



A-533-848
Sunset Review
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June 4, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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

I. Summary

We have analyzed the substantive response of the domestic interested party in the second sunset review of the antidumping duty order covering commodity matchbooks from India.¹ No other interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2). 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 dumping margins likely to prevail

II. Background

On March 2, 2020, Commerce published the notice of initiation of the second sunset review of the *Order* on commodity matchbooks from India pursuant to section 751(c) of the Act.² On March 16, 2020, Commerce received a notice of intent to participate from the D.D. Bean and Sons Co (D.D. Bean), within the 15-day deadline specified in 19 CFR 351.218(d)(1)(i).³ D.D.

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

² See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 12253 (March 2, 2020).

³ See D.D. Bean’s Letter, “Five Year (“Sunset”) Review of the Antidumping Duty Order on Commodity Matchbooks from India - Notice of Intent to Participate,” dated March 16, 2020. D.D. Bean is a producer of a domestic like product, commodity matchbooks, in the United States.



Bean claimed interested party status under section 771(9)(C) of the Act as a manufacturer, producer, or wholesaler of a domestic like in the United States.

D.D. Bean subsequently issued its adequate substantive response to the notice of initiation in accordance with 19 CFR 351.218(d)(3)(i).⁴ We received no substantive responses from respondent interested parties with respect to the order covered by this sunset review.

On April 22, 2020, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁵ As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the antidumping duty order on commodity matchbooks from India.

III. Scope of the Order

The scope of the order covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.⁶ 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 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 the 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,

⁴ See D.D. Bean’s Letter, “Commodity Matchbooks from India: Substantive Response to Notice of Initiation,” dated April 1, 2020 (Substantive Response).

⁵ See Commerce’s Letter, “Sunset Reviews Initiated on March 2, 2020,” dated April 22, 2020.

⁶ 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.

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.⁷ 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, barbecue/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.

IV. History of the Order

On October 22, 2009, Commerce published its final determination in the less-than-fair-value (LTFV) investigation of commodity matchbooks from India.⁸ On December 11, 2009, Commerce published its antidumping duty order on imports of commodity matchbooks from India.⁹ Commerce found the following weighted-average dumping margins in the LTFV investigation:

Exporter/Producer	Weighted-Average Percentage Margin
Triveni Safety Matches Pvt. Ltd. (Triveni)	66.07
All Others	66.07

Since the issuance of the *Order*, there have been no administrative reviews, changed circumstances determinations, new shipper reviews, scope rulings, or duty absorption findings in connection with this *Order*. The *Order* remains in effect for all Indian manufacturers, producers, and exporters of the subject merchandise.

⁷ 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.

⁸ See *Notice of Final Determination of Sales at Less Than Fair Value: Commodity Matchbooks from India*, 74 FR 54536 (October 22, 2009) (*Final Determination*).

⁹ See *Order*.

On April 30, 2015, Commerce published the notice of continuation of the antidumping duty order on commodity matchbooks from India at the conclusion of the first sunset review of the *Order*.¹⁰

V. Legal Framework

In accordance with section 751(c)(1) of the Act, Commerce is conducting this sunset review to determine whether revocation of the *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, Commerce shall consider both 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 752(c)(3) of the Act provides that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA),¹¹ the House Report,¹² and the Senate Report,¹³ Commerce's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.¹⁴ In addition, Commerce normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (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.¹⁵ Alternatively, Commerce normally will determine that revocation of an antidumping duty order is not likely to lead to continuation or recurrence of dumping where dumping was eliminated after issuance of the order and import volumes remained steady or increased.¹⁶

Furthermore, as a base period of import volume comparison, it is Commerce's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of the investigation may dampen import volumes and, thus, skew the comparison.¹⁷ When analyzing import volumes for the second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding

¹⁰ See *Commodity Matchbooks from India: Continuation of Antidumping Duty and Countervailing Duty Orders*, 80 FR 24232 (April 30, 2015).

¹¹ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (SAA).

¹² See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

¹³ See S. Rep. No. 103-412 (1994) (Senate Report).

¹⁴ See SAA at 879.

¹⁵ See SAA at 889-890; House Report at 63-64; Senate Report at 52; and *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; *Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (*Policy Bulletin*).

¹⁶ See SAA at 889-890; see also House Report at 64.

¹⁷ 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 (IDM) at Comment 1.

initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.¹⁸

In addition, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order was revoked. Generally, Commerce selects the weighted-average dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.¹⁹ In certain circumstances, however, a more recently calculated rate may be more appropriate (*e.g.*, “if dumping margins have declined over the life of an order and imports have remained steady or increased, {Commerce} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review”).²⁰ Finally, pursuant to section 752(c)(4)(A) of the Act, a margin of dumping likely to prevail of “zero or *de minimis* shall not by itself require” Commerce to determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at LTFV.

Regarding the margin of dumping likely to prevail, in the *Final Modification for Reviews*, Commerce announced that in five-year (*i.e.*, sunset) reviews it will not rely on weighted-average dumping margins that were calculated using the zeroing methodology.²¹ However, Commerce explained in the *Final Modification for Reviews* that it “retain{s} the discretion, on a case-by-case basis, to apply an alternative methodology, when appropriate” in both investigations and administrative reviews pursuant to section 777A(d)(1)(B) of the Act.²² In the *Final Modification for Reviews*, Commerce stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.²³ Commerce further stated that, apart from the “most extraordinary circumstances,” it would “limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be World Trade Organization (WTO)-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”²⁴

¹⁸ See *Commodity Matchbooks from India: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 80 FR 12801 (March 11, 2015), and accompanying IDM at 3-4 and 5-6.

¹⁹ 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 IDM at Comment 2.

²⁰ See SAA at 890-91.

²¹ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8102-3 (February 14, 2012) (*Final Modification for Reviews*).

²² *Id.* at 77 FR 8105-6.

²³ *Id.* at 77 FR 8102-3 and 8107-10.

²⁴ *Id.*

VI. Discussion of the Issues

Below we address the comments of the interested party.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments²⁵

D.D. Bean argues that revocation of this antidumping duty order would likely lead to a continuation or recurrence of dumping. D.D. Bean states that the import volume of subject merchandise decreased only after the issuance of the antidumping duty order. D.D. Bean notes that Commerce has previously determined that decreased import volumes may provide a basis to determine that dumping is likely to continue or recur if the discipline of the order is removed.

Further, D.D. Bean states that imports of the subject merchandise have remained below their pre-order levels. D.D. Bean maintains that Triveni, the only respondent in the LTFV investigation, appears to continue to produce commodity matchbooks in India for the home market.

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. Finally, D.D. Bean states that, if Triveni were able to export subject merchandise to the United States at fair value, it would have continued to do so after the antidumping duty order was instituted.

Commerce's Position:

As explained in the Legal Framework section 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 Commerce 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.

According to the SAA, existence of dumping margins 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.”²⁶ In addition, “declining import volumes accompanied by the continued existence of dumping 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.”²⁷

Alternatively, the legislative history provides that declining (or no) dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to dump to maintain market share in the United States and that dumping is less likely to continue or recur if the order were revoked.

²⁵ See Substantive Response at 8-10.

²⁶ See SAA at 890.

²⁷ See SAA at 889.

In this case, Commerce found dumping at above *de minimis* levels in the underlying antidumping duty investigation. As noted above in the “History of the Order” section, Commerce 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). The cash deposit rates established in the underlying investigation remain in effect and there have been no administrative reviews of the *Order*.

Additionally, we examined the statistics placed on the record by D.D. Bean with respect to imports of the subject merchandise for the year prior to the initiation of the investigation and since the issuance of the most recent continuation notice, pursuant to section 752(c)(1)(B) of the Act.²⁸ With the exception of 2018, the data from the five-year period (2015 – 2019) since the most recent continuation notice show substantially decreased import volumes from India when compared with the import volumes from the year prior to the initiation of the investigation.²⁹

Given the continued existence of above *de minimis* margins calculated without zeroing since the imposition of the *Order* and the overall decrease in the volume of imports, we determine that it is unlikely that Indian producers of subject merchandise would be able to sell at pre *Order* volumes without dumping.³⁰ Accordingly, we determine that dumping would likely continue or recur if the *Order* was revoked.³¹

2. Magnitude of the Dumping Margins Likely to Prevail

Interested Party Comments³²

According to D.D. Bean, if the order were revoked, imports would likely resume at the same magnitude of the margins of dumping (*i.e.*, 66.07 percent) as prior to the issuance of the *Order*.

Commerce’s Position:

Section 752(c)(3) of the Act provides that Commerce shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the *Order* was revoked. Commerce’s preference is to select a rate from the investigation because it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an

²⁸ See Substantive Response at 11.

²⁹ *Id.*

³⁰ See SAA at 889 (explaining that “declining import volumes accompanied by the continued existence of dumping 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”).

³¹ See SAA at 890 (explaining that “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”).

³² See Substantive Response at 8-10.

order in place.³³ However, Commerce may provide a more recently calculated margin for a particular company, where declining (or zero or *de minimis*) dumping margins are accompanied by steady or increasing imports, which would reflect that the exporter is likely to dump at a lower rate found in a more recent review. Similarly, if an exporter chooses to increase dumping to increase or maintain market share, Commerce may provide the ITC with an increased margin that is more representative of that exporter's behavior in the absence of an order.³⁴ As indicated in the Legal Framework section *supra*, Commerce's current practice is to not rely on weighted average dumping margins calculated using the zeroing methodology, in accordance with the *Final Modification for Reviews*.³⁵

Here, consistent with Commerce's practice, we considered the weighted-average dumping margins from the 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. These rates did not involve the practice of zeroing subject to the *Final Modification for Reviews*. Commerce has not conducted an administrative review since the publication of the *Order*. Thus, we determine that revocation of the *Order* would be likely lead to continuation or recurrence of dumping at the magnitude of weighted average margins up to 66.07 percent. Accordingly, in accordance with section 752(c)(3) of the Act, Commerce will provide the ITC with the margins from the final determination as the margin of dumping that is likely to prevail if the *Order* was revoked.

VII. Final Results of Sunset Review

Commerce determines that revocation of the antidumping duty order on commodity matchbooks from India would be likely to lead to the continuation or recurrence of dumping, and that the magnitude of the margins of dumping that are likely to prevail would be at a rate up to 66.07 percent.

³³ See SAA at 890; and *Policy Bulletin*, 63 FR at 18873 (section II.B.1); see also *Prestressed Concrete Steel Wire Strand from the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 80 FR 43063 (July 21, 2015), and accompanying IDM at Comment 2.

³⁴ See Section 752(c)(3) of the Act; see also *Clad Steel Plate from Japan: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 83 FR 22008 (May 11, 2018), and accompanying IDM at Comment 2.

³⁵ See *Final Modification for Reviews*, 77 FR at 8103.

VIII. Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish these final results of this expedited sunset review in the *Federal Register*.



Agree

Disagree

6/4/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler

Assistant Secretary

for Enforcement and Compliance