




A-533-806, A-570-815
Sunset Reviews
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AD/CVD OIII: MKM

DATE: December 29, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Final Results of
Expedited Fourth Sunset Reviews of the Antidumping Duty Orders
on Sulfanilic Acid from India and the People's Republic of China

I. SUMMARY

We have analyzed the substantive response of Nation Ford Chemical Company (“NFC”) (“Petitioner”), the sole domestic interested party in these sunset reviews of the antidumping duty (AD) orders on sulfanilic acid from India¹, and the People’s Republic of China (“PRC”)² (collectively, “Orders”). As discussed below, no respondent interested party submitted an adequate substantive response. Accordingly, we conducted an expedited (120-day) sunset review for each AD order. Below is a complete list of the issues in these sunset reviews for which we received substantive responses:

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

We recommend that you approve the positions described in the “Discussion of Issues” section of this memorandum.

¹ See *Antidumping Duty Order: Sulfanilic Acid from India*, 58 FR 12025 (March 2, 1993) (“India Order”).

² See *Antidumping Duty Order: Sulfanilic Acid from the People’s Republic from China*, 57 FR 37524 (August 19, 1992) (“PRC Order”).



II. BACKGROUND

On September 1, 2016, the Department of Commerce (“Department”) published a notice of initiation of the fourth sunset reviews of the AD orders on sulfanilic acid from India and the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”).³ On September 14, 2016, Petitioner notified the Department of its intent to participate within the 15-day period specified in section 351.218(d)(1)(i) of the Department’s regulations. In accordance with 19 CFR 351.218(d)(1)(ii)(A), Petitioner claimed interested party status under section 771(9)(C) of the Act as a producer of the domestic-like product.

On September 30, 2016, the Department received a complete substantive response to the *Notice of Initiation*, with respect to the *Orders*, from Petitioner within the 30-day period specified in 19 CFR 351.218(d)(3)(i).⁴ The Department also received a submission from Archroma, U.S., Inc. (“Archroma”), a domestic importer of sulfanilic acid.⁵ The Department determined that Archroma’s submissions were not adequate to meet the requirements of a substantive response under 19 CFR 351.218(d)-(e).⁶ Specifically, Archroma failed to address and/or provide additional information required of a respondent interested party pursuant to 19 CFR 351.218(d)(3)(iii), nor did it demonstrate whether the substantive submission is eligible to be considered adequate pursuant to 19 CFR 351.218(e)(1)(ii)(A).⁷ 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 expedited (120-day) sunset reviews of the *Orders*.

III. SCOPE OF THE ORDERS

Imports covered by the AD orders are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, classifiable under the subheading 2921.42.22 of the Harmonized Tariff Schedule (“HTS”), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under the subheading 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5

³ See *Sulfanilic Acid from China and India; Institution of Five-Year Reviews*, 81 FR 60386 (September 1, 2016) (“*Notice of Initiation*”).

⁴ See Submissions from Petitioner, “Sulfanilic Acid from the People’s Republic of China/Petitioner’s Substantive Response” (“PRC Substantive Response”), and “Sulfanilic Acid from India/Petitioner’s Substantive Response” (“India Substantive Response”), each dated September 30, 2016.

⁵ See Submissions from Archroma to the Department, both titled “Sulfanilic Acid from India and China: Archroma’s Substantive Response to Notice of Initiation,” each dated September 30, 2016.

⁶ See Letter from the Department to Archroma, “Sunset Reviews of Sulfanilic Acid from the People’s Republic of China and India,” dated October 24, 2016.

⁷ *Id.*

percent maximum aniline and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), classifiable under the HTS subheading 2921.42.90, is a powder, granular or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

IV. HISTORY OF THE ORDERS

1) Final Determinations of Sales at Less-than-Fair-Value and Orders

On July 6, 1992, the Department published its final affirmative determination of sales at less than fair value (“LTFV”) in the *Federal Register* with respect to imports of sulfanilic acid from the PRC.⁸ On January 8, 1993, the Department published its final affirmative determination of sales at LTFV in the *Federal Register* with respect to imports of sulfanilic acid from India.⁹

<u>Country</u>	<u>Company</u>	<u>Weighted-Average Margin (Percent)</u>
<i>India</i>	All other manufacturers/producers/exporters	114.80 ¹⁰
<i>PRC</i>	China National Chemicals Import & Export Corporation (Hebei Branch)	19.14
	All others country-wide rate	85.20

2) Subsequent Administrative Reviews

As summarized below, since publication of the *Orders*, the Department has completed subsequent administrative reviews of the *PRC Order* but not of the *India Order*. However, there have been no administrative reviews of either *Order* during the five-year period of this fourth sunset review.

The AD *Orders* remain in effect for all manufacturers and exporters of sulfanilic acid from India and the PRC. Deposit rates remain in effect for imports of sulfanilic acid from India and the PRC.

PRC

⁸ See *Final Determination of Sales at Less than Fair Value: Sulfanilic Acid from the People’s Republic of China*, 57 FR 29705 (July 6, 1992) (“*PRC LTFV Final Determination*”).

⁹ See *Final Determination of Sales at Less than Fair Value: Sulfanilic Acid from India*, 58 FR 3251 (January 8, 1993) (“*India LTFV Final Determination*”).

¹⁰ In the *India LTFV Final Determination*, the Department published a weighted-average dumping margin for all manufacturers/producers/exporters of 114.8 percent. However, consistent with section 772(d)(1)(D) of the Act, which prohibits assessing antidumping duties on the portion of the margin attributable to an export subsidy, we established, for cash deposit purposes, an estimated antidumping duty deposit rate of 71.09 percent.

Since the AD *PRC Order* was issued, the Department has conducted eight administrative reviews with respect to sulfanilic acid from the PRC, none of which occurred during the five-year period of this fourth sunset review.¹¹ In seven of the completed administrative reviews, the Department found that the producers/exporters continued to dump subject merchandise at levels above *de minimis*.¹²

India

The Department has not conducted any administrative reviews with respect to sulfanilic acid from India since the issuance of the order.

3) Duty-Absorption Findings, Changed-Circumstances Reviews, Scope Inquiries

There have been no duty-absorption findings or changed-circumstances reviews with respect to the *Orders*.

There has been one scope ruling with respect to the *India Order*:

- Prior to the second sunset review, the Department conducted a scope ruling regarding 3V Corporation and determined that sodium sulfanilate processed in Italy from sulfanilic acid from India was within the scope of the AD order on sulfanilic acid from India.¹³

4) Prior Sunset Reviews

The Department published its notice of initiation of the first sunset reviews of the *Orders* on October 1, 1999, pursuant to section 751(c) of the Act.¹⁴ As a result of those reviews, the Department found that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping in both India and the PRC.¹⁵ On May 26, 2000, the International Trade Commission (“ITC”) determined, pursuant to section 751(c) of the Act, that revocation of the *Orders* would be likely to lead to continuation or recurrence of material injury to an industry in

¹¹ See *Sulfanilic Acid from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review*, 61 FR 53711 (October 15, 1996) (“*POR 1993-94 Review*”); *Sulfanilic Acid from the People’s Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 61 FR 53702 (October 15, 1996) (“*POR 1994-95 Review*”); *Sulfanilic Acid from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 48597 (September 16, 1997) (“*POR 1995-96 Review*”); *Sulfanilic Acid from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review*, 63 FR 63834 (November 17, 1998) (“*POR 1996-97 Review*”); *Sulfanilic Acid from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review*, 65 FR 13366 (March 13, 2000) (“*POR 1997-98 Review*”) (amended by *Sulfanilic Acid from the People’s Republic of China: Amendment of Final Results of Antidumping Duty Administrative Review*, 65 FR 18300 (April 7, 2000)); *Sulfanilic Acid from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 66 FR 15837 (March 21, 2001) (“*POR 1998-99 Review*”); *Sulfanilic Acid from the People’s Republic of China; Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 1962 (January 15, 2002) (“*POR 1999-2000 Review*”); and *Sulfanilic Acid from the People’s Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 70404 (November 22, 2002) (“*POR 2000-01 Review*”).

¹² In the administrative review covering the period of August 1, 1995 to July 31, 1996, the Department found a margin of 0.0 percent for the two respondents, Yude Chemical Industry Company and Zhenxing Chemical Industry Company, and a PRC-wide rate of 85.20 percent. See the *POR 1995-96 Review*.

¹³ See *Notice of Scope Rulings*, 65 FR 41957, 41958 (July 7, 2000).

¹⁴ See *Initiation of Five-Year (“Sunset”) Reviews*, 64 FR 53320 (October 1, 1999).

¹⁵ See *Final Results of Expedited Sunset Reviews: Sulfanilic Acid from India and the People’s Republic of China*, 65 FR 6156 (February 8, 2000) (“*First Sunset Review*”).

the United States within a reasonably foreseeable time.¹⁶ On June 8, 2000, the Department published the notice of continuation of the *Orders*.¹⁷

On May 2, 2005, the Department published the notice of initiation of the second sunset reviews of the *Orders* pursuant to section 751(c) of the Act.¹⁸ As a result of those reviews, the Department found that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping.¹⁹ On April 27, 2006, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *Orders* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²⁰ On May 11, 2006, the Department published the notice of continuation of the *Orders*.²¹

On April 1, 2011, the Department published the notice of initiation of the third sunset reviews of the *Orders* pursuant to section 751(c) of the Act.²² As a result of those reviews, the Department found that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping.²³ On October 11, 2011, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *Orders* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²⁴ On October 25, 2011, the Department published the notice of continuation of the *Orders*.²⁵

V. LEGAL FRAMEWORK

In accordance with section 751(c) of the Act, the Department is conducting these sunset reviews to determine whether revocation of the orders would be likely to lead to the continuation or recurrence of dumping. Section 752(c)(1)(A)-(B) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigations and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and after the issuance of the orders.

In accordance with the guidance provided in the legislative history accompanying the Uruguay

¹⁶ See *Sulfanilic Acid from India and China*, 65 FR 34232 (May 26, 2000) and USITC Pub. 3301, Inv. Nos. 701-TA-318 (Review) and 731-TA-538 and 561 (Review) (May 2000).

¹⁷ See *Continuation of Antidumping Duty Orders: Sulfanilic Acid from People's Republic of China and India; and Continuation of Countervailing Duty Order: Sulfanilic Acid from India*, 65 FR 36404 (as amended by *Correction to the Notices of Continuation of Antidumping Duty Orders: Sulfanilic Acid from People's Republic of China and India; and Continuation of Countervailing Duty Order: Sulfanilic Acid from India*, 65 FR 37758 (June 16, 2000)).

¹⁸ See *Initiation of Five-Year ("Sunset") Reviews*, 70 FR 22632 (May 2, 2005).

¹⁹ See *Sulfanilic Acid from India and the People's Republic of China; Notice of Final Results of Expedited Sunset Reviews of Antidumping Duty Orders*, 70 FR 53164 (September 7, 2005) ("*Second Sunset Review*").

²⁰ See *Sulfanilic Acid from China and India*, 71 FR 24860 (April 27, 2006) and USITC Pub. 3849, Investigation Nos. 701-TA-318 and 731-TA-538 and 561 (Second Review).

²¹ See *Continuation of Antidumping and Countervailing Duty Orders: Sulfanilic Acid from the People's Republic of China and India*, 71 FR 27449 (May 11, 2006).

²² See *Initiation of Five-Year ("Sunset") Reviews*, 76 FR 18163 (April 1, 2011).

²³ See *Sulfanilic Acid from India and the People's Republic of China; Notice of Final Results of Expedited Sunset Reviews of Antidumping Duty Orders*, 76 FR 45510 (July 29, 2011) ("*Third Sunset Review*").

²⁴ See *Sulfanilic Acid from China and India*, 76 FR 63843 (October 11, 2011) and USITC Pub. 4270, Investigation Nos. 701-TA-318 and 731-TA-538 and 561 (Third Review).

²⁵ See *Continuation of Antidumping and Countervailing Duty Orders: Sulfanilic Acid from the People's Republic of China and India*, 76 FR 66039 (October 25, 2011).

Round Agreements Act, specifically the Statement of Administrative Action (“SAA”),²⁶ the House Report,²⁷ and the Senate Report,²⁸ the Department’s determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.²⁹ In addition, the Department normally determines that revocation of an AD 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 orders; (b) imports of the subject merchandise ceased after the issuance of the orders; (c) dumping was eliminated after the issuance of the orders and import volumes for the subject merchandise declined significantly.³⁰ 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 was eliminated after issuance of the order and import volumes remained steady or increased.³¹

Furthermore, as a base period of import volume comparison, it is the Department’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.³² When analyzing import volumes for second and subsequent sunset reviews, the Department’s practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.³³

In addition, section 752(c)(3) of the Act states that the magnitude of the dumping margin likely to prevail if the orders were revoked shall be provided by the Department to the ITC. Generally, the Department selects the 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.³⁴ 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, {the Department} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review”).³⁵ Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of “zero or *de minimis* shall not by itself require” the Department to determine that revocation of an AD order would not

²⁶ See HR. Doc. 103-316, vol. 1 (1994) (“SAA”), reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

²⁷ See H. Rep. No. 103-826, pt. 1 (1994) (“House Report”), reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

²⁸ See S. Rep. No. 103-412 (1994) (“Senate Report”).

²⁹ See SAA at 879; *see also* House Report at 56.

³⁰ See SAA at 889-890; *see also* House Report at 63-64; Senate Report at 52; *Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (“Sunset Policy”).

³¹ See SAA at 889-890; *see also* House Report at 63.

³² See, *e.g.*, *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.

³³ See *Ferrovaniadium from the People’s Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying Issues and Decision Memorandum.

³⁴ 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.

³⁵ See SAA at 890-91.

be likely to lead to a continuation or recurrence of sales at LTFV.³⁶

On February 14, 2012, the Department announced it was modifying its practice in sunset reviews, such that it would not rely on weighted-average dumping margins calculated using the “zeroing” methodology found to be inconsistent with World Trade Organization (“WTO”) obligations.³⁷ In the *Final Modification for Reviews*, the Department stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.³⁸ The Department 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 WTO-inconsistent” and that it “may also rely on past dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”³⁹

VI. DISCUSSION OF THE ISSUES

1. Likelihood of Continuation or Recurrence of Dumping

Petitioner’s Comments on the PRC

Petitioner comments that dumping of sulfanilic acid from the PRC is likely to recur if the AD order is revoked in this sunset review.⁴⁰ Petitioner states that shipments of sulfanilic acid from the PRC have declined since the *PRC Order* was imposed, and revoking the *PRC Order* would resume the previous dumping practices of Chinese producers of sulfanilic acid and materially injure the domestic industry.⁴¹

Petitioner notes that the Department normally finds dumping likely to recur or continue where dumping has “continued at any level above *de minimis* after the issuance of the order.”⁴² It states that, generally, the Department will consider the weighted-average dumping margins determined in the original investigation as well as those determined in subsequent reviews.⁴³ Petitioner cites that the dumping margin originally alleged in the Petition, and later affirmed by the Department in the *PRC LTFV Final Determination*, for most Chinese producers is 85.20 percent, a rate well above the *de minimis* level. Petitioner contends that though subsequent administrative reviews have adjusted the rate periodically for specific PRC producers, the “all others” rate has at all times been well above the *de minimis* level.⁴⁴ Petitioner also notes that the rate previously

³⁶ See *Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

³⁷ 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*”).

³⁸ *Id.*

³⁹ *Id.*, at 8109.

⁴⁰ See PRC Substantive Response at 3.

⁴¹ *Id.*, at 3-4.

⁴² *Id.*, at 7.

⁴³ *Id.*, citing *First Sunset Review*, 65 FR at 6157.

⁴⁴ *Id.*, at 7-8, citing, e.g., that from August 1, 1998, to July 31, 1999, for example, the Department determined a rate

assigned to China National Chemicals in the *PRC LTFV Final Determination* of 19.14 percent exceeds the *de minimis* level.⁴⁵ Petitioner claims that, on that basis alone, this satisfies the Department's guidelines and warrants non-revocation of the *PRC Order*.⁴⁶

Petitioner claims that revocation is also improper because imports declined significantly following the issuance of the *PRC Order*, specifically, since the *First Sunset Review*.⁴⁷ The data provided by Petitioner shows that imports of sulfanilic acid from the PRC rose even after the implementation of the *PRC Order*, but after the application of the 85.20 percent duty rate for all imports for sulfanilic acid from the PRC following the *POR 1998-99 Review*, imports dropped significantly.⁴⁸ Petitioner notes that, as the Department has stated, "the existence of dumping margins above *de minimis* levels and a reduction/cessation in export volumes after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping."⁴⁹ Accordingly, Petitioner provides import data to demonstrate that, since the issuance of the *PRC Order*, the volume of imports of sulfanilic acid from the PRC has fallen from 516,100 Kilograms ("Kg") prior to the implementation of the *PRC Order*, to 114,373 Kg in 2015.⁵⁰

Petitioner's Comments on India

Petitioner states that dumping of sulfanilic acid from India is likely to recur if the AD order is revoked in this sunset review.⁵¹ Petitioner claims that shipments of sulfanilic acid from India have declined dramatically since the *India Order* was imposed, and that revocation of the *India Order* would likely lead to material injury to the domestic industry.⁵²

Petitioner notes that the Department normally finds dumping likely to recur or continue where dumping has "continued at any level above *de minimis* after the issuance of the order."⁵³ Petitioner states that, generally, the Department will consider the weighted-average dumping margins determined in the original investigation as well as those determined in subsequent reviews.⁵⁴ Petitioner comments that, as there have been no administrative reviews completed in this case, sulfanilic acid from India is still subject to an AD of 114.80 percent, a rate well above the *de minimis* level.⁵⁵ Petitioner states that, on that basis alone, this case satisfies the Department's guidelines and warrants non-revocation of the order.⁵⁶ Petitioner cites data which shows that since the *India Order* has been instituted, the volume of imports of sulfanilic acid

of 18.75 percent for Yude Chemical Industry, Co. and Zhenxing Chemical Industry, Co. See *POR 1997-98 Review*, 65 FR at 13367. Most recently, the rate for Zhenxing was set at 64.22 percent. See *POR 2000-01 Review*, 67 FR at 70404.

⁴⁵ See PRC Substantive Response at 8, citing *PRC LTFV Final Determination*.

⁴⁶ *Id.*

⁴⁷ *Id.*, at 8-9, citing the *POR 1998-99 Review*, where the Department applied 85.20 percent to all producers/exporters of sulfanilic acid from the PRC.

⁴⁸ *Id.*, at 9.

⁴⁹ *Id.*, at 8, citing *First Sunset Review*, 65 FR at 6158.

⁵⁰ *Id.* at 9, citing imports as reported by ITC <http://dataweb.usitc.gov>. Sulfanilic acid was classified under HTS 2921.42.2420 for 1992, HTS 2921.42.2800 for 1993, and HTS 2921.42.2200 thereafter.

⁵¹ See India Substantive Response at 3.

⁵² *Id.*, at 3-4.

⁵³ *Id.*, at 7.

⁵⁴ *Id.*, at 8, citing *First Sunset Review*, 65 FR at 6157.

⁵⁵ *Id.*

⁵⁶ *Id.*

from India have fallen from 123,120 kg (prior to the implementation of the *India Order*) to 450 kg (as of 2015).⁵⁷

Department's Position: As explained in the Legal Framework section above, the Department's determinations of likelihood of continuation or recurrence of dumping will be made on an order-wide basis.⁵⁸ 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.⁵⁹ 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.

PRC

Pursuant to section 752(c)(1)(A) of the Act, the Department first considered the weighted-average dumping margins determined in the investigation and any subsequent reviews. As discussed above and in the *Final Modification for Reviews*, the Department has modified its practice in sunset reviews, such that it does not rely on weighted-average dumping margins that are calculated using the "zeroing" methodology found to be WTO-inconsistent. The three previous sunset reviews occurred prior to February 14, 2012, and therefore did not address the issue of zeroing. Accordingly, the Department reviewed its official records to establish whether the dumping margins determined in the LTFV investigation of the *PRC Order* were calculated using zeroing. In the *LTFV PRC Final Determination*, the Department assigned to certain respondents a WTO-consistent dumping margin 85.20 percent which was based on the highest margin alleged in the petition, a margin which (among other calculated margins) was assigned in subsequent reviews, and thus indicative of the continued existence of dumping after issuance of the *PRC Order*.⁶⁰

Separately, the Department examined the import statistics provided by Petitioner for the relevant periods. In the *Final Modification for Reviews*, the Department noted that "if there are no dumping margins during the five-year sunset period, decreased volumes may provide another basis to determine that dumping is likely to continue or recur if the discipline of the order is removed."⁶¹ As discussed above, there were no reviews during the most recent five-year sunset period. However, an analysis of the import statistics provided by Petitioner shows that imports of sulfanilic acid from the PRC first fluctuated and eventually decreased significantly after the imposition of the *PRC Order*, including in the five year sunset period under consideration (which saw no imports in the 2011-2014 period and imports in 2015 at approximately 22 percent of the level of imports in the year prior to the *PRC Order*).⁶² Indeed, trade data demonstrate that imports of subject merchandise from the PRC in the most recent sunset period averaged

⁵⁷ *Id.*, at 9, citing imports as reported by the ITC <http://dataweb.usitc.gov>. Sulfanilic acid was classified under HTS 2921.42.2420 for 1992, HTS 2921.42.2800 for 1993, and HTS 2921.42.2200 thereafter.

⁵⁸ See SAA at 879 and House Report at 56.

⁵⁹ See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

⁶⁰ See *PRC LTFV Final Determination*.

⁶¹ See *Final Modification for Reviews*, 77 FR at 8103.

⁶² See PRC Substantive Response, at 9.

approximately 4.4 percent of pre-investigation import levels of subject merchandise per year.⁶³ If companies continue to dump with the discipline of an AD order in place, it is reasonable to assume that dumping would continue if the AD order were removed.⁶⁴ Therefore, given the continued existence of dumping margins, we find that the decline in volume of imports over the history of the *PRC Order* is attributed to parties refraining from dumping and is sufficient evidence to conclude that dumping would likely continue or recur if the *PRC Order* is revoked, pursuant to section 752(c)(1) of the Act.

India

Pursuant to section 752(c)(1)(A) of the Act, the Department first considered the weighted-average dumping margins determined in the investigation and any subsequent reviews, to the extent they occurred. As discussed above and in the *Final Modification for Reviews*, the Department has modified its practice in sunset reviews, such that it does not rely on weighted-average dumping margins that are calculated using the “zeroing” methodology found to be WTO-inconsistent. Accordingly, the Department reviewed its official records to establish whether the dumping margins determined in the LTFV investigation of the *India Order* were calculated using zeroing. In the *India LTFV Final Determination*, the Department assigned to certain respondents a WTO-consistent dumping margin, based on the highest margin alleged in the petition, of 114.80 percent, which by its nature was not determined using zeroing. As there were no participating respondents in the LTFV investigation and there have been no subsequent reviews of the *India Order*, this is the only margin ever assigned for this proceeding and the only rate applicable to all imports of subject merchandise from India.

The Department separately examined the import statistics provided by Petitioner for the relevant periods which show that imports of sulfanilic acid from India decreased significantly after the imposition of the *India Order*.⁶⁵ Indeed, trade data provided by Petitioner demonstrate that imports of subject merchandise from India in this sunset review period were *at most* .01 percent of pre-investigation import levels of subject merchandise.⁶⁶ Therefore, given the continued existence of dumping margins, we find that the decline in volume over the history of the *India Order*, and specifically over the instant five-year sunset period, compared to the pre-investigation import levels is attributed to parties refraining from dumping and is sufficient evidence to conclude that dumping would likely continue or recur if the order is revoked, pursuant to section 752(c)(1) of the Act.

2. Magnitude of the Margin Likely to Prevail

Petitioner’s Comments

Petitioner states that section 752(c)(3) of the Act requires the Department to provide to the Commission the magnitude of the margin of dumping that is likely to prevail if the order is revoked.⁶⁷ They note that, quoting the SAA, the Policy Bulletin states that the Department normally is to select a margin “from the {original} investigation, because that is the only

⁶³ *Id.*

⁶⁴ See SAA at 890.

⁶⁵ See India Substantive Response, at 8-9.

⁶⁶ *Id.*

⁶⁷ See PRC Substantive Response, at 9, citing section 752(c)(3), and India Substantive Response, at 9.

calculated rate that reflects the behavior of exporters ... without the discipline of an order or suspension agreement in place.”⁶⁸

Petitioner notes that the margin found during the original investigation for the PRC, later affirmed in the prior three sunset reviews, was 85.20 percent for most manufacturers, producers, and exporters, and that this represents the last level at which Chinese producers shipped sulfanilic acid without an order in place.⁶⁹ Therefore, Petitioner asserts that the rate from the original investigation should be reported as the likely margin which would result from revocation of this order.⁷⁰

Petitioner notes that the margin found during the original investigation for India and affirmed after the first, second, and third sunset reviews was 114.80 percent for all manufacturers, producers, and exporters, and that this represents the last level at which Indian producers shipped sulfanilic acid without an order in place.⁷¹ Furthermore, they note that there have been no administrative reviews since the issuance of the order.⁷² Therefore, Petitioner requests that the rate from the original investigation should be reported as the likely margin which would result from revocation of this order.⁷³

Department’s Position: Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. The Department’s preference is to select a rate from the investigation because it is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.⁷⁴ As indicated in the “Legal Framework” section above, the Department’s current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology found to be WTO-inconsistent, in accordance with the *Final Modification for Reviews*.

The Department agrees with Petitioner that it is appropriate to report to the ITC the margins found in the investigations of sulfanilic acid from India and the PRC, because these dumping margins are the only calculated rates that reflect the behavior of exporters without the discipline of an order, and we have received no argument that information from subsequent reviews of the *Orders* warrants the use of a more recently calculated dumping margin. Furthermore, these rates, which have been used in all prior sunset reviews, are based on petition rates and, thus, not calculated using zeroing. Therefore, pursuant to section 752(c)(3) of the Act, we will report to the ITC the 71.09 percent investigation rate for all Indian manufacturers and exporters as the margin likely to prevail, as indicated in the “Final Results of Reviews” section of this

⁶⁸ *Id.*, at 9-10.

⁶⁹ See PRC Substantive Response, at 10.

⁷⁰ *Id.*

⁷¹ See India Substantive Response, at 10.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ See SAA at 890 and *Sunset Policy*, at section II.B.1; see also, e.g., *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 Issues and Decision Memorandum at Issue 2.

memorandum.⁷⁵ Furthermore, pursuant to section 752(c)(3) of the Act, the Department will report to the ITC the PRC country-wide rate of 85.20 percent as indicated in the “Final Results of Reviews” section of this memorandum.

VII. FINAL RESULTS OF REVIEWS

The Department determines that revocation of the AD orders on sulfanilic acid from India and the PRC would be likely to lead to a continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to 71.09 percent for India, and up to 85.20 percent for the PRC.

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 the final results of these reviews in the *Federal Register*.

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☐

Agree

Disagree

12/29/2016

X 

Signed by: PAUL PIQUADO

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

⁷⁵ Though Petitioner submits that the 114.80 percent AD rate should be reported as the margin likely to prevail for India, we note that in the original investigation regarding Indian sulfanilic acid, the Department determined the dumping margin for all Indian manufacturers, producers, and exporters of the subject merchandise to be 114.80 percent and established an antidumping duty deposit rate of 71.09 percent after taking into account the 43.71 percent export subsidy rate. Consistent with our practice and the results of the three prior sunset reviews, we will report the adjusted rate of 71.09 percent.