

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).

percent under the income tax exemption for export earnings program; and 1.06 percent under the FINEX export financing program. However, the cash deposit rate was adjusted to take into account program-wide changes in the preferential working capital financing for exports program, which reduced the program-specific subsidy from 2.85 percent to 0.48 percent. On May 15, 1986, the Department issued a countervailing duty order establishing the cash deposit rate at 3.40 percent *ad valorem*.²

Since the issuance of the order, the Department has conducted one administrative review covering the period January 1, 1990 through December 31, 1990, six programs, and the three companies that produced and exported the subject merchandise to the United States.³ In the final results of administrative review, the Department determined the benefit from the income tax reduction for export earnings program was 0.33 percent. However, the Department also found that Decree Law 8034 of April 12, 1990 eliminated this tax reduction and, therefore, for purposes of cash deposits of estimated countervailing duties, the Department determined the benefit from this program to be zero. The Department also found that the CACEX preferential working capital financing for exports program has been terminated effective August 30, 1990, by Central Bank Resolution 1744. Finally, the Department found that the FINEX export financing program was not used by respondents during the period of review. The three other programs reviewed by the Department were either not used or eliminated.

This review covers all producers and exporters of heavy iron construction castings from Brazil.

Background

On November 2, 1998, 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 Act. The Department received a Notice of Intent to Participate on behalf of the Municipal Castings Fair Trade Council ("MCFTC") and its individual

members⁴ (collectively "the domestic parties"), on November 17, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received a complete substantive response on behalf of the domestic parties on December 2, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). The individual members of the MCFTC claimed interested party status as manufacturers of domestic like products and MCFTC claimed interested party status as a trade association representing the domestic industry.

The Department did not receive a substantive response from any respondent interested party, including the Government of Brazil. Therefore, pursuant to the regulations, the Department determined to conduct an expedited review.

The Department determined that the sunset review of the countervailing duty order on heavy iron construction castings from Brazil is 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 this review until not later than June 1, 1999, in accordance with section 751(c)(5)(B) of the Act.⁵

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy has occurred that is likely to affect that net

countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission ("the Commission") the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide to the Commission information concerning the nature of the subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement.

The Department's determinations concerning continuation or recurrence of a countervailable subsidy, the net countervailable subsidy likely to prevail if the order is revoked, and nature of the subsidy are discussed below. In addition, the domestic parties' comments with respect to each of these issues are addressed within the respective sections.

Continuation or Recurrence of a Countervailable Subsidy

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. The Department clarified that determinations of likelihood will be made on an order-wide basis (see section III.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) a subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (see section III.A.3.a of the *Sunset Policy Bulletin*). Exceptions to this policy are provided where a company has a long record of not using a program (see section III.A.3.b of the *Sunset Policy Bulletin*).

In addition to considering guidance on likelihood provided in the *Sunset Policy Bulletin* and legislative history, 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 a countervailable subsidy where a respondent interested party waives its participation in the sunset review. Pursuant to the SAA, at 881, in a review

² See *Countervailing Duty Order; Certain Heavy Iron Construction Castings From Brazil*, 51 FR 17786 (May 15, 1986).

³ See *Certain Heavy Iron Construction Castings From Brazil; Final Results of Countervailing Duty Administrative Review and Determination Not To Revoke the Countervailing Duty Order*, 57 FR 2252 (January 21, 1992) and *Certain Heavy Iron Construction Castings From Brazil; Preliminary Results of Countervailing Duty Administrative Review*, 56 FR 58879 (November 22, 1991).

⁴ 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 this order, which covers only so-called heavy castings.

⁵ See *Heavy Iron Construction Castings From Brazil; Extension of Time Limit for Final Results of Five-Year Review*, 64 FR 10992 (March 8, 1999).

of a countervailing duty order where the foreign government has waived participation, the Department shall conclude that revocation of the order would be likely to lead to continuation or recurrence of a countervailable subsidy for all respondent interested parties.⁶ In the instant review, the Department did not receive a substantive response from the foreign government or from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive response, the domestic parties argue that it is likely that a countervailable subsidy would continue to be provided to manufacturers and exporters of the subject merchandise if the countervailing duty order were revoked. (See December 2, 1998 Substantive Response of the domestic parties at 42.) The domestic parties argue that, even though the Department, in the lone administrative review of this order, found a *de minimis* net countervailable subsidy, this alone is not sufficient grounds to conclude that there is no likelihood of continuation or recurrence of a countervailable subsidy. Citing to the SAA at 888, the domestic parties assert that the Department must carefully examine the legal method by which the Government of Brazil terminated any of its subsidy programs. (See Substantive Response of the domestic parties at 49–50.)

The domestic parties argue that, with respect to at least one program (preferential working capital financing for exports), termination was accomplished through administrative action rather than a legislative measure. The domestic parties argue that this is precisely the type of circumstance recognized by the SAA as one in which a program may more likely be reinstated.

The *Sunset Policy Bulletin*, at section III.A.3.a, states that, consistent with the SAA at 888, continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies. Temporary suspension or partial termination of a subsidy program also will be probative of continuation or recurrence of countervailable subsidies, absent significant evidence to the contrary. Additionally, the *Sunset Policy Bulletin* provides that, where a program has been officially terminated by the foreign government, this will be probative of the fact that the program will not continue

or recur if the order is revoked. (See *Sunset Policy Bulletin* at section III.A.5.)

As noted above, the Department, in its final affirmative determination, determined that Brazilian producers of castings were benefitting from three countervailable subsidy programs. In the lone administrative review of the order, the Department found that two of the original three programs had since been terminated. Additionally, the Department also found two other programs that had not previously been used by producers of castings to be terminated. Finally, the Department found that the third of the original three programs was not used during the review period.

As noted in the *Sunset Policy Bulletin*, where a foreign government has eliminated a subsidy program, the Department will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program. With respect to the income tax exemption for export earnings program, the program was eliminated by Decree Law 8034. Therefore, since this program was terminated through legislative action we find that this program was eliminated and cannot easily be reinstated. With respect to the preferential working capital financing for exports program, we agree with the domestic parties that the program was terminated by Central Bank resolution. Loans made under this program were authorized by resolution of the Central Bank. Therefore, we determine that termination of this program by Central Bank resolution is sufficient for us to consider this program terminated and that it cannot be easily reinstated. Further, we note that, although the domestic parties requested that we consider whether the preferential working capital financing for exports program may be easily reinstated, they offered no reason to believe that the program has, or will be reinstated. Therefore, for purposes of this review, we determine that both of these programs have been eliminated.

On the basis of information submitted during this sunset review, however, we have no reason to believe that the FINEX export financing program has been eliminated. The SAA, at 888, states that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies. Additionally, as noted above, according to the *Sunset Regulations*, where the foreign government has waived participation in the review, the Department will normally determine that revocation of the countervailing duty order will likely

lead to continuation or recurrence of a countervailable subsidy. Therefore, absent significant evidence to the contrary, and because the foreign government has waived participation in this review, we find that revocation of the countervailing duty order would likely result in the continuation or recurrence of countervailable subsidies.

Net Countervailable Subsidy

In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, "the Department normally will select a rate 'from the investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place.'" The Department went on to clarify that this rate may not be the most appropriate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent review (see section III.B.3).

Citing to the SAA at 890 and the *Sunset Policy Bulletin*, the domestic parties suggested that the Department select the 5.77 percent subsidy rate from the original investigation because it is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of the order in place. We disagree with the domestic parties. Rather, consistent with the *Sunset Policy Bulletin* and SAA, we have taken the termination of programs into account. Because the income tax reduction for export earnings and the CACEX preferential working capital financing programs were found to be terminated, we have adjusted the original countervailing duty rate to reflect these terminations. Further, Brazilian exporters/producers of castings have not been found to have benefitted from any additional countervailable programs. Therefore, the Department determines that the net countervailable subsidy likely to prevail if the order were revoked is the rate attributed to the FINEX export financing program as determined in the original investigation. The net countervailable subsidy that will be reported to the Commission is contained in the *Final Results of Review* section of this notice.

Nature of the Subsidy

In the *Sunset Policy Bulletin*, the Department stated that, consistent with section 752(a)(6) of the Act, the Department will provide information to the Commission concerning the nature of the subsidy and whether the subsidy

⁶ See also 19 CFR 351.218(d)(2)(iv).

is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. The domestic parties did not specifically address this issue.

Because receipt of benefits provided under the FINEX Export Financing by the Fundo de Financiamento a Exportacao program are contingent upon exports, this program falls within the definition of an export subsidy under Article 3.1(A) of the Subsidies Agreement.

Final Results of Review

As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy at the rates listed below:

Manufacturer/exporters	Margin (percent)
All producers/manufacturers/exporters	1.06

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 terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: June 1, 1999.

Robert S. LaRossa,
Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-063]

Final Results of Expedited Sunset Review: Iron Metal Castings From India

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

ACTION: Notice of Final Results of Expedited Sunset Review: Iron Metal Castings from India.

SUMMARY: On November 2, 1998, the Department of Commerce ("the

Department") initiated a sunset review of the countervailing duty order on iron metal castings from India (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 parties, 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 subject to this countervailing duty order are shipments of manhole covers and frames, clean-out covers and frames, and catch basin grates and frames from India. These articles are commonly called municipal or public works castings and are used for access or drainage for public utility, water, and sanitary systems. These articles must be of cast iron, not alloyed, and not malleable. This merchandise is currently classifiable under item

numbers 7325.10.0010 and 7325.10.0050 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS item numbers are provided for convenience and U.S. Customs purposes. We note that, in their substantive response, the domestic parties limit their description of the subject merchandise to HTSUS item number 7325.10.0010, which refers specifically to so-called "heavy" castings. The written description remains dispositive.

History of the Order

On August 20, 1980, the Department issued a final affirmative countervailing duty determination with respect to imports of certain iron construction castings from India.¹ In the final determination the Department found an "all others" estimated net subsidy of 13.33 percent *ad valorem* during the review period based on four programs: 12.5 percent under the Cash Compensatory System program, 0.4 percent under the preferential export financing program, 0.4 percent under the tax deductions under the export marketing allowance program, and 0.3 percent under the market development assistance program. Receipt of benefits under each of these programs was contingent upon exports. The Department also found the following net countervailable subsidy rates for the following five companies: Uma Iron & Steel—16.8 percent, RB Agarwalla—14.9 percent, Basant Udyog—13.8 percent, Kejriwal Iron & Steel Works—13.1 percent, and Kajaria Exports—12.9 percent. Additionally, the Department determined an "all others" rate of 13.3 percent.

On October 16, 1980, the Department issued a countervailing duty order which confirmed the subsidy rates found in the original investigation.² The cash deposit rate was subsequently revised by the Department to take into account program-wide changes in the Cash Compensatory Support program, which reduced the program-specific subsidy from 12.5 percent to 5.0 percent.³

Since the issuance of the order, the Department has conducted 14 administrative reviews covering the four countervailable programs from the original investigation and 10 other

¹ See *Countervailing Duties—Certain Iron Metal Castings From India*; Final Countervailing Duty Determination, 45 FR 55502 (August 20, 1980).

² See *Certain Iron Metal Castings From India*; Countervailing Duty Order, 45 FR 68650 (October 16, 1980).

³ See *Certain Iron Metal Castings From India*; Adjustment of Countervailing Duty Deposit Rate, 46 FR 38398 (July 27, 1981).