

December 29, 2010

MEMORANDUM TO: Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

FROM: Edward C. Yang  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of  
Expedited Third Sunset Review of the Antidumping Duty Order on  
Polyethylene Terephthalate Film, Sheet, and Strip from the  
Republic of Korea

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### Summary

We have analyzed the responses of the interested parties in the third sunset review of the antidumping duty order covering polyethylene terephthalate (PET) film, sheet, and strip from the Republic of Korea (Korea). 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 substantive responses:

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Margin Likely to Prevail

The domestic interested parties are: DuPont Teijin Films (Dupont), Mitsubishi Polyester Film Inc. (Mitsubishi), SKC, Inc., and Toray Plastics (America), Inc. (Toray) (collectively, the Domestic Interested Parties).

### History of the Order

On May 24, 1990, the Department of Commerce (the Department) initiated an antidumping duty investigation on PET film, sheet, and strip from ~~the~~ Korea. See Initiation of Antidumping Duty Investigation: Polyethylene Terephthalate Film From the Republic of Korea, 55 FR 21417 (May 24, 1990). On June 5, 1991, the Department published the antidumping duty order and amended final determination of sales at less than fair value (LTFV) on PET film, sheet, and strip from Korea. See Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From the

Republic of Korea, 56 FR 25669 (June 5, 1991). On September 26, 1997, the Department published the notice of final court decision and amended final determination on PET film, sheet, and strip from Korea. See Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Notice of Final Court Decision and Amended Final Determination of Antidumping Duty Investigation, 62 FR 50557 (September 26, 1997) (Antidumping Duty Investigation Amended Final). Based on our redetermination on remand in Antidumping Duty Investigation Amended Final, SKC Limited and SKC America, Inc. were found to have been dumping at a margin of 13.92 percent, Cheil Synthetics, Inc. (Cheil) was found to have been dumping at a margin of 36.33 percent, and the “all others” margin was 21.50 percent.

On July 1, 1999, the Department initiated the first sunset review of the antidumping duty order on PET film, sheet, and strip from Korea pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-Year (“Sunset”) Reviews, 64 FR 35588 (July 1, 1999). Prior to the completion of the first sunset review, the Department completed six administrative reviews<sup>1</sup> and two new shipper reviews.<sup>2</sup> During the course of these administrative reviews, the Department revoked the antidumping duty order on PET film from Korea with respect to Cheil and Kolon Industries (Kolon) because neither Cheil nor Kolon had sold the subject merchandise at LTFV for at least three consecutive periods of review. See Polyethylene Terephthalate Film Sheet and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews and Notice of Revocation in Part, 61 FR 35177 (July 5, 1996). In addition, prior to the first sunset review, the Department published the final results of a changed circumstances review in which it found that Saehan Industries, Inc. (“Saehan”) was the successor-in-interest to Cheil. See Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 63 FR 3703 (January 26, 1998).

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<sup>1</sup> See Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review, 60 FR 42835 (August 17, 1995) (amended in Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Amended Final Results of Antidumping Duty Administrative Review, 61 FR 5375 (February 12, 1996); further amended in Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Notice of Final Court Decision and Amended Final Results of Antidumping Duty Administrative Review, 63 FR 52241 (September 30, 1998); further amended in Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Notice of Final Court Decision and Amended Final Results of Antidumping Duty Administrative Review, 64 FR 7855 (February 17, 1999)). See also Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews and Notice of Revocation in Part, 61 FR 35177 (July 5, 1996). See also Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part, 61 FR 58374 (November 14, 1996) (amended in Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Amendment of Final Results of Antidumping Duty Administrative Review, 62 FR 1735 (January 13, 1997)). See also Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review, 62 FR 38064 (July 16, 1997); (amended in Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Amendment of Final Results of Antidumping Duty Administrative Review, 62 FR 45222 (August 26, 1997)). See also Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review, 63 FR 37334 (July 10, 1998). See also Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke in Part, 64 FR 62648 (November 17, 1999).

<sup>2</sup> See Polyethylene Terephthalate Film, Sheet and Strip From Korea: Final Results of Antidumping Duty New Shipper Review, 64 FR 42670 (August 5, 1999) and Polyethylene Terephthalate Film, Sheet and Strip From Korea: Final Results of Antidumping Duty New Shipper Review, 64 FR 57862 (October 27, 1999).

The Department completed the final results of the first sunset review of the antidumping order on PET film, sheet, and strip from Korea on February 4, 2000. See Final Results of Expedited Sunset Review: Polyethylene Terephthalate Film from Korea, 65 FR 5592 (February 4, 2000). As a result of the first sunset review, pursuant to sections 751(c) and 752 of the Act, the Department determined that revocation of the antidumping duty order on PET film, sheet, and strip from Korea would likely lead to continuation or recurrence of dumping. Id. On February 24, 2000, the International Trade Commission (the Commission), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on PET film, sheet, and strip from Korea would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See -USITC Publication 3278 (February 2000) and Polyethylene Terephthalate (PET) Film From Korea, 65 FR 9298 (February 24, 2000). Accordingly, the Department published a notice of the continuation of the antidumping duty order on PET film, sheet, and strip from Korea, pursuant to 19 C.F.R. § 351.218(f)(4). See Continuation of Antidumping Duty Order: Polyethylene Terephthalate (PET) Film From Korea, 65 FR 11984 (March 7, 2000).

On February 2, 2005, the Department initiated the second sunset review of the antidumping duty order on PET film, sheet, and strip from Korea pursuant to section 751(c) of the Act. See Initiation of Five-Year (“Sunset”) Reviews, 70 FR 5415 (February 2, 2005). After the final results of the first sunset review, and prior to the final results of the second sunset review, the Department completed two administrative reviews of PET film, sheet, and strip from Korea (the ninth and tenth administrative reviews). See Polyethylene Terephthalate Film, Sheet and Strip From Korea: Final Results of Antidumping Duty Administrative Review, 65 FR 55003 (September 12, 2000) and Polyethylene Terephthalate Film, Sheet and Strip From Korea: Final Results of Antidumping Duty Administrative Review, 66 FR 57417 (November 15, 2001). The Department also conducted a changed circumstances review in which it determined that Toray Saehan, Inc. (TSI) was the successor-in-interest to Saehan (which, as explained above, was the successor-in-interest to Cheil). See Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea, Final Results of Changed Circumstances Antidumping Duty Administrative Review, 65 FR 34661 (May 31, 2000). See also Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea, Final Results of Changed Circumstances Antidumping Duty Administrative Review, 63 FR 3703 (January 26, 1998).

The Department completed the final results of the second sunset review of the antidumping order on PET film, sheet, and strip from Korea on September 9, 2005. See Polyethylene Terephthalate Film from Korea; Five-year (Sunset) Reviews of Antidumping Duty Order; Final Results, 70 FR 53627 (September 9, 2005) (Second Sunset Review Final). As a result of the second sunset review, pursuant to sections 751(c) and 752 of the Act, the Department determined that revocation of the antidumping duty order on PET film, sheet, and strip from Korea would likely lead to continuation or recurrence of dumping. Id. On October 3, 2005, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on PET film, sheet, and strip from Korea would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See USITC Publication 3800 (September 2005) and Polyethylene Terephthalate (PET) Film From Korea, 70 FR 58748 (October 7, 2005). Accordingly, the Department published a notice of the continuation of the antidumping duty order on PET film from Korea, pursuant to 19 C.F.R. § 351.218(f)(4). See Polyethylene Terephthalate Film from Korea; Continuation of Antidumping Duty Order, 70 FR 61118 (October 20, 2005).

After the final results of the second sunset review, and prior to the current sunset review, the Department conducted a changed circumstances review in which it determined that Kolon sold subject merchandise at less than normal value during the period July 1, 2005, through June 30, 2006, and reinstated Kolon in the antidumping duty order. See Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of the Antidumping Duty Order, 73 FR 18259 (April 3, 2008) (amended in Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea: Amended Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of the Antidumping Duty Order, 73 FR 26078 (May 8, 2008) (Kolon Reinstatement)). In Kolon Reinstatement, Kolon was found to have a 1.52 percent dumping margin. The Department also completed two administrative reviews of PET film, sheet, and strip from Korea (the eleventh and twelfth administrative reviews), in which Kolon was the sole respondent. Kolon was found to have de minimis dumping margins in both of these administrative reviews. See Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 74 FR 57993 (November 10, 2009) (2007 to 2008 Final) and Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 75 FR 70901 (November 19, 2010) (2008 to 2009 Final).

The Department initiated this third sunset review on September 1, 2010. See Initiation of Five-Year (“Sunset”) Review, 75 FR 53664 (September 1, 2010).

### Background

This sunset review covers imports from all producers and exporters of PET film, sheet, and strip from Korea, other than imports by TSI,<sup>3</sup> for which the order was revoked. In its notice of initiation, the Department invited parties to comment.

The Department received a notice of intent to participate from the Domestic Interested Parties within the deadline specified in 19 C.F.R. § 351.218(d)(1)(i). Dupont, Mitsubishi, SKC Inc., and Toray all claimed interested party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product. Dupont was established as a joint venture between E.I. DuPont de Nemours & Company and Teijin Limited. E.I. DuPont de Nemours & Company was a petitioner in the investigation of PET film, sheet, and strip from Korea and has participated actively in each of the administrative reviews conducted since the investigation. Mitsubishi purchased U.S. PET film operations from the Hoechst Celanese Corporation (Celanese), a petitioner in the investigation of PET film, sheet, and strip from Korea. Celanese was an active participant in administrative reviews up to the time of the first sunset review. Mitsubishi has participated actively in subsequent administrative reviews. SKC Inc. and Toray have participated as domestic interested parties in prior segments of this proceeding, including the most recently completed administrative review and the most recently completed changed circumstances review.<sup>4</sup> The Department received a substantive response from the Domestic Interested Parties within the deadline specified in 19 C.F.R. § 351.218(d)(3)(i). See Domestic

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<sup>3</sup> As noted, TSI was found to be the successor-in-interest to Sachan and Cheil.

<sup>4</sup> See 2007 to 2008 Final; 2008 to 2009 Final; and Kolon Reinstatement.

Interested Parties' submission entitled "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Korea: Substantive Response of the Domestic Interested Parties" (October 1, 2010) (The Domestic Substantive Response). The Department did not receive any substantive response to the notice of initiation from foreign interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 C.F.R. § 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of this order. On October 10, 2010, the Department received a correction to The Domestic Substantive Response. See the Domestic Interested Parties' submission entitled "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Korea: Correction to the Substantive Response of the Domestic Interested Parties" (October 20, 2010) (Correction).

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the quantity of imports of the subject merchandise for the periods before and the periods after the issuance of the antidumping duty orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the Commission the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the Domestic Interested Parties, the only parties to submit a response.

#### 1. Likelihood of Continuation or Recurrence of Dumping

##### Interested Party Comments:

The Domestic Interested Parties argue that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping by the manufacturers/producers and exporters of the subject merchandise. See The Domestic Substantive Response at 14. The Domestic Interested Parties insist revocation of the order will likely lead to a continuation of dumping because dumping has continued after the issuance of the order and because import quantities have declined and remained at depressed levels after the issuance of the order. Id. at 3.

With regard to the continuation of dumping after the issuance of the order, the Domestic Interested Parties state Kolon, which was the subject of the two most recently-completed administrative reviews, had a weighted-average dumping margin at a level above de minimis in the earlier changed circumstances review. Id. at 4 and Kolon Reinstatement. The Domestic Interested Parties acknowledge that Kolon had a weighted-average dumping margin which was de minimis in the 2007 to 2008 administrative review.<sup>5</sup> See The Domestic Substantive Response at 4 and 2007 to 2008 Final. The Domestic Interested Parties argue that the existence of zero or de minimis dumping margins at any time while the order was in effect does not require the

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<sup>5</sup> Kolon also had a de minimis weighted-average dumping margin in the 2008 to 2009 administrative review, the most recently completed administrative review at the time of the signing of this memorandum. See 2008 to 2009 Final. However, the final results of the 2008 to 2009 administrative review were not completed at the time of the submission of The Domestic Substantive Response.

Department to determine that there is no likelihood of continuation or recurrence of dumping. Citing to Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (Policy Bulletin 98.3), and the Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 890 (1994) (SAA), the Domestic Interested Parties argue that the Department has concluded that it “normally will determine that the revocation of an antidumping duty order...is likely to lead to a continuation or recurrence of dumping where...the dumping continued at any level above de minimis after the issuance of the order....” The Domestic Interested Parties insist that it would be premature to conclude that dumping had ceased. See The Domestic Substantive Response at 4. In addition, the Domestic Interested Parties state that several Korean producers which were the subject of past administrative reviews have not requested reviews since the second sunset review. Id. at 5. The Domestic Interested Parties argue that this should not be seen as an indication of the disinterest in the U.S. market, but rather an indication of the disciplining effect of the order. Id. The Domestic Interested Parties also state that one exporter currently has a de minimis margin, while other Korean producers are subject to substantial dumping margins. Id. The Domestic Interested Parties argue that Korean producers compete on the basis of price in the U.S. market and, therefore, even a small dumping margin can make the difference between sales won and lost. Id. For these reasons, the Domestic Interested Parties argue that the Department should make a finding that dumping would likely continue or recur. Id.

With regard to the quantity of imports of subject merchandise, the Domestic Interested Parties cite Policy Bulletin 98.3 to argue that an examination of import quantities is only necessary where dumping ceased after the order was put in place. See The Domestic Substantive Response at 4. Nevertheless, the Domestic Interested Parties argue that an examination of Korean import quantities support a finding that dumping is likely to continue or recur. Id. at 5. The Domestic Interested Parties claim that “...import volumes have declined and remained at depressed levels after the issuance of the order.” Id. at 3. Also, citing Second Sunset Review Final and the accompanying Issues and Decision Memorandum at Comment 1, the Domestic Interested Parties argue, “As the Department found in the previous sunset review, the growth of Korean PET film imports to the United States skyrocketed immediately prior to the initiation of the investigation and dropped precipitously after initiation.” See The Domestic Substantive Response at 5. The Domestic Interested Parties argue that since that time, imports have not spiked again. Id. at 6. The Domestic Interested Parties argue that this demonstrates the restraining effect of the order. Id. at 7. Further, in the Correction to The Domestic Substantive Response, the Domestic Interested Parties argue that the quantities, in terms of kilograms, of PET film imports from Korea remained stable during the five years since 2005.<sup>6</sup> See Correction at 3. The Domestic Interested Parties argue that the most significant change occurred between 2008 and 2009, when import quantities declined. Id. However they argue that this drop was a result of global economic conditions. The Domestic Interested Parties further argue that this decline in import quantities is projected to be reversed in 2010. Id.

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<sup>6</sup> In the Domestic Substantive Response, the Domestic Interested Parties also argued that Korean PET film imports have not changed significantly as a share of all PET film imports since 2005. See The Domestic Substantive Response at 6. However, these conclusions referenced erroneous information. In the Correction, the Domestic Interested Parties submitted a corrected table which shows import quantities in terms of kilograms. The Domestic Interested Parties state that their conclusion regarding the effect of the global economic recession on PET film imports was based upon erroneous information. Nevertheless, the Domestic Interested Parties argue that the correct data show that the quantities of PET film imports from Korea did remain stable during the five years since 2005.



## Department's Position:

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the SAA, H. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department's determinations of likelihood of the continuation or recurrence of dumping will be made on an order-wide basis. In addition, the Department normally will determine that revocation of an antidumping duty 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 quantities for the subject merchandise declined significantly. In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the quantity of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

The results of the administrative reviews conducted as part of this proceeding indicate that Korean producers have continued to dump when selling their product in the U.S. market during the post-order period. Although the two most recently completed administrative reviews of Kolon indicate de minimis dumping margins (see 2007 to 2008 Final and 2008 to 2009 Final), the most recently completed changed circumstance review, also of Kolon, shows margins above de minimis (see Kolon Reinstatement). Further, cash deposit rates above de minimis remain in effect for imports of PET film, sheet, and strip from Korea by SKC Limited and SKC America, Inc. See Polyethylene Terephthalate Film, Sheet and Strip From Korea: Final Results of Antidumping Duty Administrative Review, 66 FR 57417 (November 15, 2001).

The Department also considered the quantity of imports of the subject merchandise for the period before the issuance of the order and for the period after the issuance of the order and over the last five years. The data show that Korean import quantities for HTS subheading 3920.62.00.90 remained in a range during the period 2005 through 2009 of between 29,490,119 kilograms (in 2006) and 19,634,807 kilograms (in 2009). See Exhibit 1.

As noted above, the Domestic Interested Parties claim that in the second sunset review, the Department had found that "[t]he growth of Korean PET film imports to the United States skyrocketed immediately prior to the initiation of the investigation and dropped precipitously after initiation" and that since that time, imports have not spiked again. See The Domestic Substantive Response at 5 to 6. The Domestic Interested Parties cite to the Second Sunset Review Final and the accompanying Issues and Decision Memorandum at Comment 1, in support of these statements. However, the above language, quoted by the Domestic Interested Parties, is not a positive claim or finding made by the Department, but rather is the Department's summary of comments submitted by the domestic interested parties in the second sunset review. The Department stated in the "Department's Position" section of Comment 1 that "...since the issuance of the order, the volume of U.S. imports for consumption has been greater than pre-order levels." See Second Sunset Review Final and the accompanying Issues and Decision Memorandum at Comment 1.

Further, as noted above, ~~T~~he Domestic Interested Parties also claim that "...import volumes have declined and remained at depressed levels after the issuance of the order." See The Domestic Substantive Response at 3. On the contrary, while the data do show the growth

rate of Korean PET film, sheet, and strip imports to the United States was quite high between 1989 and 1990 (1265.15 percent), and not nearly as high thereafter, the quantity of Korean PET film, sheet, and strip imports to the United States did not drop after initiation. See Exhibit 1. Rather, import quantities were a relatively low 534,534 kilograms in 1989, experienced a sharp increase to 7,297,214 in 1990, continued to increase each year between 1989 and 1993, and reached a high of 36,485,175 kilograms in 1999. Between 2000 and 2009, import quantities fluctuated between 30,612,759 (in 2005) kilograms and 19,634,807 kilograms (in 2009).<sup>7</sup> This is consistent with the Department's assessment in the second sunset review that "...since the issuance of the order, the volume of U.S. imports for consumption has been greater than pre-order levels." See Second Sunset Review Final and the accompanying Issues and Decision Memorandum at Comment 1.

Upon examination of the import data for the period before and after the issuance of the order, as well as import quantities over the last 5 years, the Department finds that since the issuance of the order, the quantities of U.S. imports for consumption have been greater than pre-order levels. However, we agree with the Domestic Interested Parties that the continuation of dumping at above de minimis levels alone warrants the continuation of the order. We also note that one of the companies which had participated in several administrative reviews during the course of this proceeding, SKC Limited and SKC America, Inc. continue to have a deposit rate which is above de minimis. Therefore, on the basis of information provided by the Domestic Interested Parties, information on the record, and a lack of any contrary information or comments from the respondent interested parties, we continue to find that it is likely that if the antidumping duty order were revoked, dumping would continue or recur.

#### 1. Magnitude of the Margin Likely to Prevail

##### Interested Party Comments

The Domestic Interested Parties argue, citing the SAA, that the legislative history suggests that in determining the margin likely to prevail, the Department will normally select a margin "from the investigation, because that is the only calculated rate that reflects the behavior of exporters...without the discipline of an order or suspension agreement in place." See The Domestic Substantive Response at 7, citing SAA at 890. Further, citing Policy Bulletin 98.3, the Domestic Interested Parties argue that the Department has determined that:

the Department normally will provide to the Commission the margin that was determined in the final determination in the original investigation.... Specifically, the Department normally will provide the company-specific margin from the investigation for each company regardless of whether the margin was calculated using a company's own information or based on best information available or facts available.

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<sup>7</sup> As explained in Exhibit 1, the cited import quantity statistics are inclusive of HTSUS subheadings 3920.62.0000, 3920.62.0010, and 3920.62.0090. Effective July 1, 2003, the HTSUS subheading 3920.62.0000 was sub-divided into HTSUS subheadings 3920.62.0010, and 3920.62.0090. To ensure a like comparison, it is necessary to compare import statistics for HTSUS 3920.62.0000 from before July 1, 2003, to import statistics after July 1, 2003 which are inclusive of both HTSUS subheadings 3920.62.0010 and 3920.62.0090. See Exhibit 1.



\_\_\_\_ Citing Antidumping Duty Investigation Amended Final, the Domestic Interested Parties note that in the investigation, SKC Limited and SKC America, Inc. had a margin of 13.92 percent, Cheil had a margin of 36.33 percent, and that a margin of 21.50 percent was found for all other producer/exporters. For these reasons, the Domestic Interested Parties argue that the margins likely to prevail if revocation occurs are 13.92 percent for SKC Limited and SKC America, Inc. and 21.50 percent for all others.<sup>8</sup>

Department's Position:

Section 752(c)(3) of the Act provides that the Department will report to the Commission the magnitude of the margin of dumping likely to prevail if the order were revoked. Normally, the Department will provide to the Commission the company-specific margin from the investigation for each company.<sup>9</sup> Under certain circumstances, the Department may select a more recently calculated margin to report to the Commission. See section 752(c)(3) of the Act.<sup>10</sup> However, for companies not investigated specifically, and 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.<sup>11</sup> The Department's preference for selecting a margin from the investigation 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.<sup>12</sup>

The Department agrees with the Domestic Interested Parties that it should report the rates from the original investigation, as amended. We find it appropriate to provide the Commission with the amended final determination rates from the LTFV investigation of PET film, sheet, and strip from Korea because these margins best reflect the behavior of producers/exporters of PET film from Korea without the discipline of an order in place. As noted above, in the investigation, SKC Limited and SKC America, Inc. have a margin of 13.92 percent and a margin of 21.50 percent was found for all other producer/exporters.

As explained above, in Kolon Reinstatement, Kolon had a 1.52 percent dumping margin. This margin was calculated on sales by Kolon which were not subject to the antidumping duty order. However, Kolon's status after revocation and prior to reinstatement is different from the status of the producers/exporters prior to the LTFV investigation when the discipline of the order was not in force. Kolon knew of the existence of the antidumping duty order, and knew of the possibility of being reinstated under the antidumping duty order. Therefore, even though Kolon was not subject to the antidumping duty order, it could, nevertheless, have been influenced by

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<sup>8</sup> As explained above, the Department revoked the antidumping duty order on PET film, sheet, and strip from Korea with respect to Cheil and Kolon. See Polyethylene Terephthalate Film Sheet and Strip from Korea; Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part, 61 FR 35177. However, the Department subsequently reinstated Kolon in the antidumping duty order. See Kolon Reinstatement.

<sup>9</sup> See Eveready Battery Co., Inc. v. United States, 77 F. Supp. 2d 1327, 1333 (Ct. Int'l Trade 1999).

<sup>10</sup> See also Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands, 65 FR 65294 (November 1, 2000), and accompanying Issues and Decision Memorandum at Comment 3.

<sup>11</sup> 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.

<sup>12</sup> Id.

the discipline of the order, through the possibility of its reinstatement. Further, it is our normal practice to report the margin rates from the LTFV investigation. For these reasons, we find it appropriate to report the all-others rate as the margin likely to prevail with regard to Kolon.

Final Results of Review

We determine that revocation of the antidumping duty order on PET film, sheet, and strip from Korea would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

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Manufacturers/Exporters	Weighted-Average Margin (percent)
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SKC Limited	13.92
All-Others	21.50

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### 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 these expedited sunset reviews in the Federal Register and notify the Commission of our determination.

Agree\_\_\_\_\_

Disagree\_\_\_\_\_

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Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

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Date