

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-503][A-122-503][A-570-502]

Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada and The People's Republic of China

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce

ACTION: Notice of Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings from Brazil, Canada, and The People's Republic of China.

SUMMARY: On November 2, 1998, the U.S. Department of Commerce ("the Department") initiated a sunset review of the antidumping duty orders on certain iron construction castings from Brazil, Canada and the People's Republic of China ("the PRC") (63 FR 58709) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the bases of notices of intent to participate and substantive responses filed on behalf of the domestic industry, and inadequate responses (in these cases, no responses) from respondent interested parties, the Department determined to conduct an expedited review. As a result of these reviews, the Department finds that revocation of the antidumping orders would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW, Washington, D.C. 20230; telephone (202) 482-3207 or (202) 482-1560, respectively.

EFFECTIVE DATE: June 7, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("Sunset Regulations"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of*

Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

Brazil—merchandise covered by the order on Brazil consists of certain iron construction castings. Heavy castings are limited to manhole covers, rings, and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems. Light castings are limited to valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters. These articles must be of cast iron, not alloyed, and not malleable. "Heavy" castings are classifiable under Harmonized Tariff Schedule ("HTS") item number 7325.10.0010, and "light" castings are classified under HTS item number 7325.10.0050. On April 28, 1995, the Department determined, in response to a request from Southland Marketing, Inc., that the Polycast 700 Series frame, part number DG0700, and grate, part number DG0641, are not within the scope of the antidumping duty order on iron construction castings from Brazil (see *Notice of Scope Rulings*, 60 FR 36782, (July 18, 1995)).

Canada—merchandise covered by the order on Canada consists of certain iron construction castings. Heavy castings are limited to manhole covers, rings, and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems. "Heavy" castings are classifiable under Harmonized Tariff Schedule ("HTS") item number 7325.10.0010. These articles must be of cast iron, not alloyed, and not malleable. On September 23, 1998, the Department issued the final results of a changed circumstance review, in which the Department revoked the order with respect to "light" castings.¹

PRC—merchandise covered by the order on the PRC consists of certain iron construction castings. Heavy castings are limited to manhole covers, rings, and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems. Light castings are limited to valve, service, and meter boxes which are placed below ground to encase

water, gas, or other valves, or water or gas meters. These articles must be of cast iron, not alloyed, and not malleable. "Heavy" castings are classifiable under Harmonized Tariff Schedule ("HTS") item number 7325.10.0010, and "light" castings are classified under HTS item number 7325.10.0050. In response to a request from Jack's International Trading Associates, Ltd., on August 28, 1995, the Department determined that certain cast iron, floor area drains are outside the scope of the order. See *Notice of Scope Rulings*, 60 FR 54213 (October 20, 1995). Further, in response to a request from The Metraflex Company, on August 13, 1997, the Department determined that "Y" pipe strainers are outside the scope of the order (see *Notice of Scope Rulings*, 62 FR 62288 (November 21, 1997)).

The HTS item numbers are provided for convenience and Customs purposes. The written product description remains dispositive.

These reviews cover all manufacturers and exporters of certain iron construction castings from Brazil, Canada and the PRC.

Background

On November 2, 1998, the Department initiated sunset reviews of the antidumping orders on certain iron construction castings from Brazil, Canada and the PRC (63 FR 58709) pursuant to section 751(c) of the Act. On November 17, 1998, we received Notices of Intent to Participate on behalf of the Municipal Castings Fair Trade Council ("MCFTC") and its individual members² (collectively, the "domestic parties"), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received complete substantive responses on behalf of the domestic parties on December 2, 1998, within the 30-day deadline specified in section 351.218(d)(3)(i) of the *Sunset Regulations*. The individual members of the MCFTC claimed interested party status pursuant to section 771(9)(C) of the Act, as U.S. domestic producers of certain iron construction castings. MCFTC claimed interested party status as a trade association representing the domestic industry pursuant to section 771(9)(E) of the Act.

² The MCFTC is comprised of Allegheny Foundry Company, Bingham & Taylor, Deeter Foundry Inc., East Jordan Iron Works, Inc., LeBaron Foundry, Inc., Municipal Castings, Inc., Neenah Foundry Company, Tyler Pipe, and U.S. Foundry & Manufacturing Co. Bingham & Taylor and Tyler Pipe are manufacturers only of so-called "light castings" and, thus, are not interested parties in the review of the Canada order which covers only "heavy castings."

¹ See *Iron Construction Castings From Canada: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order: Correction*, 63 FR 50881 (September 23, 1998).

We did not receive a substantive response from any respondent interested party in any of these reviews. Therefore, pursuant to section 19 C.F.R. § 351.218(e)(1)(ii)(C) of the *Sunset Regulations*, we determined to conduct expedited sunset reviews of these orders.

The Department determined that the sunset reviews of the antidumping duty orders on certain iron construction castings from Brazil, Canada, and the PRC are extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). See section 751(c)(6)(C) of the Act. Therefore, on March 2, 1999, the Department extended the time limit for completion of the final results of these reviews until not later than June 1, 1999, in accordance with section 751(c)(5)(B) of the Act.³

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping orders would be likely to lead to continuation or recurrence of dumping. Section 752(c)(1) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order. Pursuant to section 752(c)(3) of the Act, the Department shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the orders are revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of the margin are discussed below. In addition, the domestic parties' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the

House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2. of the *Sunset Policy Bulletin*). Furthermore, the Department indicated that normally it will determine that revocation of an antidumping 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 (see section II.A.3. of the *Sunset Policy Bulletin*).

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

The Department issued antidumping duty orders on certain iron construction castings from Brazil,⁴ Canada,⁵ and the PRC⁶ in 1986. Since that time the Department has conducted several administrative reviews of each of these orders.⁷ The antidumping duty orders

remain in effect for all producers/exporters of certain iron construction castings from Brazil, Canada and the PRC.

In their substantive responses, the domestic parties argue that the respondents have reduced their sales to the United States dramatically and, thus, if the orders were revoked, it is likely that dumping would continue because the evidence demonstrates that the foreign producers/exporters need to dump to sell in any significant quantities in the United States. Specifically, the domestic parties argue that volume and value data on imports of heavy castings demonstrates that once the orders were imposed, imports began to decline. The domestic parties note that imports of heavy castings from Brazil fell from over 10 million pounds in 1986 to just over 5 million pounds in 1987, the first full year after the order, and dropped each year thereafter until reaching zero in 1991 and 1992. Although imports subsequently resumed, they have not gone over 294,000 pounds in any year. The domestic parties note that imports from Canada followed a similar, albeit less dramatic pattern, dropping from a pre-order high of over 20 million pounds, down to just over six million pounds in 1992. The domestic parties state that, although imports have since increased, they have not reached their pre-order level. With respect to imports of heavy castings from the PRC, the domestic

FR 2412 (January 16, 1986); *Certain Iron Construction Castings from Canada: Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order*, 51 FR 34110 (September 25, 1986); *Certain Iron Construction Castings from Canada: Final Results of Antidumping Duty Administrative Review*, 55 FR 460 (January 5, 1990); *Certain Iron Construction Castings from Canada: Final Results of Antidumping Duty Administrative Review*, 56 FR 23274 (May 21, 1991); *Certain Iron Construction Castings from Canada: Final Results of Antidumping Administrative Review*, 59 FR 25603 (May 17, 1994); *Certain Iron Construction Castings from Canada: Final Results of Antidumping Administrative Review*, 60 FR 9009 (February 16, 1995); *Certain Iron Construction Castings from Canada: Intent to revoke antidumping duty order*, 62 FR 9735 (March 4, 1997); *Certain Iron Construction Castings from Canada: Determination Not to Revoke Antidumping Duty Order*, 62 FR 23432 (April 30, 1997); *Certain Iron Construction Castings from Canada: Notice of Rescission of Antidumping Duty Administrative Review*, 63 FR 45797 (August 27, 1998); *Certain Iron Construction Castings from Canada: Notice of Sales at Less Than Fair Value*, 51 FR 9483 (March 19, 1986). See *Certain Iron Construction Castings from the People's Republic of China, Final Results of Antidumping Duty Administrative Review*, 57 FR 10644 (March 27, 1992); and *Certain Iron Construction Castings from The People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 60 FR 51454 (October 2, 1995).

³ See *Iron Construction Castings From Canada, Brazil and the People's Republic of China: Extension of Time Limit for Final Results of Five-Year Review*, 64 FR 10985 (March 8, 1999).

⁴ See *Antidumping Duty Order; Iron Construction Castings From Brazil*, 51 FR 17200 (May 9, 1986).

⁵ See *Antidumping Duty Order; Iron Construction Castings From Canada*, 51 FR 7600 (March 5, 1986) and *Iron Construction Castings From Canada; Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order*, 51 FR 34110 (September 25, 1986).

⁶ See *Antidumping Duty Order; Iron Construction Castings From the People's Republic of China (the PRC)*, 51 FR 17222 (May 9, 1986).

⁷ See *Certain Iron Construction Castings from Brazil; Final Determination of Sales at Less Than Fair Value*, 51 FR 9477, (March 19, 1986); *Certain Iron Construction Castings from Brazil; Final Results of Antidumping Duty Administrative Review*, 55 FR 26238, (June 27, 1990) corrected, 55 FR 41262 (October 10, 1990) and *Certain Iron Construction Castings from Brazil; Final Results of Antidumping Duty Administrative Review*, 55 FR 43019 (October 25, 1990). See *Certain Iron Construction Castings from Canada: Final Determination of Sales at Less Than Fair Value*, 51

parties state that imports did not decrease immediately after the issuance of the order. The domestic parties argue that this is presumably because the 11.66 percent rate from the original investigation was an insufficient deterrent to importers. The statistics provided by the domestic parties demonstrate that imports of heavy castings from the PRC increased each year through 1989, and did not begin to decrease significantly until 1991. The domestic parties point out that the higher margins from the final results of the 87-88 and 88-89 administrative reviews were issued in January 1991.

With respect to imports of light castings, the domestic parties state that because light castings enter the United States under a so-called "basket" category, they do not have firm data on import for this merchandise. They assert, however, based on day-to-day observation of conditions of competition in the marketplace, that imports have dwindled and there is little evidence of either Brazilian or Chinese import offerings of these items and a much-reduced presence of imports from Canada.

With respect to whether dumping continued at any levels above *de minimis* after the issuance of these orders, the domestic parties note that dumping margins above *de minimis* were found in the original investigations and in each subsequent administrative review conducted by the Department.

Citing to the SAA, the domestic parties argue that the declining import volumes from all three countries, in addition to reflecting the existence of dumping margins after the orders went into effect, is highly probative of the likelihood of continuation or recurrence of dumping if these orders were revoked. The domestic parties conclude that the Department should assume that exporters of the subject castings from Brazil, Canada and the PRC cannot sell their goods in the U.S. market without dumping and, therefore, they would have to continue or resume dumping if they want to reenter the U.S. market at any reasonable commercial volumes.

As discussed in section II.A.3. of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, "[E]xistence of dumping margins after the order, or cessation of imports 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." As the domestic parties noted, dumping margins above *de minimis* were found

to exist in each of the administrative reviews conducted by the Department of these orders. Further, deposit rates above *de minimis* continue in effect for imports of castings from Brazil, Canada, and the PRC. Therefore, given that dumping margins above *de minimis* were found to exist and continue in effect, respondent interested parties waived their right to participate in these reviews, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the orders were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy permit the use of a more recently calculated margin, when appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

With respect to the magnitude of the margin likely to prevail if the antidumping duty orders were revoked, the domestic parties argue that application of the principles set forth in the SAA and the *Sunset Policy Bulletin* support the conclusion that the Department should rely on the margins from the original investigations on Brazil and Canada. The domestic parties suggest that with respect to the PRC, the Department should select a more recently calculated margin consistent with section II.B.2. of the *Sunset Policy Bulletin*. The domestic parties base this assertion on the fact that, as a result of final results of administrative reviews issued in 1991, the antidumping duty rates increased to almost 25 percent and 46 percent. Further, it was in 1991 that imports from the PRC began to decrease. In conclusion, the domestic parties state that the rate of 24.21 percent may be most appropriate to provide to the Commission, as that is the rate likely to be closest to the rate that ultimately may be applied to castings from the PRC at the conclusion of the pending litigation concerning the 1998-89 and 1989-90 reviewing periods.

The Department agrees with the domestic parties as to the magnitude of the margin likely to prevail were the

orders on Brazil and Canada revoked. An examination of the margin history of the orders as well as an examination of the import statistics provided by the domestic parties confirms that dumping continued after the issuance of the orders and imports of the subject merchandise continue. Therefore, in accordance with the *Sunset Policy Bulletin* and absent an argument that a more recently calculated margin is more indicative of the margin likely to prevail if the orders on Brazil and Canada were revoked, we determine that the margins calculated in the Department's original investigation are probative of the behavior of Brazilian and Canadian producers and exporters of certain iron construction castings.

We agree with the domestic parties with regard to the use of a more recently calculated rate with respect to the PRC. According to the *Sunset Policy Bulletin*, "a company may choose to increase dumping in order to maintain or increase market share. As a result, increasing margins may be more representative of a company's behavior in the absence of an order" (see section II.B.2 of the *Sunset Policy Bulletin*). In addition, the *Sunset Policy Bulletin* notes that the Department will normally consider market share; however, absent information on relative market share, and absent argument or evidence to the contrary, we have relied on import volumes in the review on certain iron construction castings from the PRC. The import statistics related to imports of heavy castings provided by the domestic parties demonstrate that imports (on a volume basis) from the PRC increased every year between 1986 and 1989. The import level in 1990 decreased slightly from imports in 1989. After the issuance in January 1991, of the final results of reviews covering May 1, 1987 through April 30, 1988 and May 1, 1988 through April 30, 1989, imports from the PRC declined precipitously. During the periods when imports were increasing, the Department found increasing dumping margins (24.21% in 1987, 45.92% in 1988, and 92.74% in 1989). In light of the correlation between the increase in imports and the increase in the dumping margin, the Department finds that a more recently calculated rate is the most probative of the behavior of Chinese producers/exporters of certain iron construction castings. Because imports continued to increase through calendar year 1989, and there was only a minor decrease in imports in the following year, we determine that the dumping margin applicable to the review of imports during the period May 1, 1989 through April 30, 1990, is

probative of the behavior of Chinese producers and exporters of castings absent the discipline of the order.

Pursuant to Section 752(c) of the Act, the Department will report to the Commission the company-specific and

"all others" rates at the levels indicated in the Final Results of Review section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the margins listed below:

| Manufacturers/exporters | Margin (percent) |
|--|------------------|
| Brazil: | |
| Fundicao Aldebara, Ltda. (ALDEBARA) | 58.74 |
| Sociedade de Metalurgia E Processos, Ltda. (SOMEPE) | 16.61 |
| Companhia Siderurgica da Guanabara (COSIGUA) formerly Usina Siderurgica Paraense, S.A. (USIPA) | 5.95 |
| All others | 26.16 |
| Canada: | |
| Bibby Ste. Croix Foundries, Inc | 8.60 |
| LaPerle Foundry, Ltd | 4.40 |
| Mueller Canada, Inc | 9.80 |
| All Others | 7.50 |
| China: | |
| All manufacturers/exporters | 92.74 |

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: June 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-351-504]

Final Results of Expedited Sunset Review: Heavy Iron Construction Castings From Brazil

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

ACTION: Notice of Final Results of Expedited Sunset Review: Heavy Iron Construction Castings from Brazil.

SUMMARY: On November 2, 1998, the Department of Commerce ("the Department") initiated a sunset review of the countervailing duty order on

heavy iron construction castings from Brazil (63 FR 58709) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic industry, as well as inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited (120 day) review. As a result of this review, the Department finds that termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the "Final Results of Review" section of this notice.

FOR FURTHER INFORMATION CONTACT:

Jason M. Appelbaum or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution, Washington, D.C. 20230; telephone: (202) 482-5050 or (202) 482-1560, respectively.

EFFECTIVE DATE: June 7, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("Sunset Regulations") and in 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the

Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The merchandise covered by this review are shipments of certain heavy iron construction castings from Brazil. This merchandise is defined as manhole covers, rings and frames; catch basin grates and frames; and cleanout covers and frames. The DGO700 frame and the DG0641 grate from Southland Marketing are outside the scope of the order. This merchandise is currently classifiable under item number 7325.10.00 of the Harmonized Tariff Schedule ("HTS") of the United States. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

On March 19, 1986, the Department issued a final affirmative countervailing duty determination with respect to imports of certain heavy iron construction castings from Brazil.¹ The countervailing duty order on heavy iron construction castings from Brazil was published in the **Federal Register** on May 15, 1986 (51 FR 17786). In the final determination the Department found an estimated net subsidy of 5.77 percent *ad valorem* during the review period based on three programs: 2.85 percent under the preferential working-capital financing for exports program; 1.86

¹ See *Final Affirmative Countervailing Duty Determination; Certain Heavy Iron Construction Castings From Brazil*, 51 FR 9491 (March 19, 1986).