decision Memorandum at Comment 2.

²⁹ See Eveready, 77F. Supp. 2d at 1333; see also SAA at 890.

³⁰ See Final Modification for Reviews at 8109.

³¹ See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification, 71 FR 77722 (December 27, 2006).


The Department will report to the ITC as the magnitude of margins of dumping likely to prevail in the "Final Results of Review" section of this memorandum, below.

Final Results of Review

Pursuant to section 752(c) of the Act, we determine that revocation of the AD order on commodity matchbooks from India would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the margins of dumping likely to prevail are up to 66.07 percent.

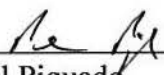
Recommendation

Based on our analysis of the substantive response received, we recommend adopting all of the above positions. If these recommendations are accepted, then we will publish these final results of sunset review in the Federal Register, and notify the ITC of our determination.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

3 MARCH 2015

(Date)